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CHAPTER 196

An act to add Chapter 3.45 (commencing with Section 44755) to Part 25 of, to add Chapter 15 (commencing with Section 53000) to Part 28 of, and to add Article 6 (commencing with Section 60350) to Chapter 2 of Part 33 of, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Chapter 3.45 (commencing with Section 44755) is added to Part 25 of the Education Code, to read:

CHAPTER 3.45. TEACHER READING INSTRUCTION DEVELOPMENT PROGRAM

44755. (a) It is the intent of the Legislature that each certificated teacher of pupils enrolled in kindergarten and grades 1 to 3, inclusive, possess the knowledge and skills to effectively teach pupils to read.

(b) The State Department of Education shall allocate the amounts appropriated pursuant to this chapter to each school district on the basis of an equal amount per pupil in enrollment statewide in kindergarten and grades 1 to 3, inclusive, as of October 1996.

(c) For the purpose of this chapter the term "school district" means school districts and county offices of education.

44756. To be eligible for funds pursuant to this chapter, a school district shall certify to the State Department of Education that not less than 90 percent of its certificated employees who provide direct instructional services to pupils enrolled in kindergarten or any of grades 1 to 3, inclusive, have received the type of inservice training described in subdivision (b) of Section 44757 and that the provision of that inservice training did not cause a reduction in pupil instruction time.

44757. A school district shall certify to the State Department of Education all of the following, as a condition to receiving funding pursuant to this chapter:

(a) That funds received pursuant to this chapter shall be spent by school districts only for the purpose of providing inservice training in reading instruction in the 1996–97 school year to certificated employees who provide direct instructional services to pupils enrolled in kindergarten or any of grades 1 to 3, inclusive, and to schoolsite administrators.

(b) That funds received pursuant to this chapter shall be expended for inservice training programs in reading instruction that

address systematically explicit phonics instruction, phonemic awareness, sound-symbol relationship, decoding, word-attack skills, spelling instruction, diagnosis of reading deficiencies, research on how children learn to read, research on how proficient readers read, the structure of the English language, relationships between reading, writing, and spelling, planning and delivery of appropriate reading instruction based on assessment and evaluation, and independent pupil reading of high quality books and the relationship of that reading to improved reading performance.

(c) That the school district will develop an action agenda that provides for a program of inservice training in reading instruction for all certificated employees in the school district who provide direct instructional services to pupils in kindergarten, or grades 1 to 3, inclusive. In that action agenda, the school district shall, to the extent feasible and appropriate, use:

(1) Staff development days authorized pursuant to Section 44670.2.

(2) Staff development funds available from all state and federal funding sources.

(3) Inservice training provided by publishers of reading program instructional materials adopted by the State Board of Education in 1996.

(4) A clinical diagnostic teacher training approach.

(5) Involvement of the parents and guardians of pupils enrolled in the school district.

(d) That inservice training provided pursuant to this section shall be coordinated and integrated with any inservice training in reading instruction funded by amounts received pursuant to the federal Goals 2000: Education America Act (P.L. 103-227) for the 1995–96 fiscal year.

SEC. 2. Chapter 15 (commencing with Section 53000) is added to Part 28 of the Education Code, to read:

CHAPTER 15. COMPREHENSIVE READING LEADERSHIP PROGRAM

53000. This chapter shall be known and may be cited as the Comprehensive Reading Leadership Program Act of 1996.

53001. The Legislature hereby finds and declares that strong leadership is needed at the local level to improve reading instruction in kindergarten and grades 1 to 3, inclusive, of the public schools. Therefore, it is the intent of the Legislature in enacting this chapter to encourage members of governing boards of school districts, school administrators, and teachers identified by the governing board of the school district as having demonstrated leadership in reading instruction to implement a comprehensive reading program for kindergarten and grades 1 to 3, inclusive, that emphasizes basic reading skills and continued improvement of reading skills through the reading of high quality books.

53002. (a) County offices of education may apply to the State Board of Education to design a reading leadership program and develop materials that focus on systematically explicit phonics instruction, phonemic awareness, sound-symbol relationships, decoding, word-attack skills, spelling instruction, diagnosis of reading deficiencies, research on how children learn to read, research on how proficient readers read, the structure of the English language, relationships between reading, writing, and spelling, planning and delivery of appropriate reading instruction based on assessment and evaluation, and independent pupil reading of high quality books and the relationship of that reading to improved reading performance.

(b) From the applications received pursuant to this section, the State Board of Education shall select one county office of education that has a proposed reading leadership program and a proposed materials development program that, in the judgment of the State Board of Education, will provide an effective reading leadership training program addressing the elements listed in subdivision (a) of this section and meet the requirements of subdivision (a) of Section 53003. The State Board of Education is hereby authorized to allocate from moneys appropriated to it an amount sufficient to fund the reading leadership program selected pursuant to this section.

53003. From the applications received pursuant to this chapter, the State Board of Education shall select county offices of education and school districts on a statewide basis to conduct reading leadership training programs pursuant to the program developed pursuant to Section 53002. The State Board of Education shall select an applicant in accordance with the following criteria:

(a) The selected applicants shall have the qualifications necessary to deliver a high-quality reading leadership training program.

(b) The selected applicants shall represent all areas of the state so that each geographical area of the state has reasonable access to a reading leadership training program.

53004. From the amount appropriated for the purposes of this chapter, the State Board of Education shall determine the amount of funds to allocate to each school district and county office of education selected pursuant to Section 53003 to provide reading leadership training programs according to criteria established by the State Board of Education that is based on the actual cost of providing the leadership program.

53005. The State Board of Education shall designate the school districts and county offices of education that will be served by each of the reading leadership training program providers selected pursuant to Section 53003.

53006. The county offices of education and school districts selected pursuant to Section 53003 shall conduct reading leadership training programs in accordance with the following:

(a) The members of the governing boards of the school districts, administrators of school districts and schools, and teachers who have

been identified by the governing boards of the school districts as having demonstrated leadership in reading instruction in each school district to be served, as determined pursuant to Section 53004, shall be invited to participate in the reading leadership training program.

(b) The reading leadership training programs shall adhere to the program designs and use the materials produced pursuant to Section 53002.

(c) The reading leadership training programs shall address systematically explicit phonics instruction, phonemic awareness, sound-symbol relationships, decoding, word-attack skills, spelling instruction, diagnosis of reading deficiencies, research on how children learn to read, research on how proficient readers read, the structure of the English language, relationships between reading, writing, and spelling, planning and delivery of appropriate reading instruction based on assessment and evaluation, and independent pupil reading of high quality books and the relationship of that reading to improved reading performance.

SEC. 3. Article 6 (commencing with Section 60350) is added to Chapter 2 of Part 33 of the Education Code, to read:

Article 6. Core Reading Program Instructional Materials

60350. It is the intent of the Legislature that each pupil in kindergarten and grades 1 to 3, inclusive, be furnished with a complete set of core reading program instructional materials adopted by the state board in 1996.

60351. (a) The State Department of Education shall apportion funds appropriated for purposes of this article to school districts on the basis of an equal amount per statewide pupil enrollment in kindergarten and grades 1 to 3, inclusive.

(b) For the purposes of this article, the term "school districts" means school districts and county offices of education and the term "governing boards" means governing boards of school districts and county boards of education.

60352. A school district may apply to the state board for funding for the purchase of a complete set of core reading program instructional materials pursuant to this article.

(a) Except as provided in subdivision (b), each school district shall expend funds received pursuant to this article for the sole purpose of purchasing core reading program instructional materials for pupils enrolled in kindergarten and grades 1 to 3, inclusive, that meet the following requirements:

(1) The instructional materials have been adopted by the state board in 1996.

(2) The instructional materials meet the requirements of Section 62000.4.

(3) The instructional materials include, but are not necessarily limited to, phonemic awareness, systematic explicit phonics, and

spelling patterns, accompanied by reading material that provides practice in the lesson being taught.

(b) A school district may expend up to 5 percent of the amounts received pursuant to this article to acquire independent reading books for pupils enrolled in grades 1 to 4, inclusive, for the purpose of stocking school or classroom libraries.

(c) Each school district that receives funds pursuant to this chapter shall purchase the core reading instructional materials on or before September 30, 1997, except that the state board may extend the last date to purchase materials to not later than September 30, 1998, if in a public hearing the governing board adopts a resolution requesting that extension and stating the reasons therefor. In granting a request for an extension pursuant to this subdivision, the state board shall prescribe the last date that core reading instructional materials may be purchased, but in no event shall the state board authorize a date of extension later than September 30, 1998. It is the intent of the Legislature that the state board authorize extensions to governing boards that have demonstrated that they are unable to meet the deadline set forth in this subdivision because of factors out of their control, including, but not limited to, insufficient time to evaluate and field test the state board-approved materials.

(d) If the governing board establishes, to the satisfaction of the state board, that the state-adopted instructional materials do not promote the maximum efficiency of pupil learning in the district, the state board shall authorize that governing board to use the funds received pursuant to this article to purchase instructional materials as specified by the state board, in accordance with standards and procedures established by the state board, and that meet the requirements of Section 60200.4 and include, but are not necessarily limited to, phonemic awareness, systematic explicit phonics, and spelling patterns, accompanied by reading material that provides practice in the lesson being taught. It is the intent of the Legislature that any request made by governing boards pursuant to this subdivision prior to August 31, 1996, be expedited by the state board.

(e) Each governing board shall certify to the State Department of Education that the amounts received pursuant to this chapter have been expended as required by this chapter. The governing board shall certify at a public hearing of the board that each pupil enrolled in kindergarten and grades 1 to 3, inclusive, has been furnished a complete set of core reading program instructional materials that meets the requirements of this section.

SEC. 4. (a) The sum of one hundred fifty-two million dollars ($152,000,000) is hereby appropriated from the General Fund to the State Department of Education, without regard to fiscal years, for the purposes of allocating funds to school districts for the purchase of core reading program instructional materials pursuant to Article 6 (commencing with Section 60350) of Chapter 2 of Part 33 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 5. (a) The sum of thirteen million dollars ($13,000,000) is hereby appropriated from the General Fund to the State Department of Education, without regard to fiscal years, for the purposes of allocating funds to school districts for the provision of inservice training on reading instruction knowledge and skills to teachers pursuant to Chapter 3.45 (commencing with Section 44755) of Part 25 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 6. (a) The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the State Board of Education, without regard to fiscal years, for allocation to county offices of education and school districts for reading leadership training programs pursuant to Chapter 15 (commencing with Section 53000) of Part 28 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make statutory changes necessary for the implementation of the Budget Act of 1996, it is necessary for this act to take effect immediately.

CHAPTER 197

An act to amend Sections 1797.254, 102247, 102250, 116590, 116600, 120955, and 123227 of, to amend and renumber Section 4019.10 of, to add Sections 116377 and 123228 to, to add Chapter 12 (commencing with Section 1799.202) to Division 2.5 of, to add and repeal Section 103640 of, the Health and Safety Code, to amend Sections 4359, 4643, 5778, 14005.21, 14005.8, 14005.85, 14021.6, 14105.31, 14105.33, 14105.35, 14105.37, 14105.38, 14105.39, 14105.4, 14105.405, 14105.41, 14105.42, 14105.91, 14105.915, 14105.916, 14132.44, 14132.47, 14132.90, 14133.22, 14148.5, and 14163 of, to amend and repeal Section 4791 of, to add Sections 4681.3, 4776.5, 6600.05, 7200.05, 14005.81, 14511, and 14512 to, to add and repeal Chapter 14 (commencing with Section 18993) of Part 6 of Division 9 of, to add and repeal Division 24 (commencing with Section 24000) of, and to add and repeal Sections 14087.305 and 14105.335 of, the Welfare and Institutions Code, and to amend Section 24 of Chapter 305 of the Statutes of 1995, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

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

(a) Various reports and investigations have documented deficiencies in pediatric emergency and critical care throughout the United States. A 1993 report from the Institute of Medicine of the National Academy of Sciences found that emergency medical services for children in the United States are inadequate. The report recommends that states develop emergency medical services systems for children within the emergency medical services system to ensure that children receive adequate and appropriate emergency medical services necessary to prevent loss of life and human potential.

(b) California has approximately two and one half million children under 14 years of age, (8.5 percent of the U.S. population, 1990 Census) within its borders, the largest pediatric population of any state in the United States. California's children experience unnecessarily high rates of injury and illness that lead to disability and death. Lifetime costs associated with fatal and nonfatal injury in 1991 were estimated at $15.3 billion for children under 15 years of age, and

$100.3 billion for 15- to 24-year olds. Available estimates indicate that the implementation of comprehensive and coordinated services for emergency medical services ensures more appropriate care and an emergency medical services system for children would provide significant economic benefits.

(c) Each year in California, approximately 240 children per 100,000 will require admission to pediatric critical care centers, yet only 55 percent of these children in need of this care actually receive it. Seventy percent of the children in pediatric care units are five years of age or less, and suffer from medical illnesses such as acute asthma, meningitis, and other infectious diseases, seizures, and poisonings. Acute illness is a source of enormous ongoing physical, psychological, and financial loss to children and families. Twenty-one thousand children die annually within the United States from these illnesses.

(d) Traumatic injuries, including, but not limited to, injuries attributed to automobiles, bicycles, burns, drowning, intentional injury or violence, and firearms are the most common cause of death in children over one year old. Statistics also show that children have an unacceptably high death rate in these emergency situations. It has been estimated that between 8,000 and 12,000 of the 22,000 children who die from injuries each year in the United States could be saved by the establishment of injury prevention programs and emergency medical services systems specifically for children.

(e) Children have unique problems and needs associated with acute injury and illness, and they also suffer from different types of injuries and illnesses than adults. As a result, children require different types of diagnostic procedures, medications, and support techniques. In order to avoid unnecessary injuries and deaths when treating children, their emergency and critical care medical needs should be recognized and treated appropriately within this state's existing emergency medical services system.

(f) Existing emergency medical services education programs primarily focus on assessment, care, and treatment of adults and offer very few hours of pediatric education. In addition, many emergency medical services personnel have limited clinical experience with children, indicating the need to improve education of these personnel as regards pediatric emergencies.

(g) Some hospitals and out-of-hospital emergency care providers do not have the appropriate pediatric equipment to treat children in need of emergency care.

(h) Requiring pediatric preparedness in every emergency department as well as access to specialized pediatric centers would ensure that all of California's children who need emergency medical care will get appropriate pediatric emergency and critical care.

(i) The California Emergency Medical Services Authority has received national recognition for their leadership in the development of guidelines for a statewide pediatric emergency and

critical care medical services model. Full implementation of the Emergency Medical Services for Children (EMSC) guidelines on a statewide basis must be achieved.

SEC. 2. Section 1797.254 of the Health and Safety Code is amended to read:

1797.254. Local EMS agencies shall annually submit an emergency medical services plan for the EMS area to the authority, according to EMS Systems, Standards, and Guidelines established by the authority.

SEC. 3. Chapter 12 (commencing with Section 1799.202) is added to Division 2.5 of the Health and Safety Code, to read:

CHAPTER 12. EMERGENCY MEDICAL SERVICES SYSTEM FOR CHILDREN

1799.202. This chapter shall be known and may be cited as the California Emergency Medical Services for Children Act of 1996.

1799.204. (a) For purposes of this chapter, the following definitions apply:

(1) "EMSC Program" means the Emergency Medical Services For Children Program administered by the authority.

(2) "Technical advisory committee" means a multidisciplinary committee with pediatric emergency medical services, pediatric critical care, or other related expertise.

(3) "EMSC component" means the part of the local agency's EMS plan that outlines the training, transportation, basic and advanced life support care requirements, and emergency department and hospital pediatric capabilities within a local jurisdiction.

(b) Contingent upon available funding, an Emergency Medical Services For Children Program is hereby established within the authority.

(c) The authority shall do the following to implement the EMSC Program:

(1) Employ or contract with professional, technical, research, and clerical staff as necessary to implement this chapter.

(2) Provide advice and technical assistance to local EMS agencies on the integration of an EMSC Program into their EMS system.

(3) Oversee implementation of the EMSC Program by local EMS agencies.

(4) Establish an EMSC technical advisory committee.

(5) Facilitate cooperative interstate relationships to provide appropriate care for pediatric patients who must cross state borders to receive emergency and critical care services.

(6) Work cooperatively and in a coordinated manner with the State Department of Health Services and other public and private agencies in the development of standards and policies for the delivery of emergency and critical care services to children.

(7) On or before March 1, 2000, produce a report for the Legislature describing any progress on implementation of this

chapter. The report shall contain, but not be limited to, a description of the status of emergency medical services for children at both the state and local levels, the recommendation for training, protocols, and special medical equipment for emergency services for children, an estimate of the costs and benefits of the services and programs authorized by this chapter, and a calculation of the number of children served by the EMSC system.

(d) No more than one hundred twenty thousand dollars ($120,000) per fiscal year shall be expended from the General Fund by the authority for the EMSC program.

1799.205. A local EMS agency may develop an EMSC Program in its jurisdiction, contingent upon available funding. If a local EMS agency develops an EMSC Program in its jurisdiction, the local EMS agency shall develop and incorporate in its EMS plan an EMSC component that complies with EMS plan requirements. The EMSC component shall include, but need not be limited to, the following:

(a) EMSC system planning, implementation, and management.

(b) Injury and illness prevention planning, that includes, among other things, coordination, education, and data collection.

(c) Care rendered to patients outside the hospital.

(d) Emergency department care.

(e) Interfacility consultation, transfer, and transport.

(f) Pediatric critical care and pediatric trauma services.

(g) General trauma centers with pediatric considerations.

(h) Pediatric rehabilitation plans that include, among other things, data collection and evaluation, education on early detection of need for referral, and proper referral of pediatric patients.

(i) Children with special EMS needs outside the hospital.

(j) Information management and system evaluation.

1799.207. The authority may solicit and accept grant funding from public and private sources to supplement state funds.

SEC. 4. Section 4019.10 of the Health and Safety Code is amended and renumbered to read:

116565. (a) Commencing July 1, 1993, each public water system serving 1,000 or more service connections and any public water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption, shall reimburse the department for actual cost incurred by the department for conducting those activities mandated by this chapter relating to the issuance of domestic water supply permits, inspections, monitoring, surveillance, and water quality evaluation that relate to that specific public water system. The amount of reimbursement shall be sufficient to pay, but in no event shall exceed, the department's actual cost in conducting these activities.

(b) Commencing July 1, 1993, each public water system serving less than 1,000 service connections shall pay an annual drinking water operating fee to the department as set forth in this subdivision for costs incurred by the department for conducting those activities

mandated by this chapter relating to inspections, monitoring, surveillance, and water quality evaluation relating to public water systems. The total amount of fees shall be sufficient to pay, but in no event shall exceed, the department's actual cost in conducting these activities. Notwithstanding adjustment of actual fees collected pursuant to Section 100425 as authorized pursuant to subdivision (d) of Section 106590, the maximum amount that shall be paid annually by a public water system pursuant to this section shall not exceed the following:

Type of public water system	Fee
15– 24 service connections	$250
25– 99 service connections	$400
100–499 service connections	$500
500–999 service connections	$700
Noncommunity water systems pursuant to paragraph (1) of subdivision (j) of Section 116275	$350
Noncommunity water systems exempted pursuant to Section 116282	$100

(c) For purposes of determining the fees provided for in subdivision (a), the department shall maintain a record of its actual costs for pursuing the activities specified in subdivision (a) relative to each system required to pay the fees. The fee charged each system shall reflect the department's actual cost, or in the case of a local primacy agency the local primacy agency's actual cost, of conducting the specified activities.

(d) The department shall submit an invoice for cost reimbursement for the activities specified in subdivision (a) to the public water systems no more than twice a year.

(1) The department shall submit one estimated cost invoice to public water systems serving 1,000 or more service connections and any public water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption. This invoice shall include the actual hours expended during the first six months of the fiscal year. The hourly cost rate used to determine the amount of the estimated cost invoice shall be the rate for the previous fiscal year.

(2) The department shall submit a final invoice to the public water system prior to September 1 following the fiscal year that the costs were incurred. The invoice shall indicate the total hours expended during the fiscal year, the reasons for the expenditure, the hourly cost rate of the department for the fiscal year, the estimated cost invoice, and payments received. The amount of the final invoice shall be

determined using the total hours expended during the fiscal year and the actual hourly cost rate of the department for the fiscal year. The payment of the estimated invoice, exclusive of late penalty, if any, shall be credited toward the final invoice amount.

(3) Payment of the invoice issued pursuant to paragraphs (1) and (2) shall be made within 90 days of the date of the invoice. Failure to pay the amount of the invoice within 90 days shall result in a 10 percent late penalty that shall be paid in addition to the invoiced amount.

(e) Any public water system under the jurisdiction of a local primacy agency shall pay the fees specified in this section to the local primacy agency in lieu of the department. This section shall not preclude a local health officer from imposing additional fees pursuant to Section 101325.

SEC. 5. Section 102247 of the Health and Safety Code is amended to read:

102247. (a) There is hereby created in the State Treasury the Health Statistics Special Fund. The fund shall consist of revenues including, but not limited to, all of the following:

(1) Fees or charges remitted to the State Registrar for record search or issuance of certificates, permits, registrations, or other documents pursuant to Chapter 3 (commencing with Section 26800) of Part 3 of Division 2 of Title 3 of the Government Code, and Chapter 4 (commencing with Section 102525), Chapter 5 (commencing with Section 102625), Chapter 8 (commencing with Section 103050), and Chapter 15 (commencing with Section 103600), of Part 1, of Division 102.

(2) Funds remitted to the State Registrar by the federal Social Security Administration for participation in the enumeration at birth program.

(3) Funds remitted to the State Registrar by the National Center for Health Statistics pursuant to the federal Vital Statistics Cooperative Program.

(4) Funds deposited pursuant to Section 103640.

(5) Any other funds collected by the State Registrar, except Children's Trust Fund fees collected pursuant to Section 18966 of the Welfare and Institutions Code, fees allocated to the Judicial Council pursuant to Section 1852 of the Family Code, and fees collected pursuant to Section 103645, all of which shall be deposited into the General Fund.

(b) Moneys in the Health Statistics Special Fund shall be expended by the State Registrar for the purpose of funding its existing programs and programs that may become necessary to carry out its mission, upon appropriation by the Legislature.

(c) Health Statistics Special Fund moneys shall be expended only for the purposes set forth in this section and Section 102249, and shall not be expended for any other purpose or for any other state program.

(d) It is the intent of the Legislature that the Health Statistics Special Fund provide for the following:

(1) Registration and preservation of vital event records and dissemination of vital event information to the public.

(2) Data analysis of vital statistics for population projections, health trends and patterns, epidemiologic research, and development of information to support new health policies.

(3) Development of uniform health data systems that are integrated, accessible, and useful in the collection of information on health status.

SEC. 6. Section 102250 of the Health and Safety Code is amended to read:

102250. (a) (1) There is a State Vital Record Improvement Account in the Health Statistics Special Fund.

(2) Commencing January 1, 1997, the State Vital Record Improvement Account in the Health Statistics Special Fund shall be terminated and all funds in the State Vital Record Improvement Account in the Health Statistics Special Fund, or owed to that account as of January 1, 1997, shall remain in the Health Statistics Special Fund and may be expended, upon appropriation by the Legislature, for the purposes of the act adding this paragraph or to fulfill other statutory requirements of the State Registrar.

(b) The remainder of the moneys in the account that are not subject to local allocations on January 1, 1997, pursuant to subdivision (a) of former Section 10040, shall, upon appropriation by the Legislature, be utilized by the State Registrar to improve and automate the processing of vital records maintained by the State Registrar.

(c) This section shall become operative January 1, 1997.

SEC. 7. Section 103640 is added to the Health and Safety Code, to read:

103640. (a) In addition to the fees prescribed by subdivisions (a) to (d), inclusive, of Section 103625, all applicants for certified copies of the records described in those subdivisions shall pay an additional fee of up to two dollars ($2), that shall be collected by the State Registrar, the local registrar, county recorder, or county clerk, as the case may be.

(b) Except as provided in paragraph (2), the local public official charged with the collection of the additional fee established pursuant to subdivision (a) may create a Vital and Health Statistics Trust Fund. The fees collected by local public officials pursuant to subdivision (a) shall be distributed as follows:

(1) Up to ninety cents ($0.90) of each fee collected pursuant to this section shall be deposited with the State Registrar for deposit pursuant to Section 102250.

(2) The remainder of the fee collected pursuant to this section shall be deposited into the collecting agency's Vital and Health Statistics Trust Fund.

(3) Any local public official that does not establish a local Vital and Health Statistics Trust Fund shall forward the entire fee collected pursuant to this section to the State Registrar, who shall deposit the fees pursuant to Section 102250.

(4) Fees collected by the State Registrar shall be deposited pursuant to Section 102250.

(c) Moneys in each Vital and Health Statistics Trust Fund shall be available to the public official charged with the collection of fees pursuant to this section to defray the administrative costs of collecting and reporting with respect to those fees and for the other costs, as follows:

(1) Modernization of vital record operations, including improvement, automation, and technical support of vital record systems.

(2) Improvement in the collection and analysis of health-related birth and death certificate information, and other community health data collection and analysis, as appropriate.

(d) Funds collected pursuant to this section shall not be used to supplant existing funding that is necessary for the daily operation of vital record systems. It is the intent of the Legislature that funds collected pursuant to this section be used to enhance service to the public, to improve analytical capabilities of state and local health authorities in addressing the health needs of newborn children, maternal health problems, and to analyze the health status of the general population.

(e) Each county shall annually submit a report to the State Registrar by March 1, containing information on the amount of revenues collected pursuant to this section for the previous calendar year and on how the revenues were expended and for what purpose.

(f) 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.

(g) This section shall become operative on January 1, 1997.

SEC. 8. Section 116377 is added to the Health and Safety Code, to read:

116377. The department may adopt 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, to implement amendments to this chapter. The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of those regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California

Code of Regulations and shall remain in effect for not more than 180 days.

SEC. 9. Section 116590 of the Health and Safety Code is amended to read:

116590. (a) All funds received by the department pursuant to this chapter, including, but not limited to, all civil penalties collected by the department pursuant to Article 9 (commencing with Section 116650) and Article 11 (commencing with Section 116725), shall be deposited into the Safe Drinking Water Account that is hereby established. Funds in the Safe Drinking Water Account may not be expended for any purpose other than as set forth in this chapter. All moneys collected by the department pursuant to Sections 116565 to 116600, inclusive, shall be deposited into the Safe Drinking Water Account for use by the department, upon appropriation by the Legislature, for the purpose of providing funds necessary to administer this chapter.

(b) The department's hourly cost rate used to determine the reimbursement for actual costs pursuant to Sections 116565, 116577, and 116580 shall be based upon the department's salaries, benefits, travel expense, operating, equipment, administrative support, and overhead costs.

(c) Notwithstanding Section 6103 of the Government Code, each public water system operating under a permit issued pursuant to this chapter shall pay the fees set forth in this chapter. A public water system shall be permitted to collect a fee from its customers to recover the fees paid pursuant to this chapter.

(d) The fees collected pursuant to subdivision (b) of Section 116565 and subdivision (b) of Section 116570 shall be adjusted annually pursuant to Section 100425, and the adjusted fee amounts shall be rounded off to the nearest whole dollar.

(e) Fees assessed pursuant to this chapter shall not exceed actual costs to either the department or the local primacy agency, as the case may be, related to the public water systems assessed the fees.

(f) In no event shall the total amount of funds collected pursuant to subdivision (a) of Section 116565, and subdivision (a) of Section 116577 from public water systems serving 1,000 or more service connections exceed the following:

(1) For the 1992–93 fiscal year, four million nine hundred thousand dollars ($4,900,000).

(2) For the 1993–94 fiscal year, four million seven hundred fifty thousand dollars ($4,750,000).

(3) For the 1994–95 fiscal year, five million dollars ($5,000,000).

(4) For the 1995–96 fiscal year, five million two hundred fifty thousand dollars ($5,250,000).

(5) For the 1996–97 fiscal year, five million five hundred thousand dollars ($5,500,000).

(6) For the 1997–98 fiscal year and subsequent fiscal years, the total amount of funds collected shall not increase by more than 5 percent of the amount collected for the previous fiscal year.

(g) The department shall develop a time accounting standard designed to do all of the following:

(1) Provide accurate time accounting.

(2) Provide accurate invoicing based upon hourly rates comparable to private sector professional classifications and comparable rates charged by other states for comparable services. These rates shall be applied against the time spent by the actual individuals who perform the work.

(3) Establish work standards that address work tasks, timing, completeness, limits on redirection of effort, and limits on the time spent in the aggregate for each activity.

(4) Establish overhead charge-back limitations, including, but not limited to, charge-back limitations on charges relating to reimbursement of services provided to the department by other departments and agencies of the state, that reasonably relate to the performance of the function.

(5) Provide appropriate invoice controls.

SEC. 10. Section 116600 of the Health and Safety Code is amended to read:

116600. Except as otherwise specified, Sections 116565 to 116600, inclusive, shall become operative July 1, 1993. Sections 116565 to 116600, inclusive, shall remain in effect until January 1, 2002, and as of that date are repealed unless a later enacted statute that is enacted before January 1, 2002, deletes or extends that date.

SEC. 11. Section 120955 of the Health and Safety Code is amended to read:

120955. (a) To the extent that state and federal funds are appropriated in the Budget Act for these purposes, the director shall establish and may administer a program to provide drug treatments to persons infected with human immunodeficiency virus (HIV), the etiologic agent of acquired immune deficiency syndrome (AIDS). The director shall develop, maintain, and update as necessary a list of drugs to be provided under this program. Drugs on the list shall include, but not be limited to, the drugs zidovudine (AZT) and aerosolized pentamidine.

(b) The director may grant funds to a county public health department through standard agreements to administer this program in that county. To maximize the recipients' access to drugs covered by this program, the director shall urge the county health department in counties granted these funds to decentralize distribution of the drugs to the recipients.

(c) The director shall establish a rate structure for reimbursement for the cost of each drug included in the program. Rates shall not be less than the actual cost of the drug. However, the director may

purchase a listed drug directly from the manufacturer and negotiate the most favorable bulk price for that drug.

(d) Manufacturers of the drugs on the list shall pay the department a rebate of 15 percent of the average wholesale cost price of each drug.

(e) The department shall submit an invoice, not less than two times per year, to each manufacturer for the amount of the rebate required by subdivision (d).

(f) Drugs may be removed from the list for failure to pay the rebate required by subdivision (d), unless the department determines that removal of the drug from the list would cause substantial medical hardship to beneficiaries.

(g) The department may adopt emergency regulations to implement amendments to this chapter made during the 1996 portion of the 1995–96 Regular Session, 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. The initial adoption of emergency regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this section shall remain in effect for no more than 180 days.

(h) Reimbursement under this chapter shall not be made for any drugs that are available to the recipient under any other private, state, or federal programs, or under any other contractual or legal entitlements, except that the director may authorize an exemption from this subdivision where exemption would represent a cost savings to the state.

SEC. 12. Section 123227 of the Health and Safety Code is amended to read:

123227. (a) The following definitions shall apply for purposes of this section:

(1) "Domestic violence" means the infliction or threat of physical harm against past or present adult or adolescent female intimate partners, and shall include physical, sexual, and psychological abuse against the woman, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over, that woman.

(2) "Shelter-based" means an established system of services where battered women and their children may be provided safe or confidential emergency housing on a 24-hour basis, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(3) "Emergency shelter" means a confidential or safe location that provides emergency housing on a 24-hour basis for battered women and their children.

(b) The Maternal and Child Health Branch of the State Department of Health Services shall administer a comprehensive

shelter-based services grant program to battered women's shelters pursuant to this section.

(c) The Maternal and Child Health Branch shall administer grants, awarded as the result of a request for application process, to battered women's shelters that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, and to establish new battered women's shelters to provide services, in any of the following four areas:

(1) Emergency shelter to women and their children escaping violent family situations.

(2) Transitional housing programs to help women and their children find housing and jobs so that they are not forced to choose between returning to a violent relationship or becoming homeless. The programs may offer up to 18 months of housing, case management, job training and placement, counseling, support groups, and classes in parenting and family budgeting.

(3) Legal and other types of advocacy and representation to help women and their children pursue the appropriate legal options.

(4) Other support services for battered women and their children.

(d) In implementing the grant program pursuant to this section, the State Department of Health Services shall consult with an advisory council, to remain in existence until January 1, 1998. The council shall be composed of not to exceed 13 voting members and two nonvoting members appointed as follows:

(1) Seven members appointed by the Governor.

(2) Three members appointed by the Speaker of the Assembly.

(3) Three members appointed by the Senate Committee on Rules.

(4) Two nonvoting ex officio members who shall be Members of the Legislature, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules. Any Member of the Legislature appointed to the council shall meet with, and participate in the activities of, the council to the extent that participation is not incompatible with his or her position as a Member of the Legislature.

The membership of the council shall consist of domestic violence advocates, battered women service providers, and representatives of women's organizations, law enforcement, and other groups involved with domestic violence. At least one-half of the council membership shall consist of domestic violence advocates or battered women service providers from organizations such as the California Alliance Against Domestic Violence.

It is the intent of the Legislature that the council membership reflect the ethnic, racial, cultural, and geographic diversity of the state.

(e) The department shall collaborate closely with the council in the development of funding priorities, the framing of the Request for Proposals, and the solicitation of proposals.

(f) (1) The Maternal and Child Health Branch of the State Department of Health Services shall administer grants, awarded as the result of a request for application process, to agencies to conduct demonstration projects to serve battered women, including, but not limited to, creative and innovative service approaches, such as community response teams and pilot projects to develop new interventions emphasizing prevention and education, and other support projects identified by the advisory council.

(2) For purposes of this subdivision, "agency" means a state agency, a local government, a community-based organization, or a nonprofit organization.

(g) It is the intent of the Legislature that services funded by this program include services in underserved and ethnic and racial communities. Therefore, the Maternal and Child Health Branch of the State Department of Health Services shall do all of the following:

(1) Fund shelters pursuant to this section that reflect the ethnic, racial, economic, cultural, and geographic diversity of the state.

(2) Target geographic areas and ethnic and racial communities of the state whereby, based on a needs assessment, it is determined that no shelter-based services exist or that additional resources are necessary.

(h) The director may award additional grants to shelter-based agencies when it is determined that there exists a critical need for shelter or shelter-based services.

(i) As a condition of receiving funding pursuant to this section, battered women's shelters shall do all of the following:

(1) Provide matching funds or in-kind contributions equivalent to not less than 20 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(2) Ensure that appropriate staff and volunteers having client contact meet the definition of "domestic violence counselor" as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

SEC. 13. Section 123228 is added to the Health and Safety Code, to read:

123228. (a) The Maternal and Child Health Branch of the State Department of Health Services shall fund, through a competitive selection process determined by the director, at least one agency to provide expert technical assistance and training on domestic violence issues and building agency capacity in order to obtain other funding for services for battered women and their children, including, but not limited to, grant writing and building coalitions.

(b) The Maternal and Child Health Branch of the State Department of Health Services shall fund at least one agency to

conduct a statewide evaluation of the services funded through Section 123277.

(c) For purposes of subdivision (a), "agency" means a state agency, local government, a community-based organization, or a nonprofit agency.

(d) Contracts awarded pursuant to this section are exempt from the competitive bidding requirements of the Public Contract Code.

SEC. 14. Section 4359 of the Welfare and Institutions Code is amended to read:

4359. This chapter shall remain in effect until January 1, 2000, and as of that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

SEC. 15. Section 4643 of the Welfare and Institutions Code, as amended by Chapter 1 of the 1996 Fourth Extraordinary Session, is amended to read:

4643. (a) If assessment is needed, it shall be performed within 120 days following initial intake. Assessment shall be performed as soon as possible and in no event more than 60 days following initial intake where any delay would expose the client to unnecessary risk to his or her health and safety or to significant further delay in mental or physical development, or the client would be at imminent risk of placement in a more restrictive environment. Assessment may include collection and review of available historical diagnostic data, provision or procurement of necessary tests and evaluations, and summarization of developmental levels and service needs and is conditional upon receipt of the release of information specified in subdivision (b). On July 1, 2000, the 120 days allowed for assessment shall revert to 60 days and if unusual circumstances prevent the completion of assessment within 60 days following intake, this assessment period may be extended by one 30-day period with the advance written approval of the department.

(b) In determining if an individual meets the definition of developmental disability contained in subdivision (a) of Section 4512, the regional center may consider evaluations and tests, including, but not limited to, intelligence tests, adaptive functioning tests, neurological and neuropsychological tests, diagnostic tests performed by a physician, psychiatric tests, and other tests or evaluations that have been performed by, and are available from, other sources.

SEC. 16. Section 4681.3 is added to the Welfare and Institutions Code, to read:

4681.3. Notwithstanding any other provision of this article, for the 1996–97 fiscal year, the rate schedule authorized by the department in operation June 30, 1996, shall be increased based upon the amount appropriated in the Budget Act of 1996 for that purpose. The increase shall be applied as a percentage, and the percentage shall be the same for all providers.

SEC. 17. Section 4776.5 is added to the Welfare and Institutions Code, to read:

4776.5. (a) Regional centers shall not be subject to any provision of law, regulation, or policy required of state agencies pertaining to the planning and acquisition of information technology, including personal computers, local area networks, information technology consultation, and software.

(b) The State Department of Developmental Services and the Association of Regional Center Agencies shall jointly develop guidelines for use by regional centers in the expenditure of funds for those information system activities, including consultation and software development, involving interface with the data bases of the State Department of Developmental Services, including the Uniform Fiscal System.

SEC. 18. Section 4791 of the Welfare and Institutions Code, as amended by Chapter 1 of the 1996 Fourth Extraordinary Session, is amended to read:

4791. (a) The Legislature finds that when the state faces an unprecedented fiscal crisis , the services set forth in this division are necessary to enable persons with developmental disabilities to live in the least restrictive setting.

(b) In order to ensure that services to eligible consumers are available throughout the fiscal year, regional centers shall administer their contracts within the level of funding available within the annual Budget Act.

(c) To carry out the intent of this provision, and notwithstanding Chapter 5 and Section 4643, each regional center contract shall include provisions which ensure the regional center will provide services to eligible consumers within the funds available in the contract throughout the fiscal year. Regional centers shall implement innovative, cost-effective methods of services delivery, which may include, but not be limited to, the use of vouchers, consumer or parent services coordinators, increased administrative efficiencies, and alternative sources of payment for services.

(d) In the event of an unallocated reduction, the Budget Act of each fiscal year shall determine the distribution of any unallocated reduction within the regional center budget item.

(e) In the event of an unallocated reduction in the regional center budget, or if an individual regional center notifies the department that the regional center will be unable to provide services and supports to eligible consumers throughout the fiscal year within the level of funding available in their contract, the following shall apply:

(1) The department shall provide the regional center or regional centers with guidelines, technical assistance, and a variety of options for reducing operations and purchase of service costs.

(2) Within 30 days of the enactment of the Budget Act or after the date a regional center notifies the department of a projected deficit in its purchase of services budget, each impacted regional center

shall develop and submit a plan to the department describing in detail how it intends to absorb any unallocated reduction and shall achieve savings necessary to provide services to eligible consumers throughout the fiscal year within the limitations of the funds allocated. Prior to adopting the plan, each regional center shall hold a public hearing in order to receive comment on the plan. The regional centers shall provide notice to the community at least 10 days in advance of the public hearing. The regional center shall summarize and respond to the public testimony in their plan.

(3) The plan submitted to the department may include, but not be limited to:

(A) Innovative and cost-effective methods of services delivery that include, but are not limited to, the use of vouchers; the use of consumers and parents as service coordinators; alternative methods of case management; the use of volunteer teams, made up of consumers, parents, other family members, and advocates, to conduct the monitoring activities described in Section 4648.1; increased administrative efficiencies; alternative sources of payment for services; use of available assessments in determining eligibility; and alternative nonresidential rate methodologies or service delivery models, or both. In addition, the regional center shall take into account, in identifying the consumer's service needs, the family's responsibility for providing similar services to a child without disabilities.

(B) The maximization of all alternative funding sources, including federal and generic funding sources.

(C) Assurances that all other operations expenditure reductions are considered before any reductions are made in nonsupervisory, service coordination staff.

(4) The regional centers shall implement components of their plans upon approval of the department. The department shall review and approve, or require modification of portions of the regional centers' plan, within 30 days of receipt of the plan.

(f) Notwithstanding any other provision of law, in any fiscal year in which an unallocated reduction is made in the regional center budget, the director may adopt, amend, repeal, or suspend regulations as necessary to permit program flexibility and allow regional centers to achieve cost savings or innovative approaches to service delivery, including, but not limited, to those specified in subparagraph (A) of paragraph (1) of subdivision (e) without adversely affecting consumer health and safety or placing persons with disabilities in a more restrictive environment. Furthermore, any such regulatory change shall not authorize categorical reductions; changes in service delivery shall have an exemption process. It is the intent of the Legislature that any such action be deemed an emergency necessary for the immediate preservation of the public peace, health, and safety, or general welfare for purposes of subdivision (b) of Section 11346.1 of the Government Code.

(g) Notwithstanding any other provision of law, the State Director of the Department of Developmental Services may require one or more regional centers to take any actions he or she determines to be necessary to ensure reductions are made in the regional center operations budget, including, but not limited to, the following:

(1) Require a regional center to centralize billing and other fiscal and administrative functions.

(2) Require a regional center to reduce office space through the decentralization of service coordinators by allowing service coordinators to work in their homes and in community-based programs.

(3) Require a regional center to freeze or reduce levels of pay for administrative and managerial employees.

(4) Require a regional center to contract for specified functions currently conducted directly by the regional center.

(5) Require regional centers to seek Medi-Cal provider status for regional center staff performing reimbursable activities.

(h) Notwithstanding any other provisions of law, the director may terminate a regional center contract if he or she determines that the regional center is unable or unwilling to make the necessary reductions in its operations budget or if the action is necessary to avoid reductions in the purchase of services for regional center consumers.

(i) Notwithstanding any other provisions of law, the department may directly operate a regional center after the termination of a contract.

(j) If the director determines that regional centers cannot provide services throughout the fiscal year within the funds provided by the Budget Act, he or she shall immediately report to the Governor and the appropriate fiscal committees of the Legislature and recommend actions to secure additional funds or reduce expenditures, including any actions which require the suspension of the entitlement to service set forth in this division.

(k) Developing and implementing the plan shall be considered a contractual obligation pursuant to Section 4635 of the Welfare and Institutions Code. Accordingly, the department shall make reasonable efforts to assist regional centers in fulfilling their contractual obligations and provide technical assistance, as necessary. In addition, a regional center's failure to develop and implement the plan may be considered grounds for contract termination or nonrenewal. If at any time the director of the department determines that a regional center's plan does not adequately address a funding deficiency during the fiscal year, the director may require the use of operational funds to reduce the deficiency in purchase of services funds.

(*l*) This section shall become inoperative on July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, that

becomes operative on or before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 19. Section 5778 of the Welfare and Institutions Code is amended to read:

5778. (a) This section shall be limited to mental health services reimbursed through a fee-for-service payment system.

(b) During the initial phases of the implementation of this part, as determined by the department, the mental health plan contractor and subcontractors shall submit claims under the Medi-Cal program for eligible services on a fee-for-service basis.

(c) A qualifying county may elect, with the approval of the department, to operate under the requirements of a capitated, integrated service system field test pursuant to Section 5719.5 rather than this part, in the event the requirements of the two programs conflict. A county that elects to operate under that section shall comply with all other provisions of this part that do not conflict with that section.

(d) (1) No sooner than October 1, 1994, state matching funds for Medi-Cal fee-for-service acute psychiatric inpatient services, and associated administrative days, shall be transferred to the department. No later than July 1, 1997, upon agreement between the department and the State Department of Health Services, state matching funds for the remaining Medi-Cal fee-for-service mental health services and the state matching funds associated with field test counties under Section 5719.5 shall be transferred to the department.

(2) The State Department of Mental Health, in consultation with the State Department of Health Services, a statewide organization representing counties, and a statewide organization representing health maintenance organizations shall develop a timeline for the transfer of funding and responsibility for fee-for-service mental health services from Medi-Cal managed care plans to local mental health plans. In developing the timeline, the department shall develop screening, referral, and coordination guidelines to be used by Medi-Cal managed care plans and local mental health plans.

(e) The department shall allocate the contracted amount at the beginning of the contract period to the mental health plan. The allocated funds shall be considered to be funds of the plan that may be held by the department. The department shall develop a methodology to ensure that these funds are held as the property of the plan and shall not be reallocated by the department or other entity of state government for other purposes.

(f) Beginning in the fiscal year following the transfer of funds from the State Department of Health Services, the state matching funds for Medi-Cal mental health services shall be included in the annual budget for the State Department of Mental Health. The amount included shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors.

(g) Initially, the mental health plans shall use the fiscal intermediary of the Medi-Cal program of the State Department of Health Services for the processing of claims for inpatient psychiatric hospital services and may be required to use that fiscal intermediary for the remaining mental health services. The providers for other Short-Doyle Medi-Cal services shall not be initially required to use the fiscal intermediary but may be required to do so on a date to be determined by the department. The department and its mental health plans shall be responsible for the initial incremental increased matching costs of the fiscal intermediary for claims processing and information retrieval associated with the operation of the services funded by the transferred funds.

(h) The mental health plans, subcontractors, and providers of mental health services shall be liable for all federal audit exceptions or disallowances based on their conduct or determinations. The mental health plan contractors shall not be liable for federal audit exceptions or disallowances based on the state's conduct or determinations. The department and the State Department of Health Services shall work jointly with mental health plans in initiating any necessary appeals. The State Department of Health Services may offset the amount of any federal disallowance or audit exception against subsequent claims from the mental health plan or subcontractor. This offset may be done at any time, after the audit exception or disallowance has been withheld from the federal financial participation claim made by the State Department of Health Services. The maximum amount that may be withheld shall be 25 percent of each payment to the plan or subcontractor.

(i) The mental health plans shall have sufficient funds on deposit with the department as the matching funds necessary for federal financial participation to ensure timely payment of claims for acute psychiatric inpatient services and associated administrative days. The department and the State Department of Health Services, in consultation with a statewide organization representing counties, shall establish a mechanism to facilitate timely availability of those funds. Any funds held by the state on behalf of a plan shall be deposited in a mental health managed care deposit fund and shall accrue interest to the plan. The department shall exercise any necessary funding procedures pursuant to Section 12419.5 of the Government Code and Sections 8776.6 and 8790.8 of the State Administrative Manual regarding county claim submission and payment.

(j) (1) The goal for funding of the future capitated system shall be to develop statewide rates for beneficiary, by aid category and with regional price differentiation, within a reasonable time period. The formula for distributing the state matching funds transferred to the State Department of Mental Health for acute inpatient psychiatric services to the participating counties shall be based on the following principles:

(A) Medi-Cal state General Fund matching dollars shall be distributed to counties based on historic Medi-Cal acute inpatient psychiatric costs for the county's beneficiaries and on the number of persons eligible for Medi-Cal in that county.

(B) All counties shall receive a baseline based on historic and projected expenditures up to October 1, 1994.

(C) Projected inpatient growth for the period October 1, 1994, to June 30, 1995, inclusive, shall be distributed to counties below the statewide average per eligible person on a proportional basis. The average shall be determined by the relative standing of the aggregate of each county's expenditures of mental health Medi-Cal dollars per beneficiary. Total Medi-Cal dollars shall include both fee-for-service Medi-Cal and Short-Doyle Medi-Cal dollars for both acute inpatient psychiatric services, outpatient mental health services, and psychiatric nursing facility services, both in facilities that are not designated as institutions for mental disease and for beneficiaries who are under 22 years of age and beneficiaries who are over 64 years of age in facilities that are designated as institutions for mental disease.

(D) There shall be funds set aside for a self-insurance risk pool for small counties. For purposes of this subdivision, "small counties" means counties with less than 200,000 population.

(2) The allocation method for state funds transferred for acute inpatient psychiatric services shall be as follows:

(A) For the 1994–95 fiscal year, an amount equal to 0.6965 percent of the total shall be transferred to a fund established by small counties. This fund shall be used to reimburse mental health plans in small counties for the cost of acute inpatient psychiatric services in excess of the funding provided to the mental health plan for risk reinsurance, acute inpatient psychiatric services and associated administrative days, or for costs associated with the administration of these moneys. The methodology for use of these moneys shall be determined by the small counties, through a statewide organization representing counties, in consultation with the State Department of Mental Health.

(B) The balance of the transfer amount for the 1994–95 fiscal year shall be allocated to counties based on the following formula:

County	Percentage
Alameda	3.5991
Alpine	.0050
Amador	.0490
Butte	.8724
Calaveras	.0683
Colusa	.0294
Contra Costa	1.5544

Del Norte	.1359
El Dorado	.2272
Fresno	2.5612
Glenn	.0597
Humboldt	.1987
Imperial	.6269
Inyo	.0802
Kern	2.6309
Kings	.4371
Lake	.2955
Lassen	.1236
Los Angeles	31.3239
Madera	.3882
Marin	1.0290
Mariposa	.0501
Mendocino	.3038
Merced	.5077
Modoc	.0176
Mono	.0096
Monterey	.7351
Napa	.2909
Nevada	.1489
Orange	8.0627
Placer	.2366
Plumas	.0491
Riverside	4.4955
Sacramento	3.3506
San Benito	.1171
San Bernardino	6.4790
San Diego	12.3128
San Francisco	3.5473
San Joaquin	1.4813
San Luis Obispo	.2660
San Mateo	.0000
Santa Barbara	.0000
Santa Clara	1.9284
Santa Cruz	1.7571
Shasta	.3997
Sierra	.0105
Siskiyou	.1695

Solano	.0000
Sonoma	.5766
Stanislaus	1.7855
Sutter/Yuba	.7980
Tehama	.1842
Trinity	.0271
Tulare	2.1314
Tuolumne	.2646
Ventura	.8058
Yolo	.4043

(k) The allocation method for the state funds transferred for subsequent years for acute inpatient psychiatric and other mental health services shall be determined by the State Department of Mental Health in consultation with a statewide organization representing counties.

(*l*) The allocation methodologies described in this section shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis. When federal funds are capitated, the State Department of Mental Health, in consultation with a statewide organization representing counties, shall determine the methodology for capitation consistent with federal requirements.

(m) The formula that specifies the amount of state matching funds transferred for the remaining Medi-Cal fee-for-service mental health services shall be determined by the department in consultation with a statewide organization representing counties. This formula shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis.

(n) Upon the transfer of funds from the budget of the State Department of Health Services to the department pursuant to subdivision (d), the department shall assume the applicable program oversight authority formerly provided by the State Department of Health Services, including, but not limited to, the oversight of utilization controls as specified in Section 14133. The mental health plan shall include a requirement in any subcontracts that all inpatient subcontractors maintain necessary licensing and certification. Mental health plans shall require that services delivered by licensed staff are within their scope of practice. Nothing in this part shall prohibit the mental health plans from establishing standards that are in addition to the minimum federal and state requirements, provided that these standards do not violate federal and state Medi-Cal requirements and guidelines.

(o) Subject to federal approval and consistent with state requirements, the mental health plan may negotiate rates with providers of mental health services.

(p) Under the fee-for-service payment system, any excess in the payment set forth in the contract over the expenditures for services by the plan shall be spent for the provision of mental health services and related administrative costs.

(q) Nothing in this part shall limit the mental health plan from being reimbursed appropriate federal financial participation for any qualified services even if the total expenditures for service exceeds the contract amount with the Department of Mental Health. Matching nonfederal public funds shall be provided by the plan for the federal financial participation matching requirement.

SEC. 20. Section 6600.05 is added to the Welfare and Institutions Code, to read:

6600.05. It is the intent of the Legislature that persons committed to a secure facility for mental health treatment pursuant to Section 6600 shall be placed at Atascadero State Hospital in the 1996–97 fiscal year unless there are unique circumstances that would preclude the placement of a person at that facility.

SEC. 21. Section 7200.05 is added to the Welfare and Institutions Code, to read:

7200.05. It is the intent of the Legislature that not more than 227 patients whose placement has been required pursuant to provisions of the Penal Code shall be placed in Metropolitan State Hospital in the 1996–97 fiscal year.

SEC. 22. Section 14005.21 of the Welfare and Institutions Code is amended to read:

14005.21. (a) Any medically needy aged, blind, or disabled person who was categorically needy under this chapter on the basis of eligibility under Chapter 3 (commencing with Section 12000) or Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code for the month of August 1993, and was discontinued as of September 1, 1993, and who, but for the addition of Section 12200.015, would be eligible to receive benefits without a share of cost in September 1993 under this chapter, shall remain eligible to receive benefits without a share of cost under this chapter as if that person were categorically needy as long as he or she meets other applicable requirements.

(b) Any medically needy aged, blind, or disabled person who was eligible for benefits under this chapter as categorically needy or medically needy under subdivision (a) for the month of August 1994, shall not be responsible for paying his or her share of cost if he or she had that eligibility for benefits without a share of cost interrupted or terminated by the addition of Section 12200.017, and if he or she, but for Section 12200.017, would be eligible to continue receiving benefits under this chapter without a share of cost.

(c) Any medically needy aged, blind, or disabled person who was eligible for benefits under this chapter as categorically needy, or as medically needy under subdivision (a) or (b), for the calendar month immediately preceding the date that the reductions in maximum aid

payments for the state supplementary program established in Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 made in the 1995–96 Regular Session of the Legislature are effective shall not be responsible for paying his or her share of cost if he or she had that eligibility for benefits without a share of cost interrupted or terminated by the reductions in maximum aid payments, and if he or she, but for the reductions, would be eligible to continue receiving benefits under this chapter without a share of cost.

(d) Any medically needy aged, blind, or disabled person who was eligible for benefits under this chapter as categorically needy, or as medically needy under subdivisions (a), (b), or (c) for the calendar month immediately preceding the date that the reductions in maximum aid payments for the state supplementary program established in Chapter 3 (commencing with Section 12000) made in the 1996 portion of the 1995-96 Regular Session of the Legislature are effective shall not be responsible for paying his or her share of cost if he or she had that eligibility for benefits without a share of cost interrupted or terminated by the reductions in maximum aid payments, and if he or she, but for these reductions, would be eligible to continue receiving benefits under this chapter without a share of cost.

(e) The department shall implement this section regardless of the availability of federal financial participation for the share of cost paid from state funds pursuant to subdivisions (a), (b), (c), and (d).

SEC. 23. Section 14005.8 of the Welfare and Institutions Code is amended to read:

14005.8. (a) (1) To the extent required by Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code and regulations adopted pursuant thereto, a family who was receiving aid pursuant to a state plan approved under Part A of Subchapter IV (commencing with Section 601) of Title 42 of the United States Code in at least three of the six months immediately preceding the month in which that family became ineligible for that assistance due to increased hours of employment, income from employment, or the loss of earned income disregards, shall remain eligible for health care services as provided in this chapter during the immediately succeeding six-month period.

(2) The department shall terminate extensions of health care services authorized by paragraph (1) as required under federal law.

(b) The department shall notify persons eligible under subdivision (a) of their right to continued health care services for each six-month period and a description of their reporting requirement, and the circumstances under which the extension may be terminated. The notice shall also include a Medi-Cal card or other evidence of entitlement to those services.

(c) Notwithstanding any other provision of this section, the department, in conformance with federal law, shall offer beneficiaries covered under subdivision (a) the option of remaining

eligible for health care services provided in this chapter for an additional extension period of six months. Health services shall be continued in as automatic a manner as permitted by federal law, and without any unnecessary paperwork.

(d) During the initial extension period and any additional six-month extension period, the department, consistent with federal law, may, whenever the department determines it to be cost-effective, elect to pay a family's expenses for premiums, deductibles, coinsurance, or similar costs for health insurance or other health coverage offered by an employer of the caretaker relative or by an employer of the absent parent of the dependent child. If, during the additional six-month extension period, the department elects to pay health premiums and this coverage exists, the beneficiary may be given the opportunity to express his or her preference between continuing the Medi-Cal coverage or obtaining health insurance.

(e) During the additional six-month extension period, the department may impose a premium for the health insurance or other health coverage consistent with Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) if the department determines that the imposition of a premium is cost-effective.

(f) The department shall adopt emergency regulations in order to comply with mandatory provisions of Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) for extension of medical assistance. These regulations shall become effective immediately upon filing with the Secretary of State.

(g) This section shall become operative April 1, 1990.

(h) This section shall become inoperative only if, and commencing on the date that, the director executes a declaration, that shall be retained by the director, stating that any federal approval required for federal financial participation in the provision of transitional Medi-Cal benefits pursuant to Section 14005.81, as added during the 1996 portion of the 1995-96 Regular Session, has been obtained, and shall remain inoperative until Section 14005.81 is repealed or the director executes a declaration, that shall be retained by the director, stating that federal financial participation has been withdrawn, whichever occurs first.

SEC. 24. Section 14005.81 is added to the Welfare and Institutions Code, to read:

14005.81. (a) (1) To the extent required by Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code and regulations adopted pursuant to that subchapter, a family who was receiving aid pursuant to a state plan approved under Part A (commencing with Section 601) of Subchapter IV of Title 42 of the United States Code in at least three of the six months immediately preceding the month in which that family became ineligible for that assistance due to increased hours of employment, income from employment, or the loss of earned income

disregards, shall remain eligible for health care services as provided in this chapter during the immediately succeeding 6-month period.

(2) The department shall terminate extensions of health care services authorized by paragraph (1) as required under federal law.

(b) The department shall notify each person eligible under subdivision (a) of his or her right to continued health care services for each 6-month period, and shall provide him or her with a description of his or her reporting obligation, and the circumstances under which the extension may be terminated. The notice shall also include a Medi-Cal card or other evidence of entitlement to those services.

(c) Notwithstanding any other provision of this section, the department, in conformance with federal law, shall offer beneficiaries covered under this subdivision (a) the option of remaining eligible for health care services provided in this chapter for up to three additional extension periods of six months each.

(d) Health services shall be continued in as automatic a manner as permitted by federal law, and without any unnecessary paperwork.

(e) During the initial extension period and any additional 6-month extension period, the department, consistent with federal law, may, whenever the department determines it to be cost effective, elect to pay a family's expenses for premiums, deductibles, coinsurance, or similar costs for health insurance or other health coverage offered by an employer of the caretaker relative or by an employer of the absent parent of the dependent child. If, during any additional 6-month extension period, the department elects to pay health premiums and this coverage exists, the beneficiary may be given the opportunity to express his or her preference between continuing the Medi-Cal coverage or obtaining health insurance.

(f) During any additional 6-month extension period, the department may impose a premium for the health insurance or other health coverage consistent with Title XIX of the federal Social Security Act (Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code) if the department determines that the imposition of a premium is cost effective.

(g) The department shall, 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, adopt emergency regulations in order to comply with the requirement set forth in this section for extension of medical assistance. These regulations shall become effective immediately upon filing with the Secretary of State.

(h) No later than October 1, 1996, the director shall seek approval from the United States Department of Health and Human Services for federal financial participation in the implementation of this section.

(i) This section shall become operative only if, and to the extent that, the director executes a declaration that shall be retained by the director, stating that any necessary federal approvals have been obtained and that federal financial participation under Title XIX of the federal Social Security Act, if applicable, has been approved.

SEC. 25. Section 14005.85 of the Welfare and Institutions Code is amended to read:

14005.85. (a) Families who, because of marriage or because separated spouses reunite, lose AFDC eligibility under the chapter because the family no longer meets the need requirement specified in Section 11250 or has increased assets or income, or both, shall be eligible for extended medical benefits as specified under this article for a period not to exceed 12 months.

(b) The department shall seek all federal waivers necessary to implement this section.

(c) This section shall not be implemented until the director has executed a declaration, that shall be retained by the director, that any necessary waivers and federal financial participation have been obtained.

SEC. 26. Section 14021.6 of the Welfare and Institutions Code is amended to read:

14021.6. (a) Subject to the requirements of federal law, the maximum allowable rates for the Medi-Cal Drug Treatment Program shall be determined by computing the median rate from available cost data by modality from the fiscal year that is two years prior to the year for which the rate is being established.

(b) Notwithstanding subdivision (a), for the 1996–97 fiscal year, the rates for nonperinatal outpatient methadone maintenance services shall be set at the rate established for the 1995–96 fiscal year.

(c) Notwithstanding subdivision (a), the maximum allowable rate for group outpatient drug free services shall be set on a per person basis. A group shall consist of a minimum of four and a maximum of 10 individuals, at least one of which shall be a Medi-Cal eligible beneficiary.

(d) The department shall develop individual and group rates for extensive counseling for outpatient drug free treatment, based on a 50-minute individual or a 90-minute group hour, not to exceed the total rate established for subdivision (c).

(e) The department may adopt regulations as necessary to implement subdivisions (a) and (b), or to implement cost containment procedures. These regulations may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these emergency regulations shall be deemed an emergency necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 27. Section 14087.305 is added to the Welfare and Institutions Code, to read:

14087.305. (a) In areas specified by the director for expansion of the Medi-Cal managed care program under 14087.3 and where the department is contracting with prepaid health plans or with prepaid health plans that are contracting with, governed, owned, or operated by a county board of supervisors, a county special commission or county health authority authorized by Section 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.96, the department shall exclude the Medi-Cal hospice benefit from the list of covered services for which it contracts.

(b) This section shall not apply to managed care contracts signed or in place on July 1, 1996, and any contract in the 12 expansion counties. Medi-Cal beneficiaries eligible for the hospice benefit, and who elect the benefit, shall be provided with the name, address, and telephone number of each licensed hospice provider in their geographic area.

(c) The name, address, and telephone number of each participating hospice shall be made available by contacting the health care options contractor or the health care plan.

(d) Each beneficiary or eligible appliant electing the benefit shall be informed that if he or she fails to make a choice, he or she shall be assigned to, and enrolled in a hospice.

(e) This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 28. Section 14105.31 of the Welfare and Institutions Code is amended to read:

14105.31. For purposes of the Medi-Cal contract drug list, the following definitions shall apply:

(a) "Single-source drug" means a drug that is produced and distributed under an original New Drug Application approved by the federal Food and Drug Administration. This shall include a drug marketed by the innovator manufacturer and any cross-licensed producers or distributors operating under the New Drug Application, and shall also include a biological product, except for vaccines, marketed by the innovator manufacturer and any cross-licensed producers or distributors licensed by the federal Food and Drug Administration pursuant to Section 262 of Title 42 of the United States Code. A drug ceases to be a single-source drug when the same drug in the same dosage form and strength manufactured by another manufacturer is approved by the federal Food and Drug Administration under the provisions for an Abbreviated New Drug Application.

(b) "Best price" means the negotiated price, or the manufacturer's lowest price available to any class of trade organization or entity, including, but not limited to, wholesalers,

retailers, hospitals, repackagers, providers, or governmental entities within the United States, that contracts with a manufacturer for a specified price for drugs, inclusive of cash discounts, free goods, volume discounts, rebates, and on- or off-invoice discounts or credits, shall be based upon the manufacturer's commonly used retail package sizes for the drug sold by wholesalers to retail pharmacies.

(c) "Equalization payment amount" means the amount negotiated between the manufacturer and the department for reimbursement by the manufacturer, as specified in the contract. The equalization payment amount shall be based on the difference between the manufacturer's direct catalog price charged to wholesalers and the manufacturer's best price, as defined in subdivision (b).

(d) "Manufacturer" means any person, partnership, corporation, or other institution or entity that is engaged in the production, preparation, propagation, compounding, conversion, or processing of drugs, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or in the packaging, repackaging, labeling, relabeling, and distribution of drugs.

(e) "Price escalator" means a mutually agreed upon price specified in the contract, to cover anticipated cost increases over the life of the contract.

(f) "Medi-Cal pharmacy costs" or "Medi-Cal drug costs" means all reimbursements to pharmacy providers for services or merchandise, including single-source or multiple-source prescription drugs, over-the-counter medications, and medical supplies, or any other costs billed by pharmacy providers under the Medi-Cal program.

(g) 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. 29. 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 1996–97 fiscal year, the director negotiate as aggressively as necessary to achieve the savings related to pharmaceutical contracting identified in the Budget Act of 1996.

(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, 1999.

(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 30 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.

(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. 30. Section 14105.335 is added to the Welfare and Institutions Code, to read:

14105.335. (a) Effective July 1, 1996, all pharmaceutical manufacturers shall provide the department a supplemental 10 percent rebate in addition to rebates pursuant to other provisions of state or federal law, less any state supplemental rebate currently provided under separate state agreements. The supplemental rebate required under this section shall be required for each prescription drug reimbursed through the Medi-Cal program. This supplemental rebate shall be calculated as 10 percent of the manufacturer's average manufacturer price, as that term is defined in the manufacturer's contract with the Health Care Financing Administration pursuant to Section 1927 of the Social Security Act (42 U.S.C. 1396r-8). Products that have been added to the Medi-Cal list of contract drugs pursuant to Section 14105.43 or 14133.2 do not require a supplemental rebate.

(b) Until such time as a manufacturer executes a contract or contract amendment for the rebates required by subdivision (a), all of that manufacturer's drugs and drug products shall be available to Medi-Cal beneficiaries only through prior authorization.

(c) In carrying out this section, the department may contract either directly, or through the fiscal intermediary, for pharmacy consultant staff necessary to accomplish the treatment authorization request reviews. This authority shall extend until January 1, 1997.

(d) For any drug placed on prior authorization pursuant to subdivision (b), the procedural and notification requirements described in subdivision (i) of Section 14105.33, Sections 14105.37 and 14105.38, subdivisions (a), (c), (e), and (f) of Section 14105.39, and Sections 14105.4 and 14105.405 are waived for the purposes of this section.

(e) This section shall remain in effect only until January 1, 1997, and as of that date, is repealed, unless a later enacted statute that is enacted on or before January 1, 1997, deletes or extends that date.

SEC. 31. Section 14105.35 of the Welfare and Institutions Code is amended to read:

14105.35. (a) (1) On and after July 1, 1990, drugs included on the Medi-Cal drug formulary shall be included on the list of contract drugs until the department and the manufacturer have concluded contract negotiations or the department suspends the drug from the list of contract drugs pursuant to the provisions of this subdivision.

The department shall, in writing, invite any manufacturer with single-source drug products on the formulary as of July 1, 1990, to enter into negotiations relative to the retention of its drug or drugs. As to the issue of cost, the department shall accept the manufacturer's

best price as sufficient for purposes of entering into a contract to retain the drug or drugs on the list of contract drugs.

If the department and a manufacturer enter into a contract for retention of a drug or drugs on the list of contract drugs, the drug or drugs shall be retained on the list of contract drugs for the effective term of the contract.

If a manufacturer refuses to enter into negotiations with the department pursuant to this subdivision, or if after 30 days of negotiation, the manufacturer has not agreed to execute a contract for a drug at the manufacturer's best price, the department may suspend from the list of contract drugs the manufacturer's single-source drug in question for a period of at least 180 days. The department shall lift the suspension upon execution of a contract for that drug. Consistent with the provisions of this section, the department shall delete the Medi-Cal drug formulary specified in paragraphs (b), (c), (d), and (e) of Section 59999 of Title 22 of the California Code of Regulations.

(2) On and after July 1, 1990, the director may retain a drug on the Medi-Cal list of contract drugs even if no contract is executed with a manufacturer, if the director determines that an essential need exists for that drug, and there are no other drugs currently on the formulary that meet that need.

(3) The director may delete a drug from the list of contract drugs if the director determines that the drug presents problems of safety or misuse. The director's decision as to safety shall be based upon published medical literature, and the director's decision as to misuse shall be based on published medical literature and claims data supplied by the fiscal intermediary.

(b) Any reference to the Medi-Cal drug formulary by statute or regulation shall be construed as referring to the list of contract drugs.

(c) (1) Any drug in the process of being added to the formulary by contract agreement pursuant to Section 14105.3, executed prior to the effective date of this section, shall be added to the list of contract drugs.

(2) Contracts pursuant to Section 14105.3 executed prior to January 1, 1991, shall be considered to be contracts executed pursuant to Section 14105.33, and the department shall exempt the drugs included in these contracts from the initial therapeutic category review in which they would normally be considered.

(3) Nothing in this section shall be construed to require the department to discontinue negotiations into which it has entered with any manufacturer as of the effective date of this section. Contracts entered into as a result of these negotiations shall be exempt from the initial therapeutic category review in which they would normally be considered.

(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 January 1, 1999, deletes or extends that date.

SEC. 32. Section 14105.37 of the Welfare and Institutions Code is amended to read:

14105.37. (a) The department shall notify each manufacturer of drugs in therapeutic categories selected pursuant to Section 14105.33 of the provisions of Sections 14105.31 to 14105.42, inclusive.

(b) If, within 45 days of notification, a manufacturer does not enter into negotiations for a contract pursuant to those sections, the department may suspend or delete from the list of contract drugs, or refuse to consider for addition, drugs of that manufacturer in the selected therapeutic categories.

(c) If, after 150 days from the initial notification, a contract is not executed for a drug currently on the list of contract drugs, the department may suspend or delete the drug from the list of contract drugs.

(d) If, within 150 days from the initial notification, a contract is executed for a drug currently on the list of contract drugs, the department shall retain the drug on the list of contract drugs.

(e) If, within 150 days from the date of the initial notification, a contract is executed for a drug not currently on the list of contract drugs, the department shall add the drug to the list of contract drugs.

(f) The department shall terminate all negotiations 150 days after the initial notification.

(g) The department may suspend or delete any drug from the list of contract drugs at the expiration of the contract term or when the contract between the department and the manufacturer of that drug is terminated.

(h) Any drug suspended from the list of contract drugs pursuant to this section or Section 14105.35 shall be subject to prior authorization, as if that drug were not on the list of contract drugs.

(i) Any drug suspended from the list of contract drugs pursuant to this section or Section 14105.35 for at least 12 months may be deleted from the list of contract drugs in accordance with the provisions of Section 14105.38.

(j) 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. 33. Section 14105.38 of the Welfare and Institutions Code is amended to read:

14105.38. (a) (1) In the event the department determines a drug should be deleted from the list of contract drugs, the department shall conduct a public hearing, as provided in this section, to receive comment on the impact of removing the drug.

(2) (A) The department shall provide written notice 30 days prior to the hearing.

(B) The department shall send the notice required by this subdivision to the manufacturer of the drug proposed to be deleted and to organizations representing Medi-Cal beneficiaries.

(b) (1) The hearing panel shall consist of the Chief, Medi-Cal Drug Discount Program, who shall serve as chair, and the Medi-Cal Contract Drug Advisory Committee.

(2) The hearing shall be recorded and transcribed, and the transcript available for public review.

(3) Subsequent to hearing all public comment, and within 30 days of the hearing, each panel member shall submit a recommendation regarding deletion of the drug and the reason for the recommendation to the director.

(c) The director shall consider public comments provided at the hearing and the recommendations of each panel member in determining whether to delete the drug.

(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 January 1, 1999, deletes or extends that date.

SEC. 34. 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 12 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) Deletions 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, 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. 35. Section 14105.4 of the Welfare and Institutions Code, as amended by Section 8 of Chapter 723 of the Statutes of 1992, is amended to read:

14105.4. (a) The director shall appoint a Medi-Cal Contract Drug Advisory Committee for the purpose of providing scientific and medical analysis on drugs contained on the list of contract drugs. The duties of the committee shall be as follows:

(1) To review drugs in the Medi-Cal list of contract drugs and make written recommendations to the director as to the addition of any drug or the deletion of any drug from the list. These recommendations shall be in accordance with subdivision (d) of Section 14105.39.

(2) To review and report in writing to the director as to the comparative therapeutic effect of drugs in accordance with Section 14053.5.

(3) To prepare a fair, impartial, and independent recommendation in writing, regarding appeals from manufacturers made pursuant to subdivision (e) of Section 14105.39.

(b) The committee shall consist of at least one representative from each of the following groups:

(1) Physicians.

(2) Pharmacists.

(3) Schools of pharmacy or pharmacologists.

(4) Medi-Cal beneficiaries.

(c) Members of the committee shall be reimbursed for necessary travel and other expenses incurred in the performance of official committee duties.

(d) In order to provide sufficient scientific information and analysis in the therapeutic categories under review, the director may replace a representative if required for specific expertise.

(e) The director shall notify the committee of the decisions made on the recommendations.

(f) 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. 36. Section 14105.4 of the Welfare and Institutions Code, as amended by Section 9 of Chapter 723 of the Statutes of 1992, is amended to read:

14105.4. (a) The department shall schedule and conduct a public regulatory hearing to consider the addition of a drug to, or the deletion of a drug from, the Medi-Cal drug formulary five working days subsequent to the Medical Therapeutic and Drug Advisory Committee meeting which shall meet at least every four months. The public hearing may consist of written testimony only, and the hearing record shall be closed at the end of the public hearing.

(b) The department shall make available 45 days prior to the public hearing the department's estimate of any anticipated costs or savings to the state from adding a drug product to, or deleting a drug product from, the Medi-Cal drug formulary.

(c) Whenever the department accepts a completed petition to add a drug product to the Medi-Cal drug formulary and it is not processed pursuant to Section 14105.9, it shall be scheduled for review at the next regularly scheduled Medical Therapeutic and Drug Advisory Committee meeting and public regulatory hearing, unless the meeting and hearing are scheduled to occur within 120 days, in which case the drug product may be scheduled for the following hearing.

(d) The director shall issue a final decision regarding the drug product and shall submit any regulation adding a drug product to, or deleting a drug product from, the Medi-Cal drug formulary to the Office of Administrative Law, along with the completed rulemaking record, within seven months after the hearing prescribed in subdivision (a). This section shall not, however, be construed in a manner which results in the disapproval or invalidation of a regulation for failure to comply with the time frames prescribed in this subdivision and subdivisions (a) and (c).

(e) (1) Except as provided in paragraph (2), the criteria used by the department in deciding whether a drug product shall be added to or deleted from the formulary shall be limited to the criteria adopted as department regulations. The criteria shall be specific and unambiguous.

(2) Notwithstanding paragraph (1), 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:

(A) The federal Food and Drug Administration's approval or approvable letter for the drug and federal Food and Drug Administration's approved labeling.

(B) The federal Food and Drug Administration's medical officers' and pharmacologists' reviews and the federal Food and Drug Administration's approved labeling.

(f) Departmental requests for information from persons filing drug petitions to which this section applies shall be specific and

unambiguous and shall be made solely for the purpose of addressing the criteria utilized in accordance with subdivision (e).

(g) All published studies received by the department pursuant to a drug petition prior to the close of the public regulatory hearing record shall be accepted and considered by the department.

(h) Whenever the director decides to reject a petition to add a drug product to, or delete a drug product from, the formulary, the director shall notify the petitioner directly and in writing indicating the reason and specifying the criteria utilized in reaching the decision.

(i) The department shall accept a petition for a drug that has been rejected by the director upon the submission of another complete petition containing substantial new information that addresses the reason or reasons for rejection stated by the director pursuant to subdivision (h). Any petition accepted pursuant to this subdivision shall be processed in accordance with subdivision (c), or Section 14105.9, whichever is applicable.

(j) This section shall become operative on January 1, 1999.

SEC. 37. Section 14105.405 of the Welfare and Institutions Code is amended to read:

14105.405. (a) A Medi-Cal beneficiary, within 90 days of receipt of the director's notice to beneficiaries pursuant to subdivision (g) of Section 14105.33, informing them of the decision to delete or suspend a drug from the list of contract drugs, may request a fair hearing pursuant to Chapter 7 (commencing with Section 10950) of Part 2.

(b) Any beneficiary filing a fair hearing request regarding the deletion or suspension of a drug from the formulary shall be granted a treatment authorization request for that drug until a final decision is adopted by the director. Should the beneficiary seek judicial review of the director's decision, a treatment authorization request shall be granted for that drug until a final decision is issued by the court.

(c) (1) Any Medi-Cal beneficiary, within one year of the director's decision pursuant to Section 10959, may file a petition with the superior court, under the provisions of Section 1094.5 of the Code of Civil Procedure, praying for a review of both the legal and factual basis for the director's decision.

(2) The director shall be the sole respondent in these proceedings.

(d) Any Medi-Cal beneficiary injured as a result of being denied a drug which is determined to be medically necessary may sue for injunctive or declaratory relief to review the director's decision to delete or suspend a drug from the list of contract drugs.

(e) 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. 38. Section 14105.41 of the Welfare and Institutions Code, as amended by Section 11 of Chapter 723 of the Statutes of 1992, is amended to read:

14105.41. (a) Moneys accruing to the department from contracts executed pursuant to Section 14105.33 shall be deposited in the Health Care Deposit Fund, and shall be subject to appropriation by the Legislature.

(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. 39. Section 14105.41 of the Welfare and Institutions Code, as amended by Section 97 of Chapter 938 of the Statutes of 1995, is amended to read:

14105.41. (a) For the purpose of adding drugs to, or deleting drugs from, the Medi-Cal drug formulary as described in Section 14105.4, whether pursuant to a petition or by the department independent of a petition, all of the requirements of the Administrative Procedure Act contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable except that the requirements of subdivision (a) of Section 11340.7 and subdivision (a) of Section 11346.9 of the Government Code shall be deemed to have been complied with if the department does all of the following:

(1) Upon receipt of a petition requesting the addition of a drug to, or the deletion of a drug from, the Medi-Cal drug formulary, the department shall notify the petitioner directly and in writing of the receipt of the petition and shall, within 30 days, either return the petition as incomplete or schedule the petition for public hearing, unless the public hearing is not required pursuant to Section 14105.9.

(2) Notifies each petitioner directly and in writing of its decision regarding the addition of a drug product to, or deletion of a drug product from, the formulary and shall state the reason or reasons for its decision and the specific regulatory criteria that are the basis of the department's decision.

(3) Prepares and submits to the Office of Administrative Law with the adopted regulation all of the following for each drug which the department has decided to add to, or delete from, the Medi-Cal drug formulary:

(A) A brief summary of the comments submitted. For the purpose of this section, "comments" shall mean the major points raised in testimony which specifically address the regulatory criteria upon which the department is authorized, pursuant to subdivision (e) of Section 14105.4, to base a decision to add or delete a drug from the formulary.

(B) The recommendation of the Medical Therapeutic and Drug Advisory Committee.

(C) The decision of the department.

(D) A statement of the reason and the specific regulatory criteria that are the basis of the department's decision.

(b) Any additional information provided to the department during the posting of revisions to the proposed regulation shall be

responded to by the department directly and in writing to the originator. That response shall notify the originator whether the additional information has resulted in a changed decision.

(c) For the purpose of review by the court, if any, and review and approval by the Office of Administrative Law of changes to the Medi-Cal drug formulary adopted by the department, each drug added to, or deleted from, the formulary shall be considered to be a separate regulation and shall be severable from all other additions or deletions of drugs contained in the rulemaking file.

(d) This section shall be applicable to any Medi-Cal drug formulary regulation package filed with the Office of Administrative Law on or after January 1, 1999.

(e) This section shall become operative on January 1, 1999.

SEC. 40. Section 14105.42 of the Welfare and Institutions Code, as amended by Chapter 716 of the Statutes of 1992, is amended to read:

14105.42. (a) The department shall report to the Legislature after the first three major therapeutic categories have been reviewed and contracts executed. The report shall include the estimated savings, number of manufacturers entering negotiations, number of contracts executed, number of drugs added and deleted, and impact on Medi-Cal beneficiaries and providers.

(b) The department shall provide the following data to the Legislature and to the Auditor General by January 1, 1991, and every six months thereafter:

(1) The number of drug treatment authorization requests (TAR) received by facsimile, by secondary answering system and in person for each therapeutic category.

(2) The number of drug TARS requested, approved, denied, and returned.

(3) The length of time between the TAR request and the decision, specified by type of communication such as telephone or facsimile if available.

(4) For denied TARS, the number of fair hearings requested, approved, denied and pending.

(5) The numbers of providers who were unable to submit a request or made multiple attempts because of faulty or unavailable lines of communication, if available.

(6) The numbers of complaints made by beneficiaries and providers relating to difficulty or inability to obtain a TAR response.

(7) The status of the enhancements to the TAR process specified in Section 21 of Chapter 457 of the Statutes of 1990.

(8) The number of calls on the TAR line which are not getting through.

(c) The Auditor General shall prepare a report by February 1, 1991, and every six months thereafter providing a summary and analysis of the data specified in subdivision (b), and a comparative analysis of changes in the TAR process using June 1, 1990, as a base. The analysis shall include a measure of increased or decreased ability

to contact the department and receive a response in a shorter or greater period of time.

(d) The Bureau of State Audits shall prepare a report by January 1, 1998, on the drug program management techniques of the drug contracting program, and the comparability of the program to other private sector third party payers. In completing its report the bureau may consult with the department, prescribing physicians, pharmacists, drug manufacturers, representatives of beneficiaries, and others as the bureau sees fit.

(e) The department shall report to the Legislature, through the annual budget process, on the cost effectiveness of contracts executed pursuant to Section 14105.33.

(f) 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. 41. Section 14105.91 of the Welfare and Institutions Code is amended to read:

14105.91. The department may add a drug to the formulary which is a different dosage form, or strength of a drug product which is listed in the formulary without review by the Medical Therapeutics and Drug Advisory Committee and the addition shall be deemed to comply with the requirements of the California Administrative Procedures Act.

This section shall become operative on January 1, 1999.

SEC. 42. Section 14105.915 of the Welfare and Institutions Code is amended to read:

14105.915. The department may remove any drug from the formulary at the expiration of the contract term or when the contract between the department and the manufacturer of that drug is terminated.

This section shall become operative on January 1, 1999.

SEC. 43. Section 14105.916 of the Welfare and Institutions Code is amended to read:

14105.916. Notwithstanding any other provision of law, on and after January 1, 1999, drugs on the Medi-Cal list of contract drugs shall become the Medi-Cal drug formulary.

SEC. 43.5. Section 14132.44 of the Welfare and Institutions Code is amended to read:

14132.44. (a) Targeted case management (TCM), pursuant to Section 1915(g) of the Social Security Act as amended by Public Law 99-272 (42 U.S.C. Sec. 1396n(g)), shall be covered as a benefit, effective January 1, 1995. Nothing in this section shall be construed to require any local governmental agency to implement TCM.

(b) A TCM provider furnishing TCM services shall be a local governmental agency under contract with the department to provide TCM services. Local educational agencies shall not be providers of case management services under this section.

(c) A TCM provider may contract with a nongovernmental entity or the University of California, or both, to provide TCM services on its behalf under the conditions specified by the department in regulations.

(d) Each TCM provider shall have all of the following:

(1) Established procedures for performance monitoring.

(2) A countywide system to prevent duplication of services and to ensure coordination and continuity of care among providers of case management services provided to beneficiaries who are eligible to receive case management services from two or more programs.

(3) A fee mechanism effective January 1, 1995, specific to TCM services provided, which may vary by program.

(e) A TCM service provider, a nongovernmental entity or the University of California, or both, under contract with a TCM provider may provide TCM services to one or all of the following groups of Medi-Cal beneficiaries, which shall be defined in regulation:

(1) High-risk persons.

(2) Persons who have language or other comprehension barriers.

(3) Persons on probation.

(4) Persons who have exhibited an inability to handle personal, medical, or other affairs.

(5) Persons abusing alcohol or drugs, or both.

(6) Adults at risk of institutionalization.

(7) Adults at risk of abuse or neglect.

(f) (1) A local governmental agency that elects to provide TCM services to the groups specified in subdivision (e) shall, for each fiscal year, for the purpose of obtaining federal medicaid matching funds, submit an annual cost report as prescribed by the department that certifies all of the following:

(A) The availability and expenditure of 100 percent of the nonfederal share for the provision of TCM services from the local governmental agency's general fund or from any other funds allowed under federal law and regulation.

(B) The amount of funds expended on allowable TCM services.

(C) Its expenditures represent costs that are eligible for federal financial participation.

(D) The costs reflected in the annual cost reports used to determine TCM rates are developed in compliance with the definitions contained in the Office of Management and Budget (OMB) Circular A-87.

(E) Case management services provided in accordance with Section 1396n(g) of Title 42 of the United States Code will not duplicate case management services provided under any home- and community-based services waiver.

(F) Claims for providing case management services pursuant to this section will not duplicate claims made to public agencies or private entities under other program authorities for the same purposes.

(G) The requirements of subdivision (d) have been met.

(2) The department shall deny any claim if it determines that any certification required by this subdivision is not adequately supported for purposes of federal financial participation.

(g) Only a local governmental agency may submit TCM service claims to the department for the performance of TCM services.

(h) During the period from January 1, 1995, through June 30, 1995, TCM services shall be reimbursed according to the interim mechanism developed by the state and the Health Care Financing Administration, which is reflected in the document entitled "Agreement Between the Health Care Financing Administration and the State of California, Department of Health Services." For the 1995–96 fiscal year, the department shall establish an initial rate of reimbursement. Effective July 1, 1996, and thereafter, TCM services shall be reimbursed in accordance with regulations that shall be adopted by the department.

(i) The department, in consultation with local governmental agencies, and consistent with federal regulations, and the State Medicaid Manual of the Department of Health and Human Services, Health Care Financing Administration, shall adopt regulations that define TCM services, establish the standards under which TCM services qualify as a Medi-Cal reimbursable service, prescribe the methodology for determining the rate of reimbursement, and establish a claims submission and processing system and method to certify local matching expenditures.

(j) (1) Notwithstanding any other provision of this section, the state shall be held harmless, in accordance with paragraphs (2) and (3) from any federal audit disallowance and interest resulting from payments made by the federal medicaid program as reimbursement for claims for providing TCM services pursuant to this section, less the amounts already remitted to the state pursuant to subdivision (m) for the disallowed claim.

(2) To the extent that a federal audit disallowance and interest results from a claim or claims for which any local governmental agency has received reimbursement for TCM services, the department shall recoup from the local governmental agency that submitted that disallowed claim, through offsets or by a direct billing, amounts equal to the amount of the disallowance and interest, in that fiscal year, less the amounts already remitted to the state pursuant to subdivision (m) for the disallowed claim. All subsequent claims submitted to the department applicable to any previously disallowed claim, may be held in abeyance, with no payment made, until the federal disallowance issue is resolved.

(3) Notwithstanding paragraphs (1) and (2), to the extent that a federal audit disallowance and interest results from a claim or claims for which the local governmental agency has received reimbursement for TCM services performed by a nongovernmental entity or the University of California, or both, under contract with,

and on behalf of, the participating local governmental agency, the department shall be held harmless by that particular local governmental agency for 100 percent of the amount of any such federal audit disallowance and interest, less the amounts already remitted to the state pursuant to subdivision (m) for the disallowed claim.

(k) The use of local matching funds required by this section shall not create, lead to, or expand the health care funding obligations or service obligations for current or future years for each local governmental agency, except as required by this section or as may be required by federal law.

(*l*) TCM services are services which assist beneficiaries to gain access to needed medical, social, educational, and other services. Services provided by TCM providers, and their subcontractors, shall be defined in regulation, and shall include at least one of the following:

(1) Assessment.
(2) Plan development.
(3) Linkage and consultation.
(4) Assistance in accessing services.
(5) Periodic review.
(6) Crisis assistance planning.

(m) (1) Each local government agency shall contribute to the department a portion of the agency's general fund that has been made available due to the coverage of services described in this section under the Medi-Cal program. The contributed funds shall be reinvested in health services through the Medi-Cal program. The total contribution amount shall be equal to $33^1/_3$ percent of the amounts that have been made available under this section, but in no case shall this contribution exceed twenty million dollars ($20,000,000) in a fiscal year less the amount contributed pursuant to subdivision (m) of Section 14132.47. Beginning with the 1994–95 fiscal year, each local governmental agency's share of the total contribution shall be determined by claims submitted and approved for payment through January 1 of the following calendar year. Claims received and approved for payment after January 1 for dates of service in the previous fiscal year shall be included in the following year's calculation. Each local governmental agency's share of the contribution for the previous fiscal year shall be determined no later than February 15 and shall be remitted to the state no later than April 1 of each year. The contribution amount shall be paid from nonfederal, general fund revenues, and shall be deposited in the Targeted Case Management Claiming Fund, which is hereby created, for transfer to the Health Care Deposit Fund.

(2) Moneys received by the department pursuant to this subdivision are hereby continuously appropriated, notwithstanding Section 13340 of the Government Code, to the department for the support of the Medi-Cal program, and the funds shall be

administered in accordance with procedures prescribed by the Department of Finance. If not paid as provided in this section, the department may offset payments due to each local governmental agency from the state, not related to payments required to be made pursuant to this section, in order to recoup these funds for the Targeted Case Management Claiming Fund.

(n) As a condition of participation and in consideration of the joint effort of the local governmental agencies and the department in implementing this section and the ongoing need of local governmental agencies to receive technical support from the department, as well as assistance in claims processing and program monitoring, the local governmental agencies shall cover the costs of the administrative activities performed by the department. Each local governmental agency shall annually pay a portion of the total costs of administrative activities performed by the department through a mechanism agreed to by the department and the local governmental agencies, or if no agreement is reached by August 1 of each year, directly to the state. The department shall determine and report the staffing requirements upon which projected costs will be based. Projected costs shall include the anticipated salaries, benefits, and operating expenses necessary to administer targeted case management.

(o) For the purposes of this section a "local governmental agency" means a county or chartered city.

SEC. 44. Section 14132.47 of the Welfare and Institutions Code is amended to read:

14132.47. (a) It is the intent of the Legislature to provide local governmental agencies the choice of participating in either or both of the Targeted Case Management (TCM) and Administrative Claiming process programs at their option, subject to the requirements of this section and Section 14132.44.

(b) The department may contract with each participating local governmental agency to assist with the performance of administrative activities necessary for the proper and efficient administration of the Medi-Cal program, pursuant to Section 1396b(a) of Title 42 of the United States Code, Section 1903a of the federal Social Security Act, and this activity shall be known as the Administrative Claiming process.

(c) (1) As a condition for participation in the Administrative Claiming process, each participating local governmental agency shall, for the purpose of claiming federal medicaid matching funds, enter into a contract with the department and shall certify to the department the amount of local governmental agency general funds or any other funds allowed under federal law and regulation expended on the allowable administrative activities.

(2) The department shall deny the claim if it determines that the certification is not adequately supported for purposes of federal financial participation.

(d) Each participating local governmental agency may subcontract with nongovernmental entities to assist with the performance of administrative activities necessary for the proper and efficient administration of the Medi-Cal program under the conditions specified by the department in regulations. A nongovernmental entity may include a local educational agency.

(e) Each Administrative Claiming process contract shall include a requirement that each participating local governmental agency submit a claiming plan in a manner that shall be prescribed by the department in regulations, developed in consultation with local governmental agencies.

(f) The department shall require that each participating local governmental agency certify to the department both of the following:

(1) The availability and expenditure of 100 percent of the nonfederal share of the cost of performing Administrative Claiming process activities. The funds expended for this purpose shall be from the local governmental agency's general fund or from any other funds allowed under federal law and regulation.

(2) In each fiscal year that its expenditures represent costs that are eligible for federal financial participation for that fiscal year. The department shall deny the claim if it determines that the certification is not adequately supported for purposes of federal financial participation.

(g) (1) Notwithstanding any other provision of this section, the state shall be held harmless, in accordance with paragraphs (2) and (3), from any federal audit disallowance and interest resulting from payments made to a participating local governmental agency pursuant to this section, less the amounts already remitted to the state pursuant to subdivision (m) for the disallowed claim.

(2) To the extent that a federal audit disallowance and interest results from a claim or claims for which any participating local governmental agency has received reimbursement for Administrative Claiming process activities, the department shall recoup from the local governmental agency that submitted the disallowed claim, through offsets or by a direct billing, amounts equal to the amount of the disallowance and interest, in that fiscal year, less the amounts already remitted to the state pursuant to subdivision (m) for the disallowed claim. All subsequent claims submitted to the department applicable to any previously disallowed administrative activity or claim, may be held in abeyance, with no payment made, until the federal disallowance issue is resolved.

(3) Notwithstanding paragraph (2), to the extent that a federal audit disallowance and interest results from a claim or claims for which the participating local governmental agency has received reimbursement for Administrative Claiming process activities performed by a nongovernmental entity under contract with, and on behalf of, the participating local governmental agency, the

department shall be held harmless by that particular participating local governmental agency for 100 percent of the amount of any such federal audit disallowance and interest, less the amounts already remitted to the state pursuant to subdivision (m) for the disallowed claim.

(h) The use of local matching funds required by this section shall not create, lead to, or expand the health care funding obligations or service obligations for current or future years for any participating local governmental agency, except as required by this section or as may be required by federal law.

(i) The department shall deny any claim from a participating local governmental agency if the department determines that the claim is not adequately supported in accordance with criteria established pursuant to this subdivision and implementing regulations before it forwards such a claim for reimbursement to the federal medicaid program. In consultation with local government agencies, the department shall adopt regulations that prescribe the requirements for the submission and payment of claims for administrative activities performed by each participating local agency.

(j) Administrative activities shall be those determined by the department to be necessary for the proper and efficient administration of the state's medicaid plan and shall be defined in regulation.

(k) If the department denies any claim submitted under this section, the affected participating local governmental agency may, within 30 days after receipt of written notice of the denial, request that the department reconsider its action. The participating local governmental agency may request a meeting with the director or his or her designee within 30 days to present its concerns to the department after the request is filed. If the director or his or her designee cannot meet, the department shall respond in writing indicating the specific reasons for which the claim is out of compliance to the participating local governmental agency in response to its appeal. Thereafter, the decision of the director shall be final.

(*l*) Participating local governmental agencies may claim the actual costs of nonemergency, nonmedical transportation of Medi-Cal eligibles to Medi-Cal covered services, under guidelines established by the department, to the extent that these costs are actually borne by the participating local governmental agency.

(m) (1) Each participating local governmental agency shall contribute to the department a portion of the agency's general fund that has been made available due to the coverage of administrative activities described in this section under the Medi-Cal program. The contributed funds shall be reinvested in health services through the Medi-Cal program. The total contribution amount shall be equal to $33\ ^1/_3$ percent of amounts made available under this section, but in no case shall the contribution exceed twenty million dollars

($20,000,000) a fiscal year less the amount contributed pursuant to subdivision (m) of Section 14132.44. Beginning with the 1994–95 fiscal year, each local governmental agency's share of the total contribution shall be determined by claims submitted and approved for payment through January 1 of the following calendar year. Claims received and approved for payment after January 1 for dates of service in the previous fiscal year shall be included in the following year's calculation. Each local governmental agency's share of the contribution for the previous fiscal year shall be determined no later than February 15 and shall be remitted to the state no later than April 1 of each year. The contribution amount shall be paid from nonfederal, general fund revenues and shall be deposited in the Administrative Claiming Fund for transfer to the Health Care Deposit Fund.

(2) Moneys received by the department pursuant to this subdivision are hereby continuously appropriated to the department for support of the Medi-Cal program, and the funds shall be administered in accordance with procedures prescribed by the Department of Finance. If not paid as provided in this section, the department may offset payments due to each participating local governmental agency from the state, not related to payments required to be made pursuant to this section in order to recoup these funds for the Administrative Claiming Fund.

(n) As a condition of participation in the Administrative Claiming process and in recognition of revenue generated to each participating local governmental agency in the Administrative Claiming process, each participating local governmental agency shall pay an annual participation fee through a mechanism agreed to by the state and local governmental agencies, or, if no agreement is reached by August 1 of each year, directly to the state. The participation fee shall be used to cover the cost of administering the Administrative Claiming process, including, but not limited to, claims processing, technical assistance, and monitoring. The department shall determine and report staffing requirements upon which projected costs will be based. The amount of the participation fee shall be based upon the anticipated salaries, benefits, and operating expenses, to administer the Administrative Claiming process and other costs related to that process.

(o) For the purposes of this section "participating local governmental agency" means a county or chartered city under contract with the department pursuant to subdivision (b).

(p) For the purposes of this section, a "nongovernmental entity" does not include an entity or person administered by, affiliated with, or employed by a participating local governmental agency.

(q) The requirements of subdivision (m) shall not apply to claims for administrative activities, pursuant to the Administrative Claiming process, performed by public health programs administered by the state.

(r) A participating local governmental agency may charge an administrative fee to any entity claiming Administrative Claiming through that agency.

(s) The department shall continue to administer the Administrative Claiming process in conformity with federal requirements.

(t) The department shall provide technical assistance to all participating local governmental agencies in order to maximize federal financial participation in the Administrative Claiming process.

(u) This section shall be applicable to Administrative Claiming process activities performed, and to moneys paid to participating local governmental agencies for those activities, in the 1994–95 fiscal year and thereafter.

SEC. 45. Section 14132.90 of the Welfare and Institutions Code is amended to read:

14132.90. (a) As of September 15, 1995, day care habilitative services, pursuant to subdivision (c) of Section 14021 shall be provided only to alcohol and drug exposed pregnant women and women in the postpartum period, or as required by federal law.

(b) (1) Notwithstanding any other provision of law, except to the extent required by federal law, if, as of May 15, 1997, the projected costs for the 1996–97 fiscal year for outpatient drug abuse services, as described in Section 14021, exceed forty-five million dollars ($45,000,000) in state General Fund moneys, then the outpatient drug free services, as defined in Section 51341.1 of Title 22 of the California Code of Regulations, shall not be a benefit under this chapter as of July 1, 1997.

(2) Notwithstanding paragraph (1), outpatient methadone maintenance and Naltrexone shall remain benefits under this chapter.

(3) Notwithstanding paragraph (1), residential care, outpatient drug free services, and day care habilitative services, for alcohol and drug exposed pregnant women and women in the postpartum period shall remain benefits under this chapter.

SEC. 46. Section 14133.22 of the Welfare and Institutions Code is amended to read:

14133.22. (a) Prescribed drugs shall be limited to no more than six per month, unless prior authorization is obtained.

(b) The limit in subdivision (a) shall not apply to patients receiving care in a nursing facility.

(c) The limit in subdivision (a) shall not apply to drugs for family planning.

(d) The department may issue Medi-Cal cards that contain labels for prescribed drugs to implement this section.

(e) In carrying out this section, the department may contract either directly, or through the fiscal intermediary, for pharmacy

consultant staff necessary to accomplish the treatment authorization request reviews.

SEC. 47. Section 14148.5 of the Welfare and Institutions Code is amended to read:

14148.5. (a) State funded perinatal services shall be provided under the Medi-Cal program to pregnant women and state funded medical services to infants up to one year of age in families with incomes above 185 percent, but not more than 200 percent of the federal poverty level, in the same manner that these services are being provided to the Medi-Cal population, including eligibility requirements and integration of eligibility determinations and payment of claims, except as follows:

(1) The assets of the family shall not be considered in making the eligibility determination.

(2) The income deduction specified in subdivision (f) of Section 14148 shall not be applied.

(b) Services provided under this section shall not be subject to any share-of-cost requirements.

(c) (1) The department, in implementing the Medi-Cal program and public health programs, in coordination with the Major Risk Medical Insurance Programs Access for Infants and Mothers component shall provide for outreach activities in order to enhance participation and access to perinatal services. Funding received pursuant to the federal provisions shall be used to expand perinatal outreach activities.

(2) Those outreach activities required by paragraph (1) shall be targeted toward both Medi-Cal and non-Medi-Cal eligible high risk or uninsured pregnant women and infants. Outreach activities may include, but not be limited to, all of the following:

(A) Education of the targeted women on the availability and importance of early prenatal care and referral to Medi-Cal and other programs.

(B) Information provided through toll-free telephone numbers.

(C) Recruitment and retention of perinatal providers.

(d) Notwithstanding any other provision of law, contracts required to implement the provisions of this section shall be exempt from the approval of the Director of General Services and from the provisions of the Public Contract Code.

(e) The programs authorized in this section shall be operative for the entire 1996–97 fiscal year.

SEC. 48. Section 14163 of the Welfare and Institutions Code is amended to read:

14163. (a) For purposes of this section, the following definitions shall apply:

(1) "Public entity" means a county, a city, a city and county, the University of California, a local hospital district, a local health authority, or any other political subdivision of the state.

(2) "Hospital" means a health facility that is licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide acute inpatient hospital services, and includes all components of the facility.

(3) "Disproportionate share hospital" means a hospital providing acute inpatient services to Medi-Cal beneficiaries that meets the criteria for disproportionate share status relating to acute inpatient services set forth in Section 14105.98.

(4) "Disproportionate share list" means the annual list of disproportionate share hospitals for acute inpatient services issued by the department pursuant to Section 14105.98.

(5) "Fund" means the Medi-Cal Inpatient Payment Adjustment Fund.

(6) "Eligible hospital" means, for a particular state fiscal year, a hospital on the disproportionate share list that is eligible to receive payment adjustment amounts under Section 14105.98 with respect to that state fiscal year.

(7) "Transfer year" means the particular state fiscal year during which, or with respect to which, public entities are required by this section to make an intergovernmental transfer of funds to the Controller.

(8) "Transferor entity" means a public entity that, with respect to a particular transfer year, is required by this section to make an intergovernmental transfer of funds to the Controller.

(9) "Transfer amount" means an amount of intergovernmental transfer of funds that this section requires for a particular transferor entity with respect to a particular transfer year.

(10) "Intergovernmental transfer" means a transfer of funds from a public entity to the state, that is local government financial participation in Medi-Cal pursuant to the terms of this section.

(11) "Licensee" means an entity that has been issued a license to operate a hospital by the department.

(12) "Annualized Medi-Cal inpatient paid days" means the total number of Medi-Cal acute inpatient hospital days, regardless of dates of service, for which payment was made by or on behalf of the department to a hospital, under present or previous ownership, during the most recent calendar year ending prior to the beginning of a particular transfer year, including all Medi-Cal acute inpatient covered days of care for hospitals that are paid on a different basis than per diem payments.

(13) "Medi-Cal acute inpatient hospital day" means any acute inpatient day of service attributable to patients who, for those days, were eligible for medical assistance under the California state plan, including any day of service that is reimbursed on a basis other than per diem payments.

(b) The Medi-Cal Inpatient Payment Adjustment Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to,

and under the administrative control of, the department for the purposes specified in subdivision (d). The fund shall consist of the following:

(1) Transfer amounts collected by the Controller under this section, whether submitted by transferor entities pursuant to subdivision (i) or obtained by offset pursuant to subdivision (j).

(2) Any other intergovernmental transfers deposited in the fund, as permitted by Section 14164.

(3) Any interest that accrues with respect to amounts in the fund.

(c) Moneys in the fund, which shall not consist of any state general funds, shall be used as the source for the nonfederal share of payments to hospitals pursuant to Section 14105.98. Moneys shall be allocated from the fund by the department and matched by federal funds in accordance with customary Medi-Cal accounting procedures, and used to make payments pursuant to Section 14105.98.

(d) Except as otherwise provided in Section 14105.98 or in any provision of law appropriating a specified sum of money to the department for administering this section and Section 14105.98, moneys in the fund shall be used only for the following:

(1) Payments to hospitals pursuant to Section 14105.98.

(2) Except for the amount transferred pursuant to paragraph (3), transfers to the Health Care Deposit Fund as follows:

(A) In the amount of two hundred thirty-nine million seven hundred fifty-seven thousand six hundred ninety dollars ($239,757,690), for the 1994–95 and 1995–96 fiscal years.

(B) In the amount of two hundred twenty-nine million seven hundred fifty-seven thousand six hundred ninety dollars ($229,757,690) for the 1996–97 fiscal year and each fiscal year thereafter.

(C) Notwithstanding any other provision of law, the amount specified in this paragraph shall be in addition to any amounts transferred to the Health Care Deposit Fund arising from changes of any kind attributable to payment adjustment years prior to the 1993–94 payment adjustment year. These transfers from the fund shall be made in six equal monthly installments to the Medi-Cal local assistance appropriation item (Item 4260-101-001 of the annual Budget Act) in support of Medi-Cal expenditures. The first installment shall accrue in October of each transfer year, and all other installments shall accrue monthly thereafter from November through March.

(3) In the 1993–94 fiscal year, in addition to the amount transferred as specified in paragraph (2), fifteen million dollars ($15,000,000) shall also be transferred to the Medi-Cal local assistance appropriation item (Item 4260-101-001) of the Budget Act of 1993.

(e) For the 1991–92 state fiscal year, the department shall determine, no later than 70 days after the enactment of this section, the transferor entities for the 1991–92 transfer year. To make this

determination, the department shall utilize the disproportionate share list for the 1991–92 fiscal year, which shall be issued by the department no later than 65 days after the enactment of this section, pursuant to paragraph (1) of subdivision (f) of Section 14105.98. The department shall identify each eligible hospital on the list for which a public entity is the licensee as of July 1, 1991. The public entity that is the licensee of each identified eligible hospital shall be a transferor entity for the 1991–92 transfer year.

(f) The department shall determine, no later than 70 days after the enactment of this section, the transfer amounts for the 1991–92 transfer year.

The transfer amounts shall be determined as follows:

(1) The eligible hospitals for 1991–92 shall be identified. For each hospital, the applicable total per diem payment adjustment amount under Section 14105.98 for the 1991–92 transfer year shall be computed. This amount shall be multiplied by 80 percent of the eligible hospital's annualized Medi-Cal inpatient paid days as determined from all Medi-Cal paid claims records available through April 1, 1991. The products of these calculations for all eligible hospitals shall be added together to determine an aggregate sum for the 1991–92 transfer year.

(2) The eligible hospitals for 1991–92 involving transferor entities as licensees shall be identified. For each hospital, the applicable total per diem payment adjustment amount under Section 14105.98 for the 1991–92 transfer year shall be computed. This amount shall be multiplied by 80 percent of the eligible hospital's annualized Medi-Cal inpatient paid days as determined from all Medi-Cal paid claims records available through April 1, 1991. The products of these calculations for all eligible hospitals with transferor entities as licensees shall be added together to determine an aggregate sum for the 1991–92 transfer year.

(3) The aggregate sum determined under paragraph (1) shall be divided by the aggregate sum determined under paragraph (2), yielding a factor to be utilized in paragraph (4).

(4) The factor determined in paragraph (3) shall be multiplied by the amount determined for each hospital under paragraph (2). The product of this calculation for each hospital in paragraph (2) shall be divided by 1.771, yielding a transfer amount for the particular transferor entity for the transfer year, except as provided by paragraph (5).

(5) Only for the transfer year with respect to which the payment adjustment program set forth in Section 14105.98 first gains federal approval, a reduction in the transfer amount determined pursuant to paragraph (4) shall be applicable under the following circumstances:

(A) To determine any such reduction, the transfer amount determined pursuant to paragraph (4) shall first be multiplied by a fraction, the numerator of which is the number of days of the transfer

year for which federal approval is effective and the denominator of which is 365.

(B) If the product of the calculation under subparagraph (A) is 80 percent or more of the transfer amount determined under paragraph (4), no reduction of the transfer amount determined under paragraph (4) shall apply.

(C) If the product of the calculation under subparagraph (A) is less than 80 percent of the transfer amount determined under paragraph (4), a reduction shall apply to the transfer amount determined under paragraph (4). The reduction shall be that particular amount which is equal to the difference between (i) the transfer amount determined under paragraph (4) and (ii) the amount calculated under subparagraph (A) divided by 80 percent.

(D) Any reduction of a transfer amount applicable under subparagraph (C) shall be spread equally among the installments referred to in subdivision (i).

(g) For the 1991–92 transfer year, the department shall notify each transferor entity in writing of its applicable transfer amount or amounts no later than 70 days after the enactment of this section, which amount or amounts shall be subject to adjustment pursuant to subdivisions (f) and (i).

(h) For the 1992–93 transfer year and subsequent transfer years, transfer amounts shall be determined in the same procedural manner as set forth in subdivision (f), except:

(1) The department shall use all of the following:

(A) The disproportionate share list applicable to the particular transfer year to determine the eligible hospitals.

(B) The payment adjustment amounts calculated under Section 14105.98 for the particular transfer year. These amounts shall take into account any projected or actual increases or decreases in the size of the payment adjustment program as are required under Section 14105.98 for the particular year in question. Subject to the installment schedule in paragraph (5) of subdivision (i) regarding transfer amounts, the department may issue interim, revised, and supplemental transfer requests as necessary and appropriate to address changes in payment adjustment levels that occur under Section 14105.98. All transfer requests, or adjustments thereto, issued to transferor entities by the department shall meet the requirements set forth in subparagraph (E) of paragraph (5) of subdivision (i).

(C) Data regarding annualized Medi-Cal inpatient paid days for the most recent calendar year ending prior to the beginning of the particular transfer year, as determined from all Medi-Cal paid claims records available through April 1 preceding the particular transfer year.

(D) The status of public entities as licensees of eligible hospitals as of July 1 of the particular transfer year.

(E) The transfer amounts calculated by the department may be increased or decreased by a percentage amount consistent with the Medi-Cal State Plan.

(2) For the 1993–94 transfer year and subsequent transfer years, transfer amounts shall be increased on a pro rata basis for each transferor entity for the particular transfer year in the amounts necessary to fund the nonfederal share of the total supplemental lump-sum payment adjustment amounts that arise under Section 14105.98. For purposes of this paragraph, the supplemental lump-sum payment adjustment amounts shall be deemed to arise for the particular transfer year as of the date specified in Section 14105.98. Transfer amounts to fund the nonfederal share of the payments shall be paid by the transferor entities for the particular transfer year within 20 days after the department notifies the transferor entity in writing of the additional transfer amount to be paid.

(3) The department shall prepare preliminary analyses and calculations regarding potential transfer amounts, and potential transferor entities shall be notified by the department of estimated transfer amounts as soon as reasonably feasible regarding any particular transfer year. Written notices of transfer amounts shall be issued by the department as soon as possible with respect to each transfer year. All state agencies shall take all necessary steps in order to supply applicable data to the department to accomplish these tasks. The Office of Statewide Health Planning and Development shall provide to the department quarterly access to the edited and unedited confidential patient discharge data files for all Medi-Cal eligible patients. The department shall maintain the confidentiality of that data to the same extent as is required of the Office of Statewide Health Planning and Development. In addition, the Office of Statewide Health Planning and Development shall provide to the department, not later than March 1 of each year, the data specified by the department, as the data existed on the statewide data base file as of February 1 of each year, from all of the following:

(A) Hospital annual disclosure reports, filed with the Office of Statewide Health Planning and Development pursuant to Section 443.31 of the Health and Safety Code, for hospital fiscal years that ended during the calendar year ending 13 months prior to the applicable February 1.

(B) Annual reports of hospitals, filed with the Office of Statewide Health Planning and Development pursuant to Section 439.2 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(C) Hospital patient discharge data reports, filed with the Office of Statewide Health Planning and Development pursuant to subdivision (g) of Section 443.31 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(D) Any other materials on file with the Office of Statewide Health Planning and Development.

(4) For the 1993–94 transfer year and subsequent transfer years, the divisor to be used for purposes of the calculation referred to in paragraph (4) of subdivision (f) shall be determined by the department. The divisor shall be calculated to ensure that the appropriate amount of transfers from transferor entities are received into the fund to satisfy the requirements of Section 14105.98 for the particular transfer year. For the 1993–94 transfer year, the divisor shall be 1.742.

(5) For the 1993–94 fiscal year, the transfer amount that would otherwise be required from the University of California shall be increased by fifteen million dollars ($15,000,000).

(6) Notwithstanding any other provision of law, the total amount of transfers required from the transferor entities for any particular transfer year shall not exceed the sum of the following:

(A) The amount needed to fund the nonfederal share of all payment adjustment amounts applicable to the particular payment adjustment year as calculated under Section 14105.98. Included in the calculations for this purpose shall be any decreases in the program as a whole, and for individual hospitals, that arise due to the provisions of Section 1396r-4(f) of Title 42 of the United States Code.

(B) The amount needed to fund the transfers to the Health Care Deposit Fund, as referred to in paragraphs (2) and (3) of subdivision (d).

(7) (A) Except as provided in subparagraph (B) and in subparagraph (A) of paragraph (2) of subdivision (j), and except for a prudent reserve not to exceed two million dollars ($2,000,000) in the Medi-Cal Inpatient Payment Adjustment Fund, any amounts in the fund, including interest that accrues with respect to the amounts in the fund, that are not expended, or estimated to be required for expenditure, under Section 14105.98 with respect to a particular transfer year shall be returned on a pro rata basis to the transferor entities for the particular transfer year within 120 days after the department determines that the funds are not needed for an expenditure in connection with the particular transfer year.

(B) The department shall determine the interest amounts that have accrued in the fund from its inception through June 30, 1995, and, no later than January 1, 1996, shall distribute these interest amounts to transferor entities, as follows:

(i) The total amount transferred to the fund by each transferor entity for all transfer years from the inception of the fund through June 30, 1995, shall be determined.

(ii) The total amounts determined for all transferor entities under clause (i) shall be added together, yielding an aggregate of the total amounts transferred to the fund for all transfer years from the inception of the fund through June 30, 1995.

(iii) The total amount determined under clause (i) for each transferor entity shall be divided by the aggregate amount determined under clause (ii), yielding a percentage for each transferor entity.

(iv) The total amount of interest earned by the fund from its inception through June 30, 1995, shall be determined.

(v) The percentage determined under clause (iii) for each transferor entity shall be multiplied by the amount determined under clause (iv), yielding the amount of interest that shall be distributed under this subparagraph to each transferor entity.

(C) Regarding any funds returned to a transferor entity under subparagraph (A), or interest amounts distributed to a transferor entity under subparagraph (B), the department shall provide to the transferor entity a written statement that explains the basis for the particular return or distribution of funds and contains the general calculations used by the department in determining the amount of the particular return or distribution of funds.

(i) (1) For the 1991–92 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in eight equal installments. Except as provided below, the first installment shall accrue on July 25, 1991, and all other installments shall accrue on the 5th day of each month thereafter from August through February.

(2) Notwithstanding paragraph (1), no installment shall be payable to the Controller until that date which is 20 days after the department notifies the transferor entity in writing that the payment adjustment program set forth in Section 14105.98 has first gained federal approval as part of the Medi-Cal program. For purposes of this paragraph, federal approval requires both (i) approval by appropriate federal agencies of an amendment to the Medi-Cal State Plan, as referred to in subdivision (o) of Section 14105.98, and (ii) confirmation by appropriate federal agencies regarding the availability of federal financial participation for the payment adjustment program set forth in Section 14105.98 at a level of at least 40 percent of the percentage of federal financial participation that is normally applicable for Medi-Cal expenditures for acute inpatient hospital services.

(3) If any installment that would otherwise be payable under paragraph (1) is not paid because of the provisions of paragraph (2), then subparagraphs (A) and (B) shall be followed when federal approval is gained.

(A) All installments that were deferred based on the provisions of paragraph (2) shall be paid no later than 20 days after the department notifies the transferor entity in writing that federal approval has been gained, in an amount consistent with subparagraph (B).

(B) The installments paid pursuant to subparagraph (A) shall be paid in full, subject to an adjustment in amount pursuant to paragraph (5) of subdivision (f).

(4) All installments for the 1991–92 transfer year that arise in months after federal approval is gained shall be paid by the 5th day of the month or 20 days after the department notifies the transferor entity in writing that federal approval has been gained, whichever is later. These installments shall be subject to an adjustment in amount pursuant to paragraph (5) of subdivision (f).

(5) (A) Except as provided in subparagraphs (B) and (C), for the 1992–93 transfer year and subsequent transfer years, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in eight equal installments. The first installment shall be payable on July 10 of each transfer year. All other installments shall be payable on the 5th day of each month thereafter from August through February.

(B) For the 1994–95 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in five equal installments. The first installment shall be payable on October 5, 1994. The next four installments shall be payable on the fifth day of each month thereafter from November through February.

(C) For the 1995–96 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in five equal installments. The first installment shall be payable on October 5, 1995. The next four installments shall be payable on the fifth day of each month thereafter from November through February.

(D) Except as otherwise specifically provided, subparagraphs (A) to (C), inclusive, shall not apply to increases in transfer amounts described in paragraph (2) of subdivision (h) or to additional transfer amounts described in subdivision (o).

(E) All requests for transfer payments, or adjustments thereto, issued by the department shall be in writing and shall include (i) an explanation of the basis for the particular transfer request or transfer activity, (ii) a summary description of program funding status for the particular transfer year, and (iii) the general calculations used by the department in connection with the particular transfer request or transfer activity.

(6) A transferor entity may use any of the following funds for purposes of meeting its transfer obligations under this section:

(A) General funds of the transferor entity.

(B) Any other funds permitted by law to be used for these purposes, except that a transferor entity shall not submit to the Controller any federal funds unless those federal funds are authorized by federal law to be used to match other federal funds. In addition, no private donated funds from any health care provider, or from any person or organization affiliated with such a health care provider, shall be channeled through a transferor entity or any other public entity to the fund. The transferor entity shall be responsible

for determining that funds transferred meet the requirements of this subparagraph.

(j) (1) If a transferor entity does not submit any transfer amount within the time period specified in this section, the Controller shall offset immediately the amount owed against any funds which otherwise would be payable by the state to the transferor entity. The Controller, however, shall not impose an offset against any particular funds payable to the transferor entity where the offset would violate state or federal law.

(2) Where a withhold or a recoupment occurs pursuant to the provisions of paragraph (2) of subdivision (r) of Section 14105.98, the nonfederal portion of the amount in question shall remain in the fund, or shall be redeposited in the fund by the department, as applicable. The department shall then proceed as follows:

(A) If the withhold or recoupment was imposed with respect to a hospital whose licensee was a transferor entity for the particular state fiscal year to which the withhold or recoupment related, the nonfederal portion of the amount withheld or recouped shall serve as a credit for the particular transferor entity against an equal amount of transfer obligations under this section, to be applied whenever the transfer obligations next arise. Should no such transfer obligation arise within 180 days, the department shall return the funds in question to the particular transferor entity within 30 days thereafter.

(B) For other situations, the withheld or recouped nonfederal portion shall be subject to paragraph (7) of subdivision (h).

(k) All amounts received by the Controller pursuant to subdivision (i), paragraph (2) of subdivision (h), or subdivision (o), or offset by the Controller pursuant to subdivision (j), shall immediately be deposited in the fund.

(*l*) For purposes of this section, the disproportionate share list utilized by the department for a particular transfer year shall be identical to the disproportionate share list utilized by the department for the same state fiscal year for purposes of Section 14105.98. Nothing on a disproportionate share list, once issued by the department, shall be modified for any reason other than mathematical or typographical errors or omissions on the part of the department or the Office of Statewide Health Planning and Development in preparation of the list.

(m) Neither the intergovernmental transfers required by this section, nor any elective transfer made pursuant to Section 14164, shall create, lead to, or expand the health care funding or service obligations for current or future years for any transferor entity, except as required of the state by this section or as may be required by federal law, in which case the state shall be held harmless by the transferor entities on a pro rata basis.

(n) No amount submitted to the Controller pursuant to subdivision (i), paragraph (2) of subdivision (h), or subdivision (o), or offset by the Controller pursuant to subdivision (j), shall be

claimed or recognized as an allowable element of cost in Medi-Cal cost reports submitted to the department.

(o) Whenever additional transfer amounts are required to fund the nonfederal share of payment adjustment amounts under Section 14105.98 that are distributed after the close of the particular payment adjustment year to which the payment adjustment amounts apply, the additional transfer amounts shall be paid by the parties who were the transferor entities for the particular transfer year that was concurrent with the particular payment adjustment year. The additional transfer amounts shall be calculated under the formula that was in effect during the particular transfer year. For transfer years prior to the 1993–94 transfer year, the percentage of the additional transfer amounts available for transfer to the Health Care Deposit Fund under subdivision (d) shall be the percentage that was in effect during the particular transfer year. These additional transfer amounts shall be paid by transferor entities within 20 days after the department notifies the transferor entity in writing of the additional transfer amount to be paid.

(p) (1) Ten million dollars ($10,000,000) of the amount transferred from the Medi-Cal Inpatient Payment Adjustment Fund to the Health Care Deposit Fund due to amounts transferred attributable to years prior to the 1993–94 fiscal year is hereby appropriated without regard to fiscal years to the State Department of Health Services to be used to support the development of managed care programs under the department's plan to expand Medi-Cal managed care.

(2) These funds shall be used by the department for both of the following purposes: (A) distributions to counties or other local entities that contract with the department to receive those funds to offset a portion of the costs of forming the local initiative entity, and (B) distributions to local initiative entities that contract with the department to receive those funds to offset a portion of the costs of developing the local initiative health delivery system in accordance with the department's plan to expand Medi-Cal managed care.

(3) Entities contracting with the department for any portion of the ten million dollars ($10,000,000) shall meet the objectives of the department's plan to expand Medi-Cal managed care with regard to traditional and safety net providers.

(4) Entities contracting with the department for any portion of the ten million dollars ($10,000,000) may be authorized under those contracts to utilize their funds to provide for reimbursement of the costs of local organizations and entities incurred in participating in the development and operation of a local initiative.

(5) To the full extent permitted by state and federal law, these funds shall be distributed by the department for expenditure at the local level in a manner that qualifies for federal financial participation under the medicaid program.

SEC. 49. Section 14511 is added to the Welfare and Institutions Code, to read:

14511. Notwithstanding any other provision of law, on and after the effective date of any repeal of Division 24 (commencing with Section 24000) of the Welfare and Institutions Code, the general statewide program for the provision of comprehensive clinical family planning services as referenced in this chapter shall be deemed to be operative in all respects, and the State Department of Health Services shall administer the program accordingly. It is the intent of the Legislature that appropriate funding be made available at that time for the general statewide program for the provision of comprehensive clinical family planning services as set forth in this chapter through the annual budget process.

SEC. 50. Section 14512 is added to the Welfare and Institutions Code, to read:

14512. It is the intent of the Legislature that all contracts for the provision of direct services entered into by the Office of Family Planning under this chapter shall be competitively awarded.

SEC. 51. Chapter 14 (commencing with Section 18993) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 14. COMMUNITY CHALLENGE GRANT PROGRAM

18993. There is hereby created the Community Challenge Grant Program in the State Department of Health Services to provide community challenge grants to reduce the number of teenage and unwed pregnancies.

18993.1. The Legislature hereby finds and declares all of the following:

(a) One in three children in California is born out of wedlock.

(b) As many as 70,000 children were born to teenagers in each of at least the last two years and nearly 25 percent of these were born to teenage mothers who have previously had children.

(c) Children who grow up without fathers are five times more likely to be poor, twice as likely to drop out of school, and much more likely to end up in foster care or juvenile justice facilities.

(d) Girls raised in single-parent families are three times more likely to become unwed teenage mothers than those girls raised in two-parent families.

(e) Boys without a father in the home are more likely to become incarcerated, unemployed, or uninvolved with their own children when they become fathers.

(f) The consequences of teenage pregnancy and fatherlessness are significant and far-reaching.

(g) Teenage and unwed pregnancy are problems that affect community health and success.

(h) Government can best solve the problems of teenage and unwed pregnancies in partnership with local communities, parents, and families.

(i) Communities should decide what prevention strategies will work and be acceptable.

(j) Parents and families should be included in the teenage pregnancy prevention strategies.

18993.2. (a) The State Department of Health Services shall administer grants for purposes of this chapter that shall be awarded pursuant to a request for application process.

(b) Grants shall be awarded to existing and new community-based nonprofit organizations and county and local governments for purposes of implementing locally developed prevention and intervention strategies designed to do the following:

(1) Reduce the number of teenage and unwed pregnancies.

(2) Reduce the number of children growing up in homes without fathers as a result of these pregnancies.

(3) Promote responsible parenting and the involvement of the father in the economic, social, and emotional support of his children.

(c) Grant funding shall not be used for clinical services and shall target, but not be limited to, the following populations:

(1) Presexual adolescents.

(2) Sexually active adolescents.

(3) Pregnant and parenting adolescents.

(4) Parents and families.

(5) Adults at risk for unwed motherhood or absentee fatherhood.

(d) The department shall provide outreach and training to potential grantees to increase the number of agencies and groups that may be able to successfully compete for the grants.

(e) The department shall issue periodic reports that describe the projects that have been awarded grants pursuant to this chapter.

18993.3. (a) An advisory committee of 10 members shall be appointed to advise and consult with the department regarding the Community Challenge Grant Program in the following areas:

(1) The broad goals of the program.

(2) Effective strategies for implementing the program.

(3) Elements of evaluating the effectiveness of the program grantees.

(4) Strategies for engaging nongovernmental resources and expertise in the implementation and success of the program.

(b) Six members shall be appointed by the Secretary of the Health and Welfare Agency, two members by the Speaker of the Assembly, and two members by the Senate Committee on Rules.

(c) The advisory committee shall reflect a broad constituency and multidisciplinary approach to the problem of teenage and unwed pregnancy, including persons that represent corporations and foundations, the religious community, parents, teenagers, the

education and academic community, community-based organizations, and public health organizations.

18993.4. Grant applications shall include, but not be limited to, the following:

(a) Plans for community collaboration with parents, local agencies, businesses, school leaders, community groups, and private organizations.

(b) Measurable objectives selected by the applicant.

(c) Evidence of the applicant's capability to effect proposed changes.

(d) A needs assessment.

(e) A comprehensive description of the population or populations proposed to be served.

(f) A project description, a work plan, and budget justifications.

(g) A project evaluation and a process for data collection to facilitate the department's ability to conduct a statewide evaluation.

18993.5. (a) Criteria for grant selection shall include, but not be limited to, the following:

(1) Degree of community input and collaboration in the project.

(2) Degree of involvement of parents and families within the community.

(3) Degree of involvement of nongovernmental organizations.

(4) Degree of need for the project in the local community.

(5) Geographic, economic, population, and ethnic diversity.

(6) Feasibility.

(7) Cost effectiveness.

(8) Degree to which project outcomes can be measured and evaluated.

(b) The department shall provide an explanation for the reasons why an applicant is not funded.

18993.6. (a) Grantees shall be required to match a portion of the grant awarded under the Community Challenge Grant Program with either dollar or measurable in-kind contributions as provided by this section.

(b) Grantees shall provide a match of not less than 10 percent for the first year of the grant, not less than 15 percent for the second year of the grant, and not less than 20 percent for the third year of the grant.

(c) The match required by this section shall be supplemental to the funds appropriated for the Community Challenge Grant Program and shall be from nongovernmental sources.

18993.7. (a) The costs for state administration of the Community Challenge Grant Program may be up to 5 percent of the total appropriation for the program. The Legislature shall be notified of the administrative costs of this program pursuant to Section 28 of the Budget Act of 1996. Indirect costs for grantees shall not exceed 10 percent of the grant amount.

(b) The department may use local assistance funds allocated for the program to provide training to potential grantees authorized by subdivision (d) of Section 18993.2.

(c) The department may use local assistance funds allocated to the program for the evaluation of the program required by subdivision (b) of Section 18993.8.

18993.8. The department shall conduct a statewide independent evaluation of the program. The department shall submit its findings from the evaluation to the Legislature on or before January 1, 1999.

18993.9. This chapter shall remain operative until July 1, 1999, and shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is effective on or before January 1, 2000, deletes or extends that date.

SEC. 52. Division 24 (commencing with Section 24000) is added to the Welfare and Institutions Code, to read:

DIVISION 24. STATE-ONLY FAMILY PLANNING PROGRAM

24000. There is established in the State Department of Health Services the State-Only Family Planning Program to provide comprehensive clinical family planning services to low-income men and women. This division shall be known and may be cited as the State-Only Family Planning Program.

24001. (a) For purposes of this division, "family planning" means the process of establishing objectives for the number and spacing of children, and selecting the means by which those objectives may be achieved. These means include a broad range of acceptable and effective methods and services to limit or enhance fertility, including contraceptive methods, natural family planning, abstinence methods and basic, limited fertility management. Family planning services include, but are not limited to, preconceptual counseling, maternal and fetal health counseling, general reproductive health care, including diagnosis and treatment of infections and conditions, including cancer, that threaten reproductive capability, medical family planning treatment and procedures, including supplies and followup, and informational, counseling, and educational services. Family planning does not include abortion, pregnancy testing solely for the purposes of referral for abortion or services ancillary to abortions, or pregnancy care that is not incident to the diagnosis of pregnancy.

(b) For purposes of this division, "department" means the State Department of Health Services.

24003. (a) A person shall be eligible to receive services pursuant to this chapter provided that the following conditions are met:

(1) The person is a resident of California.

(2) The person has a family income at or below 200 percent of the federal poverty level.

(3) The person has no other source of health care coverage unless the use of that health care coverage would create a barrier to access because of confidentiality.

(4) The person is not otherwise eligible for existing Medi-Cal services without a share of cost.

(b) Notwithstanding any other provision of law, the provision of family planning services shall not require the consent of anyone other than the person who is to receive the services.

(c) Eligibility shall be determined at point of service by the provider. The provider shall obtain information on the individual's family size, income, and health care coverage and then, based on that information, determine if the individual meets the eligibility criteria specified in subdivision (a). All individuals who meet the eligibility requirements shall be certified by the provider as eligible for services under the program. A Medi-Cal share of cost shall not be used to deny access to family planning services under the program. The department may require the collection on a voluntary basis or the use of the individual's social security number, or both. No services shall be denied to a client if a social security number is not provided.

(d) Eligibility shall be based on the individual's self-declaration of gross annual or monthly income, family size, and other source of health care coverage, signed under penalty of perjury at each annual eligibility certification. No asset information shall be used to determine eligibility.

(e) The department may establish a copayment system for services provided pursuant to this chapter that is based upon the income level of the individual and the cost of the service provided. No individual whose documented family income is at or below 100 percent of the federal poverty level shall be subject to copayment. The copayment fee shall not be used to deny access to family planning services. State reimbursement to the provider shall be offset by that amount of the copayment collected from the eligible individual. The department shall notify providers on an annual basis of the copayment fee schedule.

24005. (a) Only licensed medical personnel with family planning skills, knowledge, and competency may provide the full range of family planning medical services covered in this program.

(b) Medi-Cal enrolled providers, as determined by the department, shall be eligible to provide family planning services under the program. Those providers electing to participate in the program shall provide the full scope of family planning education, counseling, and medical services specified for the program, either directly or by referral, consistent with standards of care issued by the department. The department shall require providers to enter into enrollment agreements with the department to ensure compliance with standards. Providers who do not provide services consistent with the standards of care may be disenrolled as a provider from the program.

(c) Enrolled providers shall attend specific orientation approved by the department in comprehensive family planning services. Enrolled providers who insert IUDs or contraceptive implants shall have received prior clinical training specific to these procedures.

24007. (a) The department shall determine the scope of benefits for the program, which shall include, but is not limited to, the following:

(1) Family planning related services and male and female sterilization. Family planning services for men and women include emergency and complication services directly related to the contraceptive method and followup, consultation and referral services, as indicated, which may require treatment authorization requests.

(2) All United States Department of Health and Human Services, Federal Drug Administration-approved birth control methods, devices, and supplies that are in keeping with current standards of practice and from which the individual may choose.

(3) Culturally and linguistically appropriate health education and counseling services, including informed consent; psychosocial and medical aspects of contraception, sexuality, fertility, pregnancy, and parenthood; infertility; reproductive health care; preconceptual and nutrition counseling; prevention and treatment of sexually transmitted infection; use of contraceptive methods, devices, and supplies; possible contraceptive consequences and followup; interpersonal communication and negotiation of relationships to assist individuals and couples in effective contraceptive method use and planning families.

(4) A comprehensive health history, updated at next periodic visit (between 11 and 24 months after initial examination) that includes a complete obstetrical history, gynecological history, contraceptive history, personal medical history, health risk factors, and family health history, including genetic or hereditary conditions.

(5) A complete physical examination on initial and subsequent periodic visits.

(b) Benefits under this program shall be effective in 30 days after notice to providers, but not sooner than January 1, 1997.

24009. Family planning services are confidential. All information about personal facts and circumstances obtained by the provider shall be treated as privileged communications, shall be held confidential, and shall not be divulged without the individual's written consent, except as required by law or as may be necessary to provide emergency services to the individual or as required by the department to administer this program. Information may be disclosed in summary, statistical, or other form that does not identify particular individuals.

24011. (a) Providers shall submit claims for reimbursement for services provided on or after January 1, 1997, or receipt of notice from the department, whichever is later, and covered by this program, to

the fiscal intermediary of the department for payment. Charges and individual information shall be submitted on the form or in the format specified by the department for the state-only family planning program, and providers shall be reimbursed at the rates established for those services by the department.

(b) The department shall use existing contractual claims processing services in order to promote efficiency and to maximize use of funds.

(c) Claims for state-only family planning services provided through prescription, including laboratory and pharmaceutical, shall be reimbursed in a manner determined by the department. Eligible individuals shall not be charged for any state-only family planning laboratory or pharmaceutical services.

(d) Claims for method-related complications requiring approved treatment authorization requests shall be reimbursed regardless of category of medical service.

24013. (a) Notwithstanding any other provision of law, the department may adopt any procedures as are necessary for the review of a grievance or complaint concerning the processing of claims or payment of moneys alleged by a provider of services to be payable by reason of any of the provisions of this division.

(b) Any applicant for, or recipient of, services under the state-only family planning program shall have a right to a hearing conducted by the department regarding the person's eligibility or receipt of services. A proposed decision from the administrative law judge shall be submitted to the State Director of Health Services for adoption, modification, or rehearing. The decision of the director shall be final. A person shall not have a right to contest changes made to the eligibility standards or benefits of the state-only family planning program.

24015. The department may adopt emergency regulations as necessary to implement and administer this chapter in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The initial adoption of any emergency regulations following January 1, 1997, shall be deemed to be an emergency and necessary for immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this act shall remain in effect no more than 180 days.

24017. The program shall be exempt from the requirements of Chapter 7 (commencing with Section 11700) of Part 1 of Division 3 of Title 2 of the Government Code and Chapter 3 (commencing with Section 12100) of Division 2 of Part 2 of the Public Contract Code as those requirements apply to the use of contractual claims processing services by the department.

24021. The department shall conduct an evaluation of the effectiveness and efficiency of the program, including expanded access and reduction of unintended pregnancies, and shall report to

the Legislature by no later than January 1, 2000. The department may use local assistance funds allocated to the State-Only Family Planning Program for the evaluation of the program.

24023. It is the intent of the Legislature that the State Department of Health Services shall, effective March 1, 1997, conduct no other general statewide program for the provision of comprehensive clinical family planning services as referenced in Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9, while the State-Only Family Planning Program authorized by this division is in effect. For the purpose of avoiding a disruption of services, to the extent the implementation of the State-Only Family Planning Program does not occur on or before March 1, 1997, the Director of Health Services may extend the general statewide program for the provision of comprehensive clinical family planning services as referenced in Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9. This extension shall be made only upon notification to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations and under no condition shall extend beyond 120 days.

24027. This division shall remain operative only until July 1, 2000, and, as of January 1, 2001, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2001, deletes or extends that date.

SEC. 53. Section 24 of Chapter 305 of the Statutes of 1995 is amended to read:

Sec. 24. Notwithstanding any other provision of law, the emergency regulations developed pursuant to Section 14680 of the Welfare and Institutions Code to implement Part 2.5 (commencing with Section 5775) of Division 5 of the Welfare and Institutions Code shall remain in effect until July 1, 1997, or until the regulations are made permanent, whichever occurs first, and shall not be subject to the repeal provisions of Section 11346.1 of the Government Code until that time.

SEC. 54. (a) No later than February 15, 1997, the State Department of Alcohol and Drug Programs shall provide a report to the chairs of the fiscal committees and policy committees of the Legislature on each of the audits, studies, and surveys required by this section.

(b) The State Department of Alcohol and Drug Programs shall contract for an independent audit of the department's financial procedures for allocation of funds and reimbursement of costs for treatment services, including the department's procedures and timelines for allocation of funds by counties. The department shall contract with the Bureau of State Audits for this function.

(c) The State Department of Alcohol and Drug Programs, in consultation with the State Department of Health Services, shall contract with an actuarial firm for an independent study of drug and

alcohol treatment rates to determine the actual costs of providing drug and alcohol treatment and ancillary services in programs funded through the department. The study shall include and compare all costs of treatment services including the use of funds from other governmental and nongovernmental sources. The purpose of this study shall be to provide the department with a factually correct, statistically valid data base sample to set statewide rates for each service.

(d) The State Department of Alcohol and Drug Programs in consultation with counties and drug and alcohol treatment providers shall develop a survey to be issued to all counties for distribution to all providers. The survey of the alcohol and drug treatment services funded through the State Department of Alcohol and Drug Programs shall include at least all of the following:

(1) A determination of the required length of time to complete the program, if any.

(2) The number of clients who entered the program and the number who completed the program, if applicable.

(3) How many clients were terminated from the program and the causes for those terminations.

(4) The number of times each client was previously in treatment.

(5) How many and what type of followup services are provided to clients upon completion of the program.

(6) What ancillary services are provided during and following treatment.

(7) The number of clients receiving each service.

(8) The description of services provided.

(9) Each county's procedure timelines for allocation of funds and reimbursement of costs.

(10) What services include family members of clients.

(e) The data from this survey shall be collected and analyzed by an actuarial firm and validated by the Bureau of State Audits.

SEC. 55. The State Department of Health Services shall report to the Legislature, by March 1, 1997, on the following data with respect to the child health and disability prevention program provided for pursuant to Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code:

(a) The number of children, by age, enrolled in each health plan contracting with the state.

(b) The number of children, by age, who received a comprehensive examination under the child health and disability prevention program in each health plan contracting with the state that is capitated for child health and disability prevention program services.

(c) It is the intent of the Legislature that the State Department of Health Services' Division of Medical Care Services and Division of Primary Care and Family Health cooperate in the development of shared information capability. To the extent this capability exists, the

department shall also include in the report required by this section the number of children, by age, in each health plan contracting with the state and that is capitated for child health and disability prevention services, referred for followup diagnosis or treatment from a child health and disability examination. To the extent this capability does not exist, the department shall also identify in this report the barriers to the development of shared information and reporting capability, and the cost to develop this capability.

SEC. 56. The State Department of Health Services may adopt emergency regulations to implement this act 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. The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of those regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations and shall remain in effect as emergency regulations for no more than 180 days.

SEC. 57. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 58. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 59. 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 timely provide for the administration of this act for the entire 1996–97 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 198

An act to amend Section 14163 of the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 14163 of the Welfare and Institutions Code is amended to read:

14163. (a) For purposes of this section, the following definitions shall apply:

(1) "Public entity" means a county, a city, a city and county, the University of California, a local hospital district, a local health authority, or any other political subdivision of the state.

(2) "Hospital" means a health facility that is licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide acute inpatient hospital services, and includes all components of the facility.

(3) "Disproportionate share hospital" means a hospital providing acute inpatient services to Medi-Cal beneficiaries that meets the criteria for disproportionate share status relating to acute inpatient services set forth in Section 14105.98.

(4) "Disproportionate share list" means the annual list of disproportionate share hospitals for acute inpatient services issued by the department pursuant to Section 14105.98.

(5) "Fund" means the Medi-Cal Inpatient Payment Adjustment Fund.

(6) "Eligible hospital" means, for a particular state fiscal year, a hospital on the disproportionate share list that is eligible to receive payment adjustment amounts under Section 14105.98 with respect to that state fiscal year.

(7) "Transfer year" means the particular state fiscal year during which, or with respect to which, public entities are required by this section to make an intergovernmental transfer of funds to the Controller.

(8) "Transferor entity" means a public entity that, with respect to a particular transfer year, is required by this section to make an intergovernmental transfer of funds to the Controller.

(9) "Transfer amount" means an amount of intergovernmental transfer of funds that this section requires for a particular transferor entity with respect to a particular transfer year.

(10) "Intergovernmental transfer" means a transfer of funds from a public entity to the state, that is local government financial participation in Medi-Cal pursuant to the terms of this section.

(11) "Licensee" means an entity that has been issued a license to operate a hospital by the department.

(12) "Annualized Medi-Cal inpatient paid days" means the total number of Medi-Cal acute inpatient hospital days, regardless of dates of service, for which payment was made by or on behalf of the department to a hospital, under present or previous ownership, during the most recent calendar year ending prior to the beginning of a particular transfer year, including all Medi-Cal acute inpatient covered days of care for hospitals that are paid on a different basis than per diem payments.

(13) "Medi-Cal acute inpatient hospital day" means any acute inpatient day of service attributable to patients who, for those days, were eligible for medical assistance under the California state plan, including any day of service that is reimbursed on a basis other than per diem payments.

(14) "OBRA 1993 payment limitation" means the hospital-specific limitation on the total annual amount of payment adjustments to each eligible hospital under the payment adjustment program that can be made with federal financial participation under Section 1396r-4(g) of Title 42 of the United States Code as implemented pursuant to the Medi-Cal State Plan.

(b) The Medi-Cal Inpatient Payment Adjustment Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to, and under the administrative control of, the department for the purposes specified in subdivision (d). The fund shall consist of the following:

(1) Transfer amounts collected by the Controller under this section, whether submitted by transferor entities pursuant to applicable provisions of this section or obtained by offset pursuant to subdivision (j).

(2) Any other intergovernmental transfers deposited in the fund, as permitted by Section 14164.

(3) Any interest that accrues with respect to amounts in the fund.

(c) Moneys in the fund, which shall not consist of any state general funds, shall be used as the source for the nonfederal share of payments to hospitals pursuant to Section 14105.98. Moneys shall be allocated from the fund by the department and matched by federal funds in accordance with customary Medi-Cal accounting procedures, and used to make payments pursuant to Section 14105.98.

(d) Except as otherwise provided in Section 14105.98 or in any provision of law appropriating a specified sum of money to the department for administering this section and Section 14105.98, moneys in the fund shall be used only for the following:

(1) Payments to hospitals pursuant to Section 14105.98.

(2) Except for the amount transferred pursuant to paragraph (3), transfers to the Health Care Deposit Fund as follows:

(A) In the amount of two hundred thirty-nine million seven hundred fifty-seven thousand six hundred ninety dollars ($239,757,690), for the 1994–95 and 1995–96 fiscal years.

(B) In the amount of two hundred twenty-nine million seven hundred fifty-seven thousand six hundred ninety dollars ($229,757,690) for the 1996–97 fiscal year and each fiscal year thereafter.

(C) Notwithstanding any other provision of law, the amount specified in this paragraph shall be in addition to any amounts transferred to the Health Care Deposit Fund arising from changes of any kind attributable to payment adjustment years prior to the 1993–94 payment adjustment year. These transfers from the fund shall be made in six equal monthly installments to the Medi-Cal local assistance appropriation item (Item 4260-101-001 of the annual Budget Act) in support of Medi-Cal expenditures. The first installment shall accrue in October of each transfer year, and all other installments shall accrue monthly thereafter from November through March.

(3) In the 1993–94 fiscal year, in addition to the amount transferred as specified in paragraph (2), fifteen million dollars ($15,000,000) shall also be transferred to the Medi-Cal local assistance appropriation item (Item 4260-101-001) of the Budget Act of 1993.

(e) For the 1991–92 state fiscal year, the department shall determine, no later than 70 days after the enactment of this section, the transferor entities for the 1991–92 transfer year. To make this determination, the department shall utilize the disproportionate share list for the 1991–92 fiscal year, which shall be issued by the department no later than 65 days after the enactment of this section, pursuant to paragraph (1) of subdivision (f) of Section 14105.98. The department shall identify each eligible hospital on the list for which a public entity is the licensee as of July 1, 1991. The public entity that is the licensee of each identified eligible hospital shall be a transferor entity for the 1991–92 transfer year.

(f) The department shall determine, no later than 70 days after the enactment of this section, the transfer amounts for the 1991–92 transfer year.

The transfer amounts shall be determined as follows:

(1) The eligible hospitals for 1991–92 shall be identified. For each hospital, the applicable total per diem payment adjustment amount under Section 14105.98 for the 1991–92 transfer year shall be computed. This amount shall be multiplied by 80 percent of the

eligible hospital's annualized Medi-Cal inpatient paid days as determined from all Medi-Cal paid claims records available through April 1, 1991. The products of these calculations for all eligible hospitals shall be added together to determine an aggregate sum for the 1991–92 transfer year.

(2) The eligible hospitals for 1991–92 involving transferor entities as licensees shall be identified. For each hospital, the applicable total per diem payment adjustment amount under Section 14105.98 for the 1991–92 transfer year shall be computed. This amount shall be multiplied by 80 percent of the eligible hospital's annualized Medi-Cal inpatient paid days as determined from all Medi-Cal paid claims records available through April 1, 1991. The products of these calculations for all eligible hospitals with transferor entities as licensees shall be added together to determine an aggregate sum for the 1991–92 transfer year.

(3) The aggregate sum determined under paragraph (1) shall be divided by the aggregate sum determined under paragraph (2), yielding a factor to be utilized in paragraph (4).

(4) The factor determined in paragraph (3) shall be multiplied by the amount determined for each hospital under paragraph (2). The product of this calculation for each hospital in paragraph (2) shall be divided by 1.771, yielding a transfer amount for the particular transferor entity for the transfer year.

(g) For the 1991–92 transfer year, the department shall notify each transferor entity in writing of its applicable transfer amount or amounts no later than 70 days after the enactment of this section.

(h) For the 1992–93 transfer year and subsequent transfer years, transfer amounts shall be determined in the same procedural manner as set forth in subdivision (f), except:

(1) The department shall use all of the following:

(A) The disproportionate share list applicable to the particular transfer year to determine the eligible hospitals.

(B) The payment adjustment amounts calculated under Section 14105.98 for the particular transfer year. These amounts shall take into account any projected or actual increases or decreases in the size of the payment adjustment program as are required under Section 14105.98 for the particular year in question, including any decreases resulting from the application of the OBRA 1993 payment limitation. Subject to the installment schedule in paragraph (5) of subdivision (i) regarding transfer amounts, the department may issue interim, revised, and supplemental transfer requests as necessary and appropriate to address changes in payment adjustment levels that occur under Section 14105.98. All transfer requests, or adjustments thereto, issued to transferor entities by the department shall meet the requirements set forth in subparagraph (E) of paragraph (5) of subdivision (i).

(C) Data regarding annualized Medi-Cal inpatient paid days for the most recent calendar year ending prior to the beginning of the

particular transfer year, as determined from all Medi-Cal paid claims records available through April 1 preceding the particular transfer year.

(D) The status of public entities as licensees of eligible hospitals as of July 1 of the particular transfer year.

(E) (i) Except as provided in subparagraph (ii), for transfer amounts calculated by the department may be increased or decreased by a percentage amount consistent with the Medi-Cal State Plan.

(ii) For the 1995–96 transfer year, the nonfederal share of the secondary supplemental payment adjustments described in paragraph (9) of subdivision (y) of Section 14105.98 shall be funded as follows:

(I) Ninety-nine percent of the nonfederal share shall be funded by a transfer from the University of California.

(II) One percent of the nonfederal share shall be funded by transfers from those public entities that are the licensees of the hospitals included in the "other public hospitals" group referred to in clauses (ii) and (iii) of subparagraph (B) of paragraph (9) of subdivision (y) of Section 14105.98. The transfer responsibilities for this one percent shall be allocated to the particular public entities on a pro rata basis, based on a formula or formulae customarily used by the department for allocating transfer amounts under this section. The formula or formulae shall take into account, through reallocation of transfer amounts as appropriate, the situation of hospitals whose secondary supplemental payment adjustments are restricted due to the application of the limitation set forth in clause (v) of subparagraph (B) of paragraph (9) of subdivision (y) of Section 14105.98.

(III) All transfer amounts under this subparagraph shall be paid by the particular transferor entities within 30 days after the department notifies the transferor entity in writing of the transfer amount to be paid.

(2) For the 1993–94 transfer year and subsequent transfer years, transfer amounts shall be increased on a pro rata basis for each transferor entity for the particular transfer year in the amounts necessary to fund the nonfederal share of the total supplemental lump-sum payment adjustment amounts that arise under Section 14105.98. For purposes of this paragraph, the supplemental lump-sum payment adjustment amounts shall be deemed to arise for the particular transfer year as of the date specified in Section 14105.98. Transfer amounts to fund the nonfederal share of the payments shall be paid by the transferor entities for the particular transfer year within 20 days after the department notifies the transferor entity in writing of the additional transfer amount to be paid.

(3) The department shall prepare preliminary analyses and calculations regarding potential transfer amounts, and potential transferor entities shall be notified by the department of estimated

transfer amounts as soon as reasonably feasible regarding any particular transfer year. Written notices of transfer amounts shall be issued by the department as soon as possible with respect to each transfer year. All state agencies shall take all necessary steps in order to supply applicable data to the department to accomplish these tasks. The Office of Statewide Health Planning and Development shall provide to the department quarterly access to the edited and unedited confidential patient discharge data files for all Medi-Cal eligible patients. The department shall maintain the confidentiality of that data to the same extent as is required of the Office of Statewide Health Planning and Development. In addition, the Office of Statewide Health Planning and Development shall provide to the department, not later than March 1 of each year, the data specified by the department, as the data existed on the statewide data base file as of February 1 of each year, from all of the following:

(A) Hospital annual disclosure reports, filed with the Office of Statewide Health Planning and Development pursuant to Section 443.31 of the Health and Safety Code, for hospital fiscal years that ended during the calendar year ending 13 months prior to the applicable February 1.

(B) Annual reports of hospitals, filed with the Office of Statewide Health Planning and Development pursuant to Section 439.2 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(C) Hospital patient discharge data reports, filed with the Office of Statewide Health Planning and Development pursuant to subdivision (g) of Section 443.31 of the Health and Safety Code, for the calendar year ending 13 months prior to the applicable February 1.

(D) Any other materials on file with the Office of Statewide Health Planning and Development.

(4) For the 1993–94 transfer year and subsequent transfer years, the divisor to be used for purposes of the calculation referred to in paragraph (4) of subdivision (f) shall be determined by the department. The divisor shall be calculated to ensure that the appropriate amount of transfers from transferor entities are received into the fund to satisfy the requirements of Section 14105.98 for the particular transfer year. For the 1993–94 transfer year, the divisor shall be 1.742.

(5) For the 1993–94 fiscal year, the transfer amount that would otherwise be required from the University of California shall be increased by fifteen million dollars ($15,000,000).

(6) Notwithstanding any other provision of law, the total amount of transfers required from the transferor entities for any particular transfer year shall not exceed the sum of the following:

(A) The amount needed to fund the nonfederal share of all payment adjustment amounts applicable to the particular payment adjustment year as calculated under Section 14105.98. Included in the

calculations for this purpose shall be any decreases in the program as a whole, and for individual hospitals, that arise due to the provisions of Section 1396r-4(f) or (g) of Title 42 of the United States Code.

(B) The amount needed to fund the transfers to the Health Care Deposit Fund, as referred to in paragraphs (2) and (3) of subdivision (d).

(7) (A) Except as provided in paragraph (2) of subdivision (j), and except for a prudent reserve not to exceed two million dollars ($2,000,000) in the Medi-Cal Inpatient Payment Adjustment Fund, any amounts in the fund, including interest that accrues with respect to the amounts in the fund, that are not expended, or estimated to be required for expenditure, under Section 14105.98 with respect to a particular transfer year shall be returned on a pro rata basis to the transferor entities for the particular transfer year within 120 days after the department determines that the funds are not needed for an expenditure in connection with the particular transfer year.

(B) The department shall determine the interest amounts that have accrued in the fund from its inception through June 30, 1995, and, no later than January 1, 1996, shall distribute these interest amounts to transferor entities, as follows:

(i) The total amount transferred to the fund by each transferor entity for all transfer years from the inception of the fund through June 30, 1995, shall be determined.

(ii) The total amounts determined for all transferor entities under clause (i) shall be added together, yielding an aggregate of the total amounts transferred to the fund for all transfer years from the inception of the fund through June 30, 1995.

(iii) The total amount determined under clause (i) for each transferor entity shall be divided by the aggregate amount determined under clause (ii), yielding a percentage for each transferor entity.

(iv) The total amount of interest earned by the fund from its inception through June 30, 1995, shall be determined.

(v) The percentage determined under clause (iii) for each transferor entity shall be multiplied by the amount determined under clause (iv), yielding the amount of interest that shall be distributed under this subparagraph to each transferor entity.

(C) Regarding any funds returned to a transferor entity under subparagraph (A), or interest amounts distributed to a transferor entity under subparagraph (B), the department shall provide to the transferor entity a written statement that explains the basis for the particular return or distribution of funds and contains the general calculations used by the department in determining the amount of the particular return or distribution of funds.

(i) (1) For the 1991–92 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in eight equal installments. Except as provided below, the first installment shall accrue on July 25, 1991, and all other

installments shall accrue on the fifth day of each month thereafter from August through February.

(2) Notwithstanding paragraph (1), no installment shall be payable to the Controller until that date which is 20 days after the department notifies the transferor entity in writing that the payment adjustment program set forth in Section 14105.98 has first gained federal approval as part of the Medi-Cal program. For purposes of this paragraph, federal approval requires both (i) approval by appropriate federal agencies of an amendment to the Medi-Cal State Plan, as referred to in subdivision (o) of Section 14105.98, and (ii) confirmation by appropriate federal agencies regarding the availability of federal financial participation for the payment adjustment program set forth in Section 14105.98 at a level of at least 40 percent of the percentage of federal financial participation that is normally applicable for Medi-Cal expenditures for acute inpatient hospital services.

(3) If any installment that would otherwise be payable under paragraph (1) is not paid because of the provisions of paragraph (2), then subparagraphs (A) and (B) shall be followed when federal approval is gained.

(A) All installments that were deferred based on the provisions of paragraph (2) shall be paid no later than 20 days after the department notifies the transferor entity in writing that federal approval has been gained, in an amount consistent with subparagraph (B).

(B) The installments paid pursuant to subparagraph (A) shall be paid in full, subject to an adjustment in amount pursuant to paragraph (5) of subdivision (f).

(4) All installments for the 1991–92 transfer year that arise in months after federal approval is gained shall be paid by the fifth day of the month or 20 days after the department notifies the transferor entity in writing that federal approval has been gained, whichever is later. These installments shall be subject to an adjustment in amount pursuant to paragraph (5) of subdivision (f).

(5) (A) Except as provided in subparagraphs (B) and (C), for the 1992–93 transfer year and subsequent transfer years, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in eight equal installments. The first installment shall be payable on July 10 of each transfer year. All other installments shall be payable on the fifth day of each month thereafter from August through February.

(B) For the 1994–95 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the fund, in five equal installments. The first installment shall be payable on October 5, 1994. The next four installments shall be payable on the fifth day of each month thereafter from November through February.

(C) For the 1995–96 transfer year, each transferor entity shall pay its transfer amount or amounts to the Controller, for deposit in the

fund, in five equal installments. The first installment shall be payable on October 5, 1995. The next four installments shall be payable on the fifth day of each month thereafter from November through February.

(D) Except as otherwise specifically provided, subparagraphs (A) to (C), inclusive, shall not apply to increases in transfer amounts described in paragraph (2) of subdivision (h) or to additional transfer amounts described in subdivision (o).

(E) All requests for transfer payments, or adjustments thereto, issued by the department shall be in writing and shall include (i) an explanation of the basis for the particular transfer request or transfer activity, (ii) a summary description of program funding status for the particular transfer year, and (iii) the general calculations used by the department in connection with the particular transfer request or transfer activity.

(6) A transferor entity may use any of the following funds for purposes of meeting its transfer obligations under this section:

(A) General funds of the transferor entity.

(B) Any other funds permitted by law to be used for these purposes, except that a transferor entity shall not submit to the Controller any federal funds unless those federal funds are authorized by federal law to be used to match other federal funds. In addition, no private donated funds from any health care provider, or from any person or organization affiliated with such a health care provider, shall be channeled through a transferor entity or any other public entity to the fund. The transferor entity shall be responsible for determining that funds transferred meet the requirements of this subparagraph.

(j) (1) If a transferor entity does not submit any transfer amount within the time period specified in this section, the Controller shall offset immediately the amount owed against any funds which otherwise would be payable by the state to the transferor entity. The Controller, however, shall not impose an offset against any particular funds payable to the transferor entity where the offset would violate state or federal law.

(2) Where a withhold or a recoupment occurs pursuant to the provisions of paragraph (2) of subdivision (r) of Section 14105.98, the nonfederal portion of the amount in question shall remain in the fund, or shall be redeposited in the fund by the department, as applicable. The department shall then proceed as follows:

(A) If the withhold or recoupment was imposed with respect to a hospital whose licensee was a transferor entity for the particular state fiscal year to which the withhold or recoupment related, the nonfederal portion of the amount withheld or recouped shall serve as a credit for the particular transferor entity against an equal amount of transfer obligations under this section, to be applied whenever the transfer obligations next arise. Should no such transfer obligation

arise within 180 days, the department shall return the funds in question to the particular transferor entity within 30 days thereafter.

(B) For other situations, the withheld or recouped nonfederal portion shall be subject to paragraph (7) of subdivision (h).

(k) All amounts received by the Controller pursuant to subdivision (i), paragraph (2) of subdivision (h), or subdivision (o), or offset by the Controller pursuant to subdivision (j), shall immediately be deposited in the fund.

(*l*) For purposes of this section, the disproportionate share list utilized by the department for a particular transfer year shall be identical to the disproportionate share list utilized by the department for the same state fiscal year for purposes of Section 14105.98. Nothing on a disproportionate share list, once issued by the department, shall be modified for any reason other than mathematical or typographical errors or omissions on the part of the department or the Office of Statewide Health Planning and Development in preparation of the list.

(m) Neither the intergovernmental transfers required by this section, nor any elective transfer made pursuant to Section 14164, shall create, lead to, or expand the health care funding or service obligations for current or future years for any transferor entity, except as required of the state by this section or as may be required by federal law, in which case the state shall be held harmless by the transferor entities on a pro rata basis.

(n) No amount submitted to the Controller pursuant to subdivision (i), paragraph (2) of subdivision (h), or subdivision (o), or offset by the Controller pursuant to subdivision (j), shall be claimed or recognized as an allowable element of cost in Medi-Cal cost reports submitted to the department.

(o) Whenever additional transfer amounts are required to fund the nonfederal share of payment adjustment amounts under Section 14105.98 that are distributed after the close of the particular payment adjustment year to which the payment adjustment amounts apply, the additional transfer amounts shall be paid by the parties who were the transferor entities for the particular transfer year that was concurrent with the particular payment adjustment year. The additional transfer amounts shall be calculated under the formula that was in effect during the particular transfer year. For transfer years prior to the 1993–94 transfer year, the percentage of the additional transfer amounts available for transfer to the Health Care Deposit Fund under subdivision (d) shall be the percentage that was in effect during the particular transfer year. These additional transfer amounts shall be paid by transferor entities within 20 days after the department notifies the transferor entity in writing of the additional transfer amount to be paid.

(p) (1) Ten million dollars ($10,000,000) of the amount transferred from the Medi-Cal Inpatient Payment Adjustment Fund to the Health Care Deposit Fund due to amounts transferred

attributable to years prior to the 1993–94 fiscal year is hereby appropriated without regard to fiscal years to the State Department of Health Services to be used to support the development of managed care programs under the department's plan to expand Medi-Cal managed care.

(2) These funds shall be used by the department for both of the following purposes: (A) distributions to counties or other local entities that contract with the department to receive those funds to offset a portion of the costs of forming the local initiative entity, and (B) distributions to local initiative entities that contract with the department to receive those funds to offset a portion of the costs of developing the local initiative health delivery system in accordance with the department's plan to expand Medi-Cal managed care.

(3) Entities contracting with the department for any portion of the ten million dollars ($10,000,000) shall meet the objectives of the department's plan to expand Medi-Cal managed care with regard to traditional and safety net providers.

(4) Entities contracting with the department for any portion of the ten million dollars ($10,000,000) may be authorized under those contracts to utilize their funds to provide for reimbursement of the costs of local organizations and entities incurred in participating in the development and operation of a local initiative.

(5) To the full extent permitted by state and federal law, these funds shall be distributed by the department for expenditure at the local level in a manner that qualifies for federal financial participation under the medicaid program.

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

In order to make changes in provisions relating to the Medi-Cal program that are necessary to implement the Budget Act of 1996, it is necessary that this act go into effect immediately.

CHAPTER 199

An act to amend Sections 349.109, 104380, 104385, 104420, 104485, 104550, 124900, 124930, and 124950 of the Health and Safety Code, to amend Sections 12696.05 and 12699.50 of the Insurance Code, to amend Sections 14148.99, 16809.5, 16909, 16945, and 16997.1 of, to add Section 16990.1 to, and to repeal Section 16918 of, the Welfare and Institutions Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 349.109 of the Health and Safety Code is amended to read:

349.109. This article shall remain operative only until July 1, 1997, 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 104380 of the Health and Safety Code is amended to read:

104380. (a) Funds appropriated to the department for local lead agencies for purposes of this article shall be allocated prospectively, on a quarterly basis in accordance with this section.

(b) No local lead agency shall be allocated less than one hundred ten thousand dollars ($110,000).

(c) (1) Except as provided in subdivision (b), counties not listed in subdivision (d) shall receive an allocation based on each county's proportion of the statewide population.

(2) Counties that receive their allocations pursuant to paragraph (1) shall receive 73 percent of their 1990–91 fiscal year allocation.

(d) Except as provided in subdivision (b), the balance of the funds after the allocation contained in subdivision (c) have been made, shall be allocated to the following specified counties in accordance with the following percentages:

COUNTY	ALLOCATION
Alameda	4.7427%
Contra Costa	1.8032%
Fresno	2.6855%
Kern	1.7083%
Lake	0.1826%
Los Angeles	43.8057%
Mendocino	0.2664%
Merced	0.7244%
Monterey	1.2937%
Orange	5.1382%
Placer	0.3697%
Riverside	3.1828%
Sacramento	3.2922%
San Bernardino	3.7972%
San Diego	5.9971%
San Francisco	5.3898%
San Joaquin	1.7413%
San Luis Obispo	0.8096%

San Mateo	1.4582%
Santa Barbara	0.7918%
Santa Clara	5.2450%
Santa Cruz	0.7709%
Stanislaus	1.2793%
Tulare	1.3768%
Ventura	1.5472%
Yolo	0.6004%

(e) Except as provided in subdivision (b), the allocation for those counties in which a city health department which is a local lead agency as defined by subdivision (*l*) of Section 104355 is located shall be apportioned among the local lead agencies in that county based on their jurisdiction's proportionate share of the countywide population.

(f) Reductions in allocations necessary to comply with subdivision (b) shall be distributed among the counties listed in subdivision (d) proportionately based on the table contained in subdivision (d).

(g) The department shall use population estimates for 1989 for each county and for each city as specified in the Department of Finance E-1 Report.

(h) Payments shall be made prospectively, on a quarterly basis, to local jurisdictions.

(i) (1) The department shall conduct a fiscal and program review on a regular basis.

(2) If the department determines that any county is not in compliance with any provision of this chapter, the county shall submit to the department, within 60 days, a plan for complying with this article.

(3) The department may withhold funds from local lead agencies allocated funds under this section that are not in compliance with this chapter in the same manner as the department is authorized under Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code. The department may terminate the agreement with the noncompliant local lead agency, recoup any unexpended funds from the noncompliant local lead agency, and reallocate both the withheld and recouped funds to provide services available under this section to the jurisdiction of the noncompliant agency through an agreement with a different governmental or private nonprofit agency capable of delivering those services based on the department's local lead agency guidelines for local plans and a process determined by the department. The department may encumber and reallocate these funds no sooner than three months after the date of the first notification that the department has determined the local lead agency to be out of compliance with statutory requirements.

SEC. 3. Section 104385 of the Health and Safety Code is amended to read:

104385. (a) The department shall award and administer grants for projects directed at the prevention of tobacco-related diseases. The purpose of the grant program is to conduct health education and promotion activities targeted to high-risk persons and groups in order to reduce the number of persons beginning to use tobacco, continuing to use tobacco, or developing tobacco-related diseases. The grants shall provide funds to eligible grantees, as determined by the department. In awarding grants, the department shall select a variety of projects and grantees.

(b) The department shall develop criteria and standards for the allocation of grant awards which consider the need to balance target populations to be served, project types of rural suburban and urban projects, and consider the current regional availability of similar services. Target populations may include, but not be limited to, children, young adults, pregnant women, low-income individuals, Black, Hispanic, Native American, and Asian-Pacific Islander populations, current smokers, and schoolaged youth no longer attending school classes. The grant awards may also be made to school districts for nonclassroom, districtwide efforts to reduce tobacco use. The department shall develop mechanisms to evaluate all programs and shall require any program funded under this article to provide statistics on the impact of the program.

(c) The department shall give priority to grantees who do the following:

(1) Demonstrate community support for the project.

(2) Design the project to coordinate with other community services including local health programs, school-based programs, or voluntary health organizations.

(3) Design the project to utilize and enhance existing services and resources.

(4) Serve a target population at high risk of starting tobacco use or developing tobacco-related illnesses.

(5) Demonstrate an understanding of the role community norms have in influencing behavioral change regarding tobacco use.

(6) Indicate promising innovative approaches to diminishing tobacco use among target groups and permit those approaches to be replicated by others.

(d) Of the funds appropriated to the department in Item 4260-111-231 of the 1996 Budget Act, five million dollars ($5,000,000) shall be available specifically for grants awarded on a competitive basis to provide smoking cessation classes or services for persons eligible for and enrolled in the state's Medi-Cal program, or persons who are medically indigent.

SEC. 4. Section 104420 of the Health and Safety Code is amended to read:

104420. The State Department of Education shall provide the leadership for the successful implementation of this article in programs administered by local public and private schools, school districts, and county offices of education. The State Department of Education shall do all of the following:

(a) Provide a planning and technical assistance program to carry out its responsibilities under this article.

(b) Provide guidelines for schools, school districts, and school district consortia to follow in the preparation of plans for implementation of antitobacco use programs for schoolage populations. The guidelines shall:

(1) Require the applicant agency to select one or more model program designs and shall permit the applicant to modify the model program designs to take special local needs and conditions into account.

(2) Require the applicant agency to prepare for each target population to be served a description of the service to be provided, an estimate of the number to be served, an estimate of the success rate and a method to determine to what extent goals have been achieved.

(3) Require plan submissions to include a staffing configuration and a budget setting forth use and distribution of funds in a clear and detailed manner.

(c) Prepare model program designs and information for local schools, local school districts, consortia, and county offices of education to follow in establishing direct service programs to targeted populations. Model program designs shall, to the extent feasible, be based on studies and evaluations that determine which service delivery systems are effective in reducing tobacco use and are cost-effective. The State Department of Education shall consult with the department, and school districts with existing antitobacco programs in the preparation of model program designs and information.

(d) Provide technical assistance for local schools, local school districts, and county offices of education regarding the prevention and cessation of tobacco use. In fulfilling its technical assistance responsibilities, the State Department of Education may establish a center for tobacco use prevention that shall identify, maintain, and develop instructional materials and curricula encouraging the prevention or cessation of tobacco use. The State Department of Education shall consult with the department and others with expertise in antitobacco materials or curricula in the preparation of these materials and curricula.

(e) Monitor the implementation of programs that it has approved under this article to ensure successful implementation.

(f) Prepare guidelines within 180 days of the effective date of this article for a school-based program of outreach, education,

intervention, counseling, peer counseling, and other activities to reduce and prevent smoking among schoolage youth.

(g) Assist county offices of education to employ a tobacco use prevention coordinator to assist local schools and local public and community agencies in preventing tobacco use by pupils.

(h) Train the tobacco use prevention coordinators of county offices of education so that they are:

(1) Familiar with relevant research regarding the effectiveness of various kinds of antitobacco use programs.

(2) Familiar with department guidelines and requirements for submission, review, and approval of school-based plans.

(3) Able to provide effective technical assistance to schools and school districts.

(i) Establish a tobacco use prevention innovation program effort directed at specific pupil populations.

(j) Establish a competitive grants program to develop innovative programs promoting the avoidance, abatement, and cessation of tobacco use among pupils.

(k) Establish a tobacco-free school recognition awards program.

(*l*) As a condition of receiving funds pursuant to this article, the State Department of Education, county offices of education, and local school districts shall ensure that they coordinate their efforts toward smoking prevention and cessation with the lead local agency in the community where the local school district is located.

(m) (1) Develop, in coordination with the county offices of education, a formula that allocates funds for school-based, antitobacco education programs to school districts and county offices of education for all students in grades 4 to 8, inclusive, on the basis of the average daily attendance (ADA) of pupils. School districts shall provide tobacco-use prevention instruction for students, grades 4 to 8, inclusive, that address the following essential topics:

(A) Immediate and long-term undesirable physiologic, cosmetic, and social consequences of tobacco use.

(B) Reasons that adolescents say they smoke or use tobacco.

(C) Peer norms and social influences that promote tobacco use.

(D) Refusal skills for resisting social influences that promote tobacco use.

(2) Develop a competitive grants program administered by the State Department of Education directed at students in grades 9 to 12, inclusive. The purpose of the grant program shall be to conduct tobacco-use prevention and cessation activities targeted to high-risk students and groups in order to reduce the number of persons beginning to use tobacco, or continuing to use tobacco. The State Department of Education shall consult with local lead agencies, the Tobacco Education and Research Oversight Committee, and representatives from nonprofit groups dedicated to the reduction of tobacco-associated disease in making grant award determinations. Grant award amounts shall be determined by available funds. The

State Department of Education shall give priority to programs, including, but not limited to, the following:

(A) Target current smokers and students most at risk for beginning to use tobacco.

(B) Offer or refer students to cessation classes for current smokers.

(C) Utilize existing antismoking resources, including local antismoking efforts by local lead agencies and competitive grant recipients.

(n) (1) Allocate funds for administration to county offices of education for implementation of Tobacco Use Prevention Programs. The funds shall be allocated according to the following schedule based on average daily attendance in the prior year credited to all elementary, high, and unified school districts, and to all county superintendents of schools within the county as certified by the Superintendent of Public Instruction:

(A) For counties with over 400,000 average daily attendance, thirty cents ($0.30) per average daily attendance.

(B) For counties with more than 100,000 and less then 400,000 average daily attendance, sixty-five cents ($0.65) per average daily attendance.

(C) For counties with more than 50,000 and less than 100,000 average daily attendance, ninety cents ($0.90) per average daily attendance.

(D) For counties with more than 25,000 and less than 50,000 average daily attendance, one dollar ($1) per average daily attendance.

(E) For counties with less than 25,000 average daily attendance, twenty-five thousand dollars ($25,000).

(2) In the event that funds appropriated for this purpose are insufficient, the Superintendent of Public Instruction shall prorate available funds among participating county offices of education.

(o) Allocate funds appropriated by the act adding this subdivision for local assistance to school districts and county offices of education based on average daily attendance reported in the second principal apportionment in the prior fiscal year. Those school districts and county offices of education that receive one hundred thousand dollars ($100,000) or more of local assistance pursuant to this part shall target 30 percent of those funds for allocation to schools that enroll a disproportionate share of students at risk for tobacco use.

(p) (1) Provide that all school districts and county offices of education that receive funding under subdivision (o) make reasonable progress toward providing a tobacco-free environment in school facilities for students and employees.

(2) All school districts and county offices of education that receive funding pursuant to paragraph (1) shall adopt and enforce a tobacco-free campus policy no later than July 1, 1995. The policy shall prohibit the use of tobacco products, any time, in district-owned or

leased buildings, on district property and in district vehicles. Information about the policy and enforcement procedures shall be communicated clearly to school personnel, parents, students, and the larger community. Signs stating "Tobacco use is prohibited" shall be prominently displayed at all entrances to school property. Information about smoking cessation support programs shall be made available and encouraged for students and staff. Any school district or county office of education that does not have a tobacco-free district policy implemented by July 1, 1996, shall not be eligible to apply for funds from the Cigarette and Tobacco Products Surtax Fund in the 1996–97 fiscal year and until the tobacco-free policy is implemented. Funds that are withheld from school districts that fail to comply with the tobacco-free policy shall be available for allocation to school districts implementing a tobacco-use prevention education program, pursuant to subdivision (m).

SEC. 5. Section 104485 of the Health and Safety Code is amended to read:

104485. This article shall remain operative only until July 1, 1997, and shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is effective on or before January 1, 1998, deletes or extends that date.

SEC. 6. Section 104550 of the Health and Safety Code is amended to read:

104550. This article 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. 7. Section 124900 of the Health and Safety Code is amended to read:

124900. (a) The State Department of Health Services shall select primary care clinics that are licensed under paragraph (1) or (2) of subdivision (a) of Section 1204, or are exempt from licensure under subdivision (c) of Section 1206, to be reimbursed for delivering medical services, including preventative health care, and smoking prevention and cessation health education, to program beneficiaries. In selecting primary care clinics for reimbursement, the department shall give priority to clinics that provide services in a medically undeserved area or to a medically undeserved population as determined by the department.

(b) As a part of the award process for funding pursuant to this article, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations which have clear and compelling difficulty in obtaining access to primary care. The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations. The department shall give equal consideration to all

applicants, regardless of whether or not they have previously been funded for this program by the department.

(c) Each primary care clinic applying for funds pursuant to this article shall demonstrate that the funds shall be used to expand medical services, including preventative health care, and smoking prevention and cessation health education, for program beneficiaries based on the primary care clinic's projected increase in outpatient visits as compared to the outpatient visits provided in the 1988 calendar year.

(d) (1) For purposes of this article, an outpatient visit shall include, diagnosis and medical treatment services, including the associated pharmacy, X-ray, and laboratory services, and prevention health and case management services that are needed as a result of the outpatient visit. For a new patient, an outpatient visit shall also include a health assessment encompassing an assessment of smoking behavior and the patient's need for appropriate health education specific to related tobacco use and exposure.

(2) "Case management" includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(e) Payment shall be on a per visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section, not to exceed sixty-five dollars ($65) per outpatient visit.

In developing a statewide uniform rate for an outpatient visit as defined in this article, the department shall consider existing rates of payments for comparable outpatient visits. The department shall review the outpatient visit rate on an annual basis.

(f) Not later than May 1 of each year, the department shall adopt and provide each clinic with a schedule for programs under this article, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

(g) In administering the program created pursuant to this article, the department shall utilize the Medi-Cal program statutes and regulations pertaining to program participation standards, medical and administrative recordkeeping, the ability of the department to monitor and audit clinic records pertaining to program services rendered to program beneficiaries and take recoupments or recovery actions consistent with monitoring and audit findings, and the provider's appeal rights. Each primary care clinic applying for program participation shall certify that it will abide by these statutes and regulations and other program requirements set forth in this article.

SEC. 8. Section 124930 of the Health and Safety Code is amended to read:

124930. (a) For any condition detected as part of a child health and disability prevention screen for any child eligible for services under Section 104395, if the child was screened by the clinic or upon referral by a child health and disability prevention program provider, unless the child is eligible to receive care with no share of cost under the Medi-Cal program, is covered under another publicly funded program, or the services are payable under private coverage, a clinic shall, as a condition of receiving funds under this article, do all of the following:

(1) Insofar as the clinic directly provides these services for other patients, provide medically necessary followup treatment, including prescription drugs.

(2) Insofar as the clinic does not provide treatment for the condition, arrange for the treatment to be provided.

(b) (1) If any child requires treatment the clinic does not provide, the clinic shall arrange for the treatment to be provided, and the name of that provider shall be noted in the patient's medical record.

(2) The clinic shall contact the provider or the patient or his or her guardian, or both, within 30 days after the arrangement for the provision of treatment is made, and shall determine if the provider has provided appropriate care, and shall note the results in the patient's medical record.

(3) If the clinic is not able to determine, within 30 days after the arrangement for the provision of treatment is made, whether the needed treatment was provided, the clinic shall provide written notice to the county child health and disability prevention program director, and shall also provide a copy to the state director of the program.

(c) (1) For the 1994–95 and 1995–96 fiscal years, inclusive, the state department may establish a reimbursement program for referral case management services required pursuant to subdivision (b), provided to a child pursuant to subdivision (a).

(2) The department may utilize funds appropriated for the purposes of this article for reimbursements under paragraph (1).

SEC. 9. Section 124950 of the Health and Safety Code is amended to read:

124950. This article shall remain operative only until July 1, 1997, and shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is effective on or before January 1, 1998, deletes or extends that date.

SEC. 10. Section 12696.05 of the Insurance Code is amended to read:

12696.05. The board may do all of the following:

(a) Determine eligibility criteria for the program. These criteria shall include the requirements set forth in Section 12698.

(b) Determine the eligibility of applicants.

(c) Determine when subscribers are covered and the extent and scope of coverage.

(d) Determine subscriber contribution amounts schedules. Subscriber contribution amounts shall be indexed to the federal poverty level and shall not exceed 2 percent of a subscriber's annual gross family income.

(e) Provide coverage through participating health plans or through coordination with other state programs, and contract for the processing of applications and the enrollment of subscribers. 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 in a total amount not to exceed the amount appropriated for the program.

(f) Authorize expenditures from the fund to pay program expenses which exceed subscriber contributions, and to administer the program as necessary.

(g) Develop a promotional component of the program to make Californians aware of the program and the opportunity that it presents.

(h) Issue rules and regulations as necessary to administer the program. Until January 1, 1998, any rules and regulations issued pursuant to this subdivision that manage program integrity, revise the benefit package, or reduce the eligibility criteria below 300 percent of the federal poverty level 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). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(i) Exercise all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed by this part.

SEC. 11. Section 12699.50 of the Insurance Code is amended to read:

12699.50. This part shall remain operative only until July 1, 1997, shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is effective on or before January 1, 1998, deletes or extends that date.

SEC. 12. Section 14148.99 of the Welfare and Institutions Code is amended to read:

14148.99. This article shall remain operative only until July 1, 1997, shall remain in effect only until January 1, 1998, and as of that

date is repealed, unless a later enacted statute, which is effective on or before January 1, 1998, deletes or extends that date.

SEC. 13. Section 16809.5 of the Welfare and Institutions Code is amended to read:

16809.5. (a) Funds appropriated for the purposes of this section shall be allocated on a monthly basis.

(b) Money allocated for the purposes of this section may be used to expand the scope of benefits, to fund special projects which alleviate problems of access to health and dental care under the County Medical Services Program and to compensate hospitals and other emergency health service providers for emergency treatment of out-of-county indigent patients and shall not be used to fund existing levels of service.

(c) Funds available from appropriations for the purposes of this chapter may be utilized to fund increased program costs due to caseload increases and provider rate increases.

(d) Unexpended funds allocated from the fiscal year 1990–91 appropriation for purposes of improving dental access may be utilized in fiscal year 1991–92 for the continuation and completion of projects developed to improve dental access.

(e) This section shall remain operative only until July 1, 1997, and shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is effective on or before January 1, 1998, deletes or extends that date.

SEC. 14. Section 16909 of the Welfare and Institutions Code is amended to read:

16909. (a) Any county which receives funds pursuant to this part shall deposit them in a special revenue fund or trust fund established solely for this purpose, in a hospital services account, a physician services account, and other county health services account, and any other account or subaccount the department may require, before transferring or expending them for any of the uses allowed in this part.

(b) Any county subject to the requirements of subdivision (a) shall deposit the funds in the special revenue fund or trust fund before transferring the funds to the county emergency medical services fund, as provided in subdivision (c) of Section 16933 and Section 16951.

(c) (1) Interest on each fund, account, or subaccount shall accrue to the benefit of the fund, account, or subaccount, and shall be expended for the same purposes as the other funds in the account or subaccount.

(2) Interest or other increments resulting from funds transferred to the county for noncounty hospitals pursuant to paragraph (1) or (2) of subdivision (b) of Section 16946 shall be expended under paragraph (1) or (2) of subdivision (b) of Section 16946.

(d) For the period July 1, 1991, to June 30, 1997, inclusive, counties shall submit a report that displays cost and utilization data for each

account in the trust fund established pursuant to this section, to the department on a semiannual, preliminary annual, and final annual basis, in a form prescribed by the department.

(e) Data required by subdivision (d) shall include, but not be limited to, all of the following:

(1) For the Hospital Services Account, the data shall include all of the following:

(A) Inpatient stay, including child health and disability prevention followup treatment, including the following information:

(i) Facility name.

(ii) Amount paid by the county.

(iii) Number of discharges.

(iv) Patient days.

(B) Outpatient visits, including child health and disability prevention followup treatment, including the following information:

(i) Facility name.

(ii) Amount paid by the county.

(iii) Number of visits.

(C) Emergency room.

(i) Facility name.

(ii) Amount paid by the county.

(iii) Number of visits.

(2) For the Physician Services Account, the data shall include all of the following:

(A) Emergency services, including the following information:

(i) The number of providers.

(ii) The number of visits.

(iii) The amount paid by the county.

(B) Obstetrics, including the following information:

(i) The number of providers.

(ii) The number of visits.

(iii) The amount paid by the county.

(C) Pediatrics, including the following information:

(i) The number of providers.

(ii) The number of visits.

(iii) The amount paid by the county.

(D) Child health and disability prevention followup treatment, including the following information:

(i) The number of providers.

(ii) The number of visits.

(iii) The amount paid by the county.

(3) For the other county health services account, the data shall include all of the following:

(A) For funds expended for hospital services, those data in paragraph (1) of subdivision (e).

(B) For funds expended for physician services, those data in paragraph (2) of subdivision (e).

(C) For funds expended for services other than those provided and billed for by a hospital or physician, the data shall include:

(i) The number of providers by type of service.

(ii) The number of visits or units, or both, by type of service.

(iii) The amount paid by the county by type of service.

(D) Child health and disability prevention followup treatment, including the following information:

(i) The number of providers.

(ii) The number of visits.

(iii) The amount paid by the county.

(f) The Director of Health Services shall withhold, in part or in whole, payment of moneys governed by Chapter 4 (commencing with Section 16930) and Chapter 5 (commencing with Section 16940) of this part to a county, until the reports specified in this section have been submitted to the department in the form and according to the procedures established by the department.

SEC. 15. Section 16918 of the Welfare and Institutions Code is repealed.

SEC. 16. Section 16945 of the Welfare and Institutions Code is amended to read:

16945. (a) The department shall annually verify and transmit to each MISP county and each CMSP county the figures specified in subdivision (c), using data supplied by the office.

(b) (1) For purposes specified in subdivision (c), the office shall use data from the quarterly reports required by Section 128740 of the Health and Safety Code.

(2) For the 1989–90 fiscal year computations, the office shall use the 1988 calendar year data, as adjusted by the office, existing on the statewide file on September 1, 1989.

(3) For the computations for fiscal years after the 1989-90 fiscal year, the office shall use the data from the quarterly reports for the calendar year preceding the computational fiscal year, as adjusted by the office, existing on the statewide file on April 15 immediately preceding the computational fiscal year.

(4) (A) Except as provided in subparagraphs (B), (C), and (D), the definitions, procedures, and data elements specified in Chapter 3 (commencing with Section 16920) shall be used in all computations required in subdivision (c).

(B) For the 1991–92 fiscal year, the following definitions shall be used in all computations required in subdivision (c):

(i) "Uncompensated care charges" means the sum of the charges related to patients falling within the charity-other category in the 1990 calendar year and 25 percent of the charges related to patients falling within the bad debts category in the first two quarters of the 1990 calendar year, as both categories of charges are reported quarterly to the office pursuant to Section 128740 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses by gross inpatient and outpatient revenue, as reported quarterly to the office, to uncompensated care charges.

(C) For the 1992-93 fiscal year, the following definitions shall be used in all computations required in subdivision (c):

(i) "Uncompensated care charges" means the charges related to patients falling within charity-other, as reported quarterly to the office pursuant to Section 128740 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses by gross inpatient and outpatient revenue, as reported quarterly to the office, to uncompensated care charges.

(D) For the 1993–94, 1994–95, 1995–96, and 1996–97 fiscal years, the following definitions shall be used in all computations required in subdivision (c):

(i) (I) For county hospitals and for all hospitals operating in counties with no county hospital, "uncompensated care charges" means the charges related to patients falling within charity-other, gross inpatient revenue-county indigent programs and gross outpatient revenue-county indigent programs, as reported quarterly to the office pursuant to Section 128740 of the Health and Safety Code.

(II) For noncounty hospitals operating in a county with a county hospital, "uncompensated care charges" means the charges related to patients falling within charity-other and county indigent programs contractual adjustments, as reported quarterly to the office pursuant to Section 128740 of the Health and Safety Code.

(ii) "Uncompensated care costs" means that amount calculated by applying an overall hospital cost-to-charge ratio, calculated by dividing gross operating expenses less other operating revenue by gross inpatient and outpatient revenue, as reported quarterly to the office, to uncompensated care charges.

(c) The office shall compute the following data on uncompensated care costs reported by hospitals located within each MISP county and each CMSP county:

(1) The sum of uncompensated care costs for all hospitals.

(2) The sum of uncompensated care costs for all noncounty hospitals.

(3) The sum of uncompensated care costs for all county hospitals.

(4) The uncompensated care costs of each hospital within the county.

(5) The percentage derived from dividing the result of paragraph (2) by the result of paragraph (1).

(6) The percentage derived from dividing the result of paragraph (3) by the result of paragraph (1).

(7) The percentage for each individual hospital derived from dividing each noncounty hospital's uncompensated care cost in paragraph (4) by the amount in paragraph (2).

(d) The office shall transmit to the department the data specified in subdivision (c) within 30 days of the dates specified in paragraph (2) of subdivision (b) and paragraph (3) of subdivision (b) of this section.

SEC. 17. Section 16990.1 is added to the Welfare and Institutions Code, to read:

16990.1. Notwithstanding the first sentence of paragraph (1) of subdivision (a) of Section 16990, for the purposes of determining the level of financial support in the 1996–97 fiscal year, the amounts specified in subparagraph (A) of paragraph (1) of subdivision (a) of Section 16990 shall be added to 50 percent of the amounts specified in subparagraph (B) of paragraph (1) of subdivision (a).

SEC. 18. Section 16997.1 of the Welfare and Institutions Code is amended to read:

16997.1. This part shall remain operative only until July 1, 1997, and shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is effective on or before January 1, 1998, deletes or extends that date.

SEC. 19. (a) The Rural Health Policy Council, established pursuant to Part 5 (commencing with Section 1179) of Division 1 of the Health and Safety Code, through the Office of Statewide Health Planning and Development, shall develop and administer a competitive grants program for projects located in rural areas of California. The Rural Health Policy Council shall make a determination of what constitutes rural after receiving public input and upon recommendation of the Interdepartmental Rural Health Coordinating Committee and the Rural Health Programs Liaison. The purpose of this grants program shall be to fund innovative, collaborative, cost-effective, and efficient projects that pertain to the delivery of health and medical services in rural areas of the state. The Rural Health Policy Council shall develop and establish uses for the funds to fund special projects that alleviate problems of access to quality health care in rural areas and to compensate public and private health care providers associated with direct delivery of patient care. The funds shall be used exclusively for medical and hospital care for treatment for patients who cannot afford to pay for services and for whom payment will not be made through private or public programs.

(b) The Rural Health Policy Council shall establish the criteria, standards, and eligibility to be used in requests for proposals or requests for application, the application review process, determining the maximum amount and number of grants to be awarded, preference and priority of projects, compliance monitoring, and the measurement of outcomes achieved after receiving comment from the public at a meeting held pursuant to the Bagley-Keene Open

Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). The office shall administer the funds appropriated by the Budget Act of 1996 consistent with Proposition 99 for purposes of this section. Entities eligible for these funds shall include rural health providers served by the programs operated by the departments represented on the Rural Health Policy Council, which include the State Department of Alcohol and Drug Programs, the Emergency Medical Services Authority, the State Department of Health Services, the State Department of Mental Health, and the Office of Statewide Health Planning and Development. The grant funds shall be used to expand existing services or establish new services and shall not be used to supplant existing levels of service.

(c) The office shall periodically report to the Rural Health Policy Council on the status of the funded projects. This information shall also be available at the public meetings.

(d) This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. In the event that funds in the Cigarette and Tobacco Products Surtax Fund are insufficient to support the Budget Act appropriations for the programs authorized in this act, the Director of Finance may authorize the augmentation or reduction of the amounts appropriated in the Budget Act for the programs authorized in this act. These augmentations or reductions may be authorized not sooner than 45 days after notification in writing of the necessity therefor is provided to the chairpersons of the committees in each house that consider appropriations, the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committees of each house that consider health policy, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designees, may in each instance determine. The following provisions shall also apply.

(a) The Director of Finance shall provide sufficient funding for those programs authorized in this act pursuant to Section 16809.5 of the Welfare and Institutions Code (expanded County Medical Services Program), Section 104395 of the Health and Safety Code (expanded Child Health and Disability Prevention Program), subdivision (e) of Section 104375 of the Health and Safety Code (media campaign), and Part 6.3 (commencing with Section 12695) of the Insurance Code (Access for Infants and Mothers Program).

(b) To the extent reductions are required under this section to appropriations for other programs authorized in this act and funded from the Cigarette and Tobacco Products Surtax Fund, these reductions shall be allocated among those programs on a pro rata basis.

(c) Copies of any notifications required to authorize augmentations or reductions pursuant to this section shall be provided to organizations representing the programs authorized in this act, and to counties, which request in writing that they be informed of such notifications.

SEC. 21. The State Department of Health Services may adopt emergency regulations to implement this act 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). The initial adoption of the emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare. Initial emergency regulations and the first readoption of those regulations shall be exempt from review by the Office of Administrative Law. Emergency regulations authorized by this section and the readoption of those regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations and each shall remain in effect for no more than 180 days.

SEC. 22. (a) Notwithstanding any provision of law, funds appropriated through the Budget Act of 1996 for the tobacco use competitive grants program set forth in Section 104385 of the Health and Safety Code and the tobacco prevention media campaign set forth in subdivision (e) of Section 104375 of the Health and Safety Code shall be available for expenditure without regard to fiscal year until July 1, 1999.

(b) Notwithstanding any provision of law, funds appropriated through the Budget Act of 1996 for the evaluation of the State Department of Education's tobacco use prevention education program pursuant to subdivision (c) of Section 104375 of the Health and Safety Code, for the State Department of Education's allocation of funds for school-based tobacco use prevention pursuant to Sections 104425 and 104430 of the Health and Safety Code, for the tobacco use prevention program set forth in Section 104400 of the Health and Safety Code, and for the rural health improvement grants established in Section 19 of this act shall be available for expenditure without regard to fiscal year until July 1, 1998.

SEC. 23. All funds derived from the imposition of taxes pursuant to Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, which are appropriated for the purposes of this act, shall be used to supplement existing levels of services provided and shall not be used to fund existing levels of service.

SEC. 24. No funds derived from the imposition of taxes pursuant to Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, the Hospital Services Account, the Physician Services Account, or the Unallocated

Account in the Cigarette and Tobacco Products Surtax Fund, for the purposes of this act, shall be used to pay for services except for the treatment of patients who cannot afford to pay for those services, and for whom payment will not be made through any private coverage or by any program funded in whole or in part by the federal government.

SEC. 25. Moneys in the Hospital Services Account, the Physician Services Account, the Health Education Account, and the Unallocated Account in the Cigarette and Tobacco Products Surtax Fund shall not be transferred to any other fund or account in the State Treasury, except as provided in this act or other legislation, and except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from investment shall be deposited to the respective account.

SEC. 26. Due to the necessity to implement the mandates of Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, any contract made pursuant to this act shall not be subject to Part 2 (commencing with Section 10100) of the Public Contract Code.

SEC. 27. Notwithstanding any other provision of law, any unappropriated funds from the 1996–97 fiscal year contained in any of the accounts in the Cigarette and Tobacco Products Surtax Fund shall remain in that account, and be available for appropriation for the 1997–98 fiscal year.

SEC. 28. It is the intent of the Legislature that the appropriations contained in the Budget Act of 1996 shall not establish a precedent on how programs shall be funded from accounts in the Cigarette and Tobacco Products Surtax Fund in future fiscal years.

SEC. 29. The Office of the Legislative Analyst shall prepare an analysis, which may be contained in the Analysis of the 1997–98 Budget Bill, but in no case shall it be submitted later than March 1, 1997, on the expenditure of funds, by county, provided in accordance with Chapters 89 and 91 of the Statutes of 1991 for health care, and the expenditure by county of funds allocated from the Cigarette and Tobacco Products Surtax Fund for health care. The report shall be submitted to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations.

SEC. 30. All programs authorized or amended by this act shall be deemed to be operative for the entire 1996–97 fiscal year.

SEC. 31. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 32. 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 timely provide for the administration of this act for the 1996–97 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 200

An act to amend Sections 32230, 32231, 32233, 32234, 32236, and 32237 of, to amend and renumber the heading of Article 3.5 (commencing with Section 32230) of Chapter 2 of Part 19 of, and to add Article 4 (commencing with Section 48700) to Chapter 4 of Part 27 of, the Education Code, relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. It is the intent of the Legislature that schools and communities work together to serve youth who demonstrate negative behavior and attitudes, and provide them community services and supervision to prevent them from entering the juvenile justice system.

SEC. 2. The Legislature finds and declares as follows:

(a) When schools and communities work together to address early indicators of juvenile delinquency, they improve the chances of positive outcomes for youth and increase the likelihood of diverting youth from the juvenile justice system.

(b) Youth at risk of delinquent behavior usually exhibit a pattern of multiple problems in a variety of settings, and intervention with these youths at the earliest sign of problems improves the probability of preventing subsequent delinquent behavior and reduces the need for more costly interventions and services.

(c) Truancy is a strong predictor of subsequent involvement with law enforcement and youth must be in school to benefit from educational programs and instruction.

(d) Juvenile delinquency prevention and intervention programs must be integrated among schools, local law enforcement, county probation services, social services, child welfare, family preservation programs, and community-based organizations, and these efforts must reflect local community determinations of the most pressing problems and program priorities.

SEC. 3. The heading of Article 3.5 (commencing with Section 32230) of Chapter 2 of Part 19 of the Education Code is amended and renumbered to read:

Article 3.7. School Violence Reduction Programs

SEC. 4. Section 32230 of the Education Code is amended to read:

32230. It is the intent of the Legislature that schools and school districts receiving grants pursuant to this article accomplish the following goals:

(a) Protect pupils and school staff from crime and violence on school campuses.

(b) Secure school campuses from outside criminal activity and disturbances.

(c) Provide safe passage for pupils to and from school.

(d) Reduce truant and delinquent behavior by pupils.

(e) Teach pupils techniques for resolving conflicts without resorting to the use of violence.

(f) Train school staff and administrators to support and promote conflict resolution and mediation techniques for resolving conflicts between or among pupils.

(g) Reduce the incidents of violence at the schoolsite.

(h) Provide pupils with after school programs that promote and utilize conflict resolution and mediation techniques as positive alternatives to delinquent behavior.

SEC. 5. Section 32231 of the Education Code is amended to read:

32231. (a) The School Violence Reduction Program is hereby established. This statewide grant program shall be coordinated through county offices of education to provide grants to schools and school districts for school violence reduction programs. Each county office of education shall do all of the following:

(1) No later than 60 days after the Superintendent of Public Instruction certifies the level of funds available for the fiscal year pursuant to Section 32238, notify the Superintendent of Public Instruction of the intent of the county office of education to participate in the grant program.

(2) Notify schools and school districts within the jurisdiction of the county office of education of the availability of, and the process to be followed in applying for, grants under the grant program.

(3) Identify the elements found in successful school violence reduction programs and incorporate those elements into the criteria for review and selection of requests for proposals for grants, as described in subdivision (b) of Section 32233.

(4) Provide information as requested by the Superintendent of Public Instruction for use in the evaluation conducted pursuant to Section 32237.

(5) Provide information as requested by the Superintendent of Public Instruction on the types of safe school strategies funded with these grants.

(b) (1) If a county office of education chooses not to participate individually in the grant program, or if funding available through the grant program to an individual county office of education would be insufficient to conduct school violence reduction programs in accordance with the requirements of this article, several county offices of education may form a consortium to participate in the grant program and shall be subject to this article to the same extent as an individual county office of education.

(2) If a county office of education chooses not to participate in the grant program either individually or as part of a consortium, that portion of funding that the county office would have received for the grant program shall be distributed on a pro rata basis to participating county offices of education.

SEC. 6. Section 32233 of the Education Code is amended to read:

32233. (a) No later than 90 days after the Superintendent of Public Instruction certifies the level of funds available for the fiscal year pursuant to Section 32238, a county office of education that has notified the Superintendent of Public Instruction of its intent to participate in the grant program shall develop requests for proposals, pursuant to which that county office of education shall select grant recipients from schools and school districts within the jurisdiction of the county office of education.

(b) The participating county offices of education shall establish selection criteria for the approval of applications submitted by schools and school districts for school violence reduction programs. The approved selection criteria shall include, but not be limited to, an evaluation of all of the following:

(1) The extent to which the applicant demonstrates that conflict or violence is a substantial and continuing problem for pupils and staff.

(2) The applicant's formal relationship with the appropriate law enforcement agency or agencies and county probation office to coordinate crime and violence reduction efforts.

(3) The extent to which the applicant school or school district has involved pupils, parents, businesses, social service agencies, law enforcement agencies, and other appropriate community representatives in developing the proposed conflict resolution or school violence reduction program.

(4) The ability of the applicant school or school district to effectively manage and administer the proposed program.

(5) The applicant's comprehensive safety strategy developed for the school community to ensure the safety of pupils and staff.

(6) The extent to which the proposed school violence reduction program meets the identified safety needs of the pupils and staff.

(7) The extent to which the proposed strategies for the school violence reduction program fit within the applicant's existing comprehensive school safety plans.

(8) The applicant's commitment to the implementation of the proposed school violence reduction program and its plan for the continuation of the program upon termination of state funding.

(9) The extent to which the applicant submits a proposal in which monetary and in-kind support, in addition to the funds provided through a grant, are identified to promote the success of a school violence reduction program.

(10) The extent to which the applicant develops a plan, and demonstrates the ability, to share the successful components of its school violence reduction program with other schools and school districts.

(c) The participating county offices of education shall provide for the selection of an application review panel comprised of representatives from local law enforcement, education, and community agencies and county probation offices.

(d) Grant recipients shall be selected and notified no later than 30 days after submitting applications.

SEC. 7. Section 32234 of the Education Code is amended to read:

32234. School violence reduction programs funded pursuant to grants under this article may include, but not be limited to, all of the following activities:

(a) Implementing safe school strategies.

(b) Supporting school police and security personnel.

(c) Supporting a school resource or probation officer on campus.

(d) Purchasing security equipment such as communication devices and metal detectors.

(e) Implementing truancy reduction programs.

(f) Establishing attendance improvement programs.

(g) Establishing conflict resolution projects.

(h) Making the schoolsite available after hours for activities for youth that provide positive alternatives to criminal or delinquent behavior.

(i) Involving parents in efforts to ensure safety and security on and around the school campus.

(j) Establishing programs for hate-motivated crime prevention.

SEC. 8. Section 32236 of the Education Code is amended to read:

32236. (a) Any participating county office of education or consortium of county offices of education may utilize no more than 5 percent of the funds received by that county office of education or consortium pursuant to Section 32235 for expenses associated with the implementation of the grant program.

(b) The Superintendent of Public Instruction may retain 3 percent of the money to be distributed pursuant to paragraph (1) of subdivision (a) of Section 32235 for the School Violence Reduction Program for the purposes of administering this article and

disseminating information regarding successful school violence reduction programs that are developed and implemented by participating county offices of education to other county offices of education.

(c) The Superintendent of Public Instruction may retain five hundred thousand dollars ($500,000) from the money distributed pursuant to paragraph (1) of subdivision (a) of Section 32235 for the purposes of administering the Targeted Truancy and Public Safety Grant Program contained in Article 4 (commencing with Section 48700) of Chapter 4 of Part 27. The funds allocated pursuant to this subdivision shall be the total amount allocated for these purposes for the duration of the Targeted Truancy and Public Safety Grant Program.

SEC. 9. Section 32237 of the Education Code is amended to read:

32237. (a) The Superintendent of Public Instruction shall contract for an ongoing independent evaluation of the effectiveness of school violence reduction programs funded by grants pursuant to this article. The evaluation shall determine the effectiveness of each program based upon all of the following criteria:

(1) A reduction in incidents of school violence at the schoolsite where the school violence reduction program is conducted.

(2) A reduction in the number of suspensions or expulsions of pupils for violent behavior at the schoolsite where the school violence reduction program is conducted.

(3) A comparison of incidents of school violence with schools of similar size and pupils of similar socioeconomic background as the schoolsite where the school violence reduction program is conducted.

(b) On or before June 1, 1998, the superintendent shall submit to the Legislature an interim progress report and on or before October 1, 1999, the superintendent shall submit to the Legislature a final evaluation report, both of which shall be based on the ongoing evaluation made pursuant to subdivision (a).

SEC. 10. Article 4 (commencing with Section 48700) is added to Chapter 4 of Part 27 of the Education Code, to read:

Article 4. Targeted Truancy and Public Safety Grant Program

48700. This article shall be known and may be cited as the Targeted Truancy and Public Safety Grant Program.

48705. For purposes of this article, the following definitions apply:

(a) "High-risk youth" means a juvenile 15 years of age or younger who has been declared a ward of the juvenile court for the first time, or who is placed under the supervision of the probation department pursuant to Section 654 of the Welfare and Institutions Code, and who has at least two of the following four risk factors:

(1) Poor school behavior and performance.

(2) Family problems.

(3) Substance abuse.

(4) Delinquent behavior.

(b) "Poor school behavior and performance" means having attendance problems of truancy or a pattern of missing school, missing certain classes, or missing certain times of the schoolday; behavior problems that result in suspension or expulsion; or failing one or more classes.

(c) "Family problems" means poor supervision and control; domestic violence, trauma; recent financial problems, marital or family discord; or documented child abuse or neglect.

(d) "Substance abuse" means the abuse of alcohol or drugs by minors, other than experimentation.

(e) "Delinquent behavior" means a pattern of stealing, incorrigibility, or gang membership or association.

48710. (a) The Targeted Truancy and Public Safety Grant Program is a three-year grant demonstration program, and shall be administered by the State Department of Education. The program shall operate in school districts or county offices of education, each of which shall design, establish, implement, and evaluate a locally designed program to prevent and intervene in the truancy patterns of high-risk youth who have been referred for the first time to the county probation department. The goal of the Targeted Truancy and Public Safety Grant Program is to develop and implement intervention strategies that will end each participating high-risk youth's escalating pattern of truancy, antisocial behavior, and delinquency.

(b) The State Department of Education shall inform each school district and county office of education about targeted truancy programs before announcing the availability of the Targeted Truancy and Public Safety Grant Program, and shall provide technical assistance to each school district and county office of education that is considering, or has submitted, a grant application pursuant to this article. Technical assistance includes, but is not limited to, successful models, features of successful targeted truancy intervention programs, and multiagency collaboration.

(c) The school districts and county offices of education selected for the Targeted Truancy and Public Safety Grant Program shall be geographically balanced, as determined by the Superintendent of Public Instruction.

(d) The Superintendent of Public Instruction shall award grants in an amount at least not to exceed a total of one million two hundred fifty thousand dollars ($1,250,000) over the three-year grant period. No grant shall be awarded unless the applicant makes available resources in an amount at least equal to the amount of the grant. Resources may included in-kind contributions from participating agencies. An applicant shall demonstrate that the grant program will involve a collaborative multiagency effort to address truancy and delinquency behaviors, and that the chief probation officer in the

county supports the application and will assist in the implementation of the program.

(e) After awarding Targeted Truancy and Public Safety Grants, the State Department of Education shall provide ongoing technical assistance to those school districts and county offices of education that are awarded grants.

48715. The State Department of Education shall give funding priority to proposals that include a comprehensive approach to all of the following:

(a) Strategies that produce education success, in part by assisting families of high-risk youth to ensure that these youth attend school regularly.

(b) A restorative justice program for juvenile offenders that promotes accountability to the victim.

(c) Adequate levels of supervision, structure, and support to minors and their families throughout the intervention process.

(d) Accountability by the minors for their actions and developing in the minors increased sensitivity to the impact of their actions on others.

(e) Promotion of prosocial values, behaviors, and relationships.

(f) Individualized intervention strategies that have strong followup after the crisis stage.

(g) Culturally appropriate, family centered services, driven by the needs of youth and families, and built on individual, family, and community strengths.

(h) Service integration and coordination through structured collaboration among public and private agencies that may include, but not be limited to, county or local school attendance review boards, truancy mediation programs, or pupil support teams.

(i) Evidence of community involvement in the application that includes commitments from a broad base of participants from local government and the community, including, but not limited to, community-based youth development organizations, probation, social service agencies, civic organizations, the business community, religious groups, parents, law enforcement, and representatives of at-risk youth.

(j) Family empowerment through support, education, and services.

48720. Each school district or county office of education, in implementing its Targeted Truancy and Public Safety Grant, shall provide the following:

(a) Adequate levels of supervision, structure, and support to minors and their families both during and after the intervention and treatment process for the following purposes:

(1) To ensure the protection of the community, the minor, and his or her family.

(2) To facilitate the development of positive behavior patterns.

(3) To eliminate any obvious barriers to the family's progress.

(b) Accountability on the part of the minor for his or her actions, including criminal behavior, and assistance to the minor in developing a greater awareness and sensitivity for the impact of the minor's actions, including criminal behavior, on other people and situations.

(c) Assistance to the families in their efforts to ensure their minor is attending school regularly.

(d) Assistance to the minor in developing strategies for attaining and reinforcing school success.

(e) Promotion and development of positive social values, behavior, and relationships by providing opportunities to the minor to directly help people, improve the community, participate in positive leisure-time activities specially chosen to match his or her individual interests, skills, and abilities, and have greater access and exposure to positive adult and juvenile role models.

(f) Promotion and development of individualized intervention strategies that may include, but are not limited to, the following:

(1) Delivery of services in close proximity to the minor's or family's home.

(2) Community case advocates to assist in building bridges of trust.

(3) A restorative justice program to promote rehabilitation of juveniles and offer victims a forum for healing.

(g) Implementation of gang intervention strategies, where appropriate.

(h) Provision of a continuum of care with strong followup services that continue to be available to the minor and family, as long as needed, after a crisis.

48725. The Superintendent of Public Instruction shall establish minimum standards, funding schedules, and procedures for selecting participating school districts or county offices of education that shall take into consideration, but not be limited to, all of the following:

(a) Size of the eligible high-risk youth population.

(b) Demonstrated ability to administer the program.

(c) Identification of service delivery area.

(d) Demonstrated ability to provide or develop intervention strategies that will provide the services described in Section 48720 for the eligible high-risk youth population and their families.

(e) Likelihood that the program will continue to operate after state grant funding ends.

(f) A formal evaluation component to assess the success of the implementation of the grant program.

48730. (a) The State Department of Education, in collaboration with the Board of Corrections, shall create an evaluation design for the Targeted Truancy and Public Safety Grant Program that will assess the effectiveness of program implementation and operation and the degree to which the school district or county office of education has met the following minimum criteria:

(1) Utilization of a multiagency, multidisciplinary team so that the program can effectively draw on the professional knowledge, skill, and experience of all team members in areas including, but not limited to, education, job preparation and search, job skills, vocational training, life skills, counseling, drug and alcohol treatment, health care, parenting skills, family literacy, community service opportunities, building self-esteem and self-confidence, mentoring, restorative justice, restitution programs, gang intervention, recreational, social and cultural activities, transportation, and child care.

(2) Empowerment of the family to recognize and ultimately solve the problems related to their minor's truancy and criminal behavior, and to participate as an integral part of the treatment team and process.

(3) Teamwork on the part of all treatment and intervention agencies involved in the grant program, including the family, professionals, and any community volunteers.

(b) The State Department of Education shall also judge the success of each grant program by comparing a control group to an experimental group. Data from the school and court records shall be examined for juveniles and their families in each group according to, but not limited to, the following criteria:

(1) The number of schooldays of attendance during the current or most recent semester.

(2) The number of truancies reported.

(3) The number of suspensions and expulsions recorded by the school.

(4) The number of subsequent arrests, petitions to declare the minor a ward of the juvenile court, or proceedings in the superior court.

(5) The juveniles' grade point averages for the most recently completed school grading period.

(c) The State Department of Education shall contract with an independent evaluator to assess the overall success of the Targeted Truancy and Public Safety Grant Program.

48735. Grant recipients shall collect and report data to the State Department of Education that includes, at a minimum, those items identified in subdivision (b) of Section 48730, and any other data to indicate the effect of intervention strategies and grant program operations on the risk factors used to identify the grant program's high-risk youth participants. The Superintendent of Public Instruction shall annually summarize the data reported by those awarded grants, and shall develop a final analysis of the grant program in a report to be submitted to the Legislature on or before March 1, 2001.

48740. The Targeted Truancy and Public Safety Grant Program shall be implemented within nine months of the appropriation of

funds for the program, and shall terminate three years and nine months from the date of the appropriation of funds.

SEC. 11. (a) The sum of ten million dollars ($10,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation to school districts and county offices of education for the purpose of the Targeted Truancy and Public Safety Grant Program contained in Article 4 (commencing with Section 48700) of Part 27 of the Education Code.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code for the 1995–96 fiscal year and be included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code for the 1995–96 fiscal year.

SEC. 12. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the purpose of funding the contract for an evaluator as required by the Targeted Truancy and Public Safety Grant Program in subdivision (c) of Section 48730 of the Education Code.

SEC. 13. (a) The sum of three million dollars ($3,000,000) is hereby appropriated from the General Fund to the School Safety Account in the General Fund, which account is continuously appropriated, for allocation by the Superintendent of Public Instruction pursuant to Section 32235 of the Education Code.

(b) If the amount in the General Fund to be transferred to the School Safety Account pursuant to Section 32235 of the Education Code exceeds three million dollars ($3,000,000), those funds are hereby appropriated in augmentation of the appropriation in subdivision (a), except in no event shall that amount exceed ten million dollars ($10,000,000) as set forth in paragraph (2) of subdivision (b) of Section 11489 of the Health and Safety Code.

SEC. 14. (a) For the 1996–97 fiscal year, and in addition to the funds appropriated pursuant to Section 32235 of the Education Code, four million two hundred thousand dollars ($4,200,000) is hereby appropriated from the General Fund to the State Department of Education to be allocated by the Superintendent of Public Instruction to county offices of education in accordance with subdivisions (b) and (c) of Section 32235 of the Education Code, for the purposes of awarding School Violence Reduction Program grants pursuant to Article 3.7 of Chapter 2 of Part 19 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be

"General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

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 implement the Targeted Truancy and Public Safety Grant Program and the School Violence Reduction Program, as contained in this act, at the earliest opportunity, and to appropriate funds therefor for the 1996–97 school year, it is necessary that this act take effect immediately.

CHAPTER 201

An act to repeal Section 8002 of, and to repeal and add Section 8001 of, the Financial Code, to amend Section 4106 of, and to add Section 4101.5 to, the Food and Agricultural Code, to amend Sections 8690.6 and 11270 of, to amend and repeal Sections 8690, 8690.2, and 8690.4 of, to add Sections 8690.25 and 8690.45 to, and to repeal and add Section 13308 of, the Government Code, and to amend Sections 50531, 50661, 50661.5, 50697.1, 50740, 50778, and 50882 of the Health and Safety Code, to add Section 2105.1 to the Streets and Highways Code and to repeal Sections 11453.05, 12201.05, 12303.51, 14029, and 16702.01 of the Welfare and Institutions Code, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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 make the necessary statutory changes to implement the Budget Act of 1996 relative to the administration of state government.

SEC. 2. Section 8001 of the Financial Code is repealed.

SEC. 3. Section 8001 is added to the Financial Code, to read:

8001. The Superintendent of Banks shall also serve as the commissioner and succeeds to all functions and duties previously held by the commissioner.

SEC. 4. Section 8002 of the Financial Code is repealed.

SEC. 5. Section 4101.5 is added to the Food and Agricultural Code, to read:

4101.5. The California Museum of Science and Industry shall study the feasibility of transferring management and operation of the museum facilities to the California Museum Foundation of Los Angeles, and, if feasible, prepare a plan to accomplish that transfer. The California Museum of Science and Industry may study other alternatives for restructuring, including, but not limited to, obtaining funding from local educational entities that participate in the museum programs and operations, and prepare an alternative restructuring plan. The California Museum of Science and Industry shall provide an interim report of the study to the Legislature by March 1, 1997, and a final report of the study to the Legislature by May 1, 1997.

SEC. 6. Section 4106 of the Food and Agricultural Code is amended to read:

4106. (a) The California Museum of Science and Industry shall work with the Los Angeles Memorial Coliseum Commission, the City of Los Angeles, and the County of Los Angeles to develop additional parking facilities in Exposition Park to the extent necessary to allow for expansion of the park.

(b) The California Museum of Science and Industry shall manage or operate its parking facilities in a manner which preserves and protects the interests of itself and the California African-American Museum and recognizes the cultural and educational character of Exposition Park.

(c) The first eight hundred thirty-two thousand seven hundred sixty-five dollars ($832,765) of revenues received each year by the California Museum of Science and Industry from parking facilities, from rental of museum facilities, or from other business activities shall be deposited in the General Fund.

(d) (1) The Exposition Park Improvement Fund is hereby created in the State Treasury. All revenues received by the California Museum of Science and Industry from its parking facilities, from rental of museum facilities, or from other business activities, in excess of the eight hundred thirty-two thousand seven hundred sixty-five dollars ($832,765) deposited each year in the General Fund, shall be deposited in the Exposition Park Improvement Fund.

(2) Notwithstanding subdivision (c), for the 1996–97 fiscal year only, all revenues received by the museum during that fiscal year from the sources described in paragraph (1) shall be deposited in the Exposition Park Improvement Fund.

(e) The moneys in the Exposition Park Improvement Fund may only be used, upon appropriation by the Legislature, for improvements to Exposition Park, including, but not limited to, maintenance of existing parking and museum facilities, replacement of museum equipment, supplies and wages expended to generate revenues from rental of museum facilities, development of new

parking facilities and acquisition of land within or adjacent to Exposition Park.

(f) The Legislature hereby finds and declares that there is a need for development of additional park, recreation, museum, and parking facilities in Exposition Park. The Legislature recognizes that the provision of these needed improvements as identified in the California Museum of Science and Industry Exposition Park Master Plan may require the use of funds provided by other governmental agencies or private donors.

The California Museum of Science and Industry may accept funds from other governmental agencies or private contributions for the purpose of implementation of the California Museum of Science and Industry Exposition Park Master Plan. The private contributions and funds from governmental agencies other than state governmental agencies shall be deposited in the Exposition Park Improvement Fund in the State Treasury and shall be available for expenditure without regard to fiscal years by the California Museum of Science and Industry for implementation of the California Museum of Science and Industry Exposition Park Master Plan. Funds from other state governmental agencies shall be deposited in the Exposition Park Improvement Fund and shall be available for expenditure, upon appropriation, by the California Museum of Science and Industry for implementation of the California Museum of Science and Industry Exposition Park Master Plan. However, any expenditure is not authorized sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time as the chairperson of the joint committee, or his or her designee, may in each instance determine.

SEC. 7. Section 8690 of the Government Code is amended to read:

8690. As used in this article:

(a) "Fund" means the Natural Disaster Assistance Fund created by Section 8690.2.

(b) "Public Facilities and Local Agency Disaster Response Account" means the special account established in the fund pursuant to subdivision (a) of Section 8690.4.

(c) "Street and Highway Account" means the special account established in the fund pursuant to subdivision (b) of Section 8690.4.

(d) "Office of Emergency Services Disaster Administration Support Account" means the special account established in the fund pursuant to subdivision (c) of Section 8690.4.

(e) This section shall remain in effect only until July 1, 1997, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1997, deletes or extends that date.

SEC. 8. Section 8690.2 of the Government Code is amended to read:

8690.2. The Natural Disaster Assistance Fund is hereby created as a special fund in the State Treasury. This fund and its subsidiary accounts are continuously appropriated for purposes of this act. The fund is the successor to the funds appropriated by Section 4 of Chapter 624 of the Statutes of 1973 and to the Street and Highway Disaster Fund, which funds are hereby abolished, effective the 61st day after final adjournment of the 1973–74 Regular Session of the Legislature. All of the assets, liabilities, and surpluses of the two abolished funds shall, on order of the Controller and as of the effective date of their abolition, be transferred to and become assets, liabilities, and surpluses of the Natural Disaster Assistance Fund except that all assets, liabilities, and surplus of the portion of the Street and Highway Disaster Fund relating to state highways shall be transferred to the State Highway Account in the State Transportation Fund. The existing appropriations from either of such funds shall continue to be available for allocation, encumbrance, and expenditure in the same manner and for the same purposes and periods from the Natural Disaster Assistance Fund. Any reference in any law or regulation to the Street and Highway Disaster Fund shall be deemed to refer to the Street and Highway Account of the Natural Disaster Assistance Fund.

Any moneys received by the director or any state agency after the effective date of this section which, by law, would otherwise be required to be deposited in either of such funds, shall on order of the Controller, be deposited in the State Treasury in the Natural Disaster Assistance Fund.

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

SEC. 9. Section 8690.25 is added to the Government Code, to read:

8690.25. The Natural Disaster Assistance Fund, referred to as "fund" in this article, is hereby created as a special fund in the State Treasury. This fund and its subsidiary account, the Earthquake Emergency Investigations Account, are continuously appropriated, without regard to fiscal years, for purposes of this act.

This section shall become operative on July 1, 1997.

SEC. 10. Section 8690.4 of the Government Code is amended to read:

8690.4. The Controller shall establish the following four special accounts in the Natural Disaster Assistance Fund:

(a) The Public Facilities and Local Agency Disaster Response Account, into which shall be paid all moneys appropriated by the Legislature for allocation for (1) the repair, restoration, reconstruction, or replacement of facilities belonging to local agencies damaged as a result of natural disasters, (2) matching fund assistance for cost sharing required under federal disaster assistance programs, as specified in subdivisions (b) (c), and (e) of Section 8685, and (3) local agency personnel overtime costs and supplies used

during eligible disaster response and recovery activities, including the cost of administering those activities, as specified in subdivisions (a) and (d) of Section 8685.

(b) The Street and Highway Account, into which shall be paid all resources transferred from the Street and Highway Disaster Fund, any money received from the federal government as reimbursement to any city or county for expenditures from funds allocated, transferred or expended pursuant to this chapter for a street and highway project, any money hereafter appropriated by the Legislature for allocation for street and highway projects, and any income from investment of moneys in the account and payments by local agencies in reimbursement of moneys disbursed from the account including deferred payments with charges, pursuant to Section 8686.8.

(c) The Office of Emergency Services Disaster Administration Support Account, into which shall be paid all moneys appropriated by the Legislature for allocation for state administrative and engineering support required to respond to a specific disaster in accordance with the state disaster assistance program authorized under this chapter.

(d) The Earthquake Emergency Investigations Account, into which shall be paid all moneys appropriated by the Legislature to the Seismic Safety Commission for allocation for the purpose of enabling immediate investigation of damaging earthquakes. Allocations may be made by the commission to assist organizations which have incurred expenses in the course of conducting earthquake investigations. Allocations may be made to cover the following expenses:

(1) Travel, meals, and lodging.

(2) Publishing of findings.

(3) Contractor assistance in the investigation.

(4) Other expenses which the commission may allow as necessary to assist the investigation.

The unpredictable nature of earthquakes necessitates immediate access to funds for investigative purposes. For this reason, notwithstanding any other provision of law, funds in the Earthquake Emergency Investigations Account shall be available for expenditure without regard to fiscal years.

(e) It is the intent of the Legislature that the Public Facilities and Local Agency Disaster Response Account, the Street and Highway Account, and the Office of Emergency Services Administration Support Account each have an unencumbered balance of one million dollars ($1,000,000) at the beginning of each fiscal year.

In the event that any of these three accounts require additional moneys to meet claims against the account, the Director of Finance may transfer moneys from the Special Fund for Economic Uncertainties to the account in that amount sufficient to pay the amount of the claims that exceed the unencumbered balance in the

account, provided that the transfer is not made prior to notification in writing to the Joint Legislative Budget Committee of the reason and amount of transfer.

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

SEC. 11. Section 8690.45 is added to the Government Code, to read:

8690.45. (a) The Controller shall establish the following special account in the Natural Disaster Assistance Fund.

The Earthquake Emergency Investigations Account, into which shall be paid all moneys appropriated by the Legislature to the Seismic Safety Commission for allocation for the purpose of enabling immediate investigation of damaging earthquakes. Allocations may be made by the commission to assist organizations that have incurred expenses in the course of conducting earthquake investigations. Allocations may be made to cover the following expenses:

(1) Travel, meals, and lodging.

(2) Publishing of findings.

(3) Contractor assistance in the investigation.

(4) Other expenses that the commission may allow as necessary to assist the investigation.

The unpredictable nature of earthquakes necessitates immediate access to funds for investigative purposes. For this reason, notwithstanding any other provision of law, funds in the Earthquake Emergency Investigations Account shall be available for expenditure without regard to fiscal years.

(b) This section shall become operative on July 1, 1997.

SEC. 12. Section 8690.6 of the Government Code is amended to read:

8690.6. (a) There is hereby established in the Reserve for Economic Uncertainties a Disaster Response-Emergency Operations Account. Notwithstanding Section 13340, moneys in the account are continuously appropriated, subject to the limitations specified in subdivisions (c) and (d), without regard to fiscal years, for allocation by the Director of Finance to state agencies for disaster response operation costs incurred by state agencies as a result of a state of emergency proclamation by the Governor. These allocations may be for response activities, defined as any activity occurring within 365 days of a declaration of emergency by the Governor, or for recovery activities, defined as any activity occurring after the 365th day of a declaration of emergency by the Governor.

(b) It is the intent of the Legislature that the Disaster Response-Emergency Operations Account have an unencumbered balance of one million dollars ($1,000,000) at the beginning of each fiscal year. In the event that this account requires additional moneys to meet claims against the account, the Director of Finance may transfer moneys from the Special Fund for Economic Uncertainties

to the account in that amount sufficient to pay the amount of the claims that exceed the unencumbered balance in the account.

(c) For response activities, as defined, the funds shall be allocated subject to the conditions of this section and in accordance with Section 27.00 of the annual Budget Act, except that the allocations may be made 30 days or less after notification of the Legislature pursuant to subdivision (b) of that section.

(d) For recovery activities, as defined, the funds shall be allocated subject to the conditions of this section and in accordance with all subdivisions of Section 27.00 of the annual Budget Act, and shall include the Department of Finance's determination as to whether the expenditure for which the allocation is to be made was previously proposed at some point in the legislative consideration of the annual Budget Bill and was not approved and, if the expenditure was not approved, for what reasons.

(e) No funds allocated under this section shall be used to supplant federal funds otherwise available in the absence of state financial relief.

(f) The amount of financial assistance provided to an individual, business, or governmental entity under this section, or pursuant to any other program of state-funded disaster assistance, shall be deducted from sums received in payment of damage claims asserted against the state, its agents, or employees, for causing or contributing to the effects of the proclaimed disaster.

(g) No public entity administering disaster assistance to individuals shall receive funds under this section unless it administers that assistance pursuant to the following criteria:

(1) All applications, forms, and other written materials presented to persons seeking assistance shall be available in English and in the same language as that used by the major non-English-speaking group within the disaster area.

(2) Bilingual staff who reflect the demographics of the disaster area shall be available to applicants.

(h) The Legislature finds and declares that the amendments made to subdivision (c) of this section by Chapter 16 of the Statutes of 1986 declare the intent of the Legislature at the time when this section was originally added to this code by Chapter 1562 of the Statutes of 1985.

(i) This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 13. Section 11270 of the Government Code is amended to read:

11270. As used in this article "administrative costs" means the amounts expended by the Legislature, Controller, Treasurer, the State Personnel Board, the Department of General Services, the State Board of Control, the State Department of Finance, the Office

of Administrative Law, the Department of Personnel Administration, the Secretary of the State and Consumer Services Agency, the Secretary of the Business, Transportation and Housing Agency, the Secretary of the Health and Welfare Agency, the Secretary of the Resources Agency, the Secretary of the Youth and Adult Correctional Agency, the California State Library, and the Department of Information Technology, and a proration of any other cost to or expense of the state for services or facilities provided for the Legislature and the above agencies, for supervision or administration of the state government or for services to the various state agencies.

SEC. 14. Section 13308 of the Government Code, as added by Chapter 455 of the Statutes of 1990, is repealed.

SEC. 15. Section 13308 of the Government Code, as added by Chapter 458 of the Statutes of 1990, is repealed.

SEC. 16. Section 13308 is added to the Government Code, to read:

13308. (a) The Director of Finance shall provide to the Legislature, on or before February 1 of each year, all proposed statutory changes, as prepared by the Legislative Counsel, that are necessary to implement the Governor's Budget, as described in subdivision (a) of Section 13337.

(b) The Director of Finance shall provide to the Legislature, on or before April 1 of each year, all proposed adjustments to the Governor's Budget except as specified by subdivisions (c) and (d).

(c) The Director of Finance shall provide to the Legislature, on or before May 1 of each year, all proposed adjustments to the Governor's Budget in appropriations for capital outlay.

(d) The Director of Finance shall provide to the Legislature, on or before May 14 of each year, all of the following:

(1) An estimate of General Fund revenues for the current fiscal year and for the ensuing fiscal year.

(2) Any proposals to reduce expenditures to reflect updated revenue estimates.

(3) All proposed adjustments to the Governor's Budget that are necessary to reflect updated estimates of state funding required pursuant to Section 8 of Article XVI of the California Constitution, or to reflect caseload enrollment or population changes.

(e) The Director of Finance may authorize suspension for the current fiscal year of any provision of this section not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers the State Budget and the Chairperson of the Joint Legislative Budget Committee.

SEC. 17. Section 50531 of the Health and Safety Code is amended to read:

50531. (a) The Urban Housing Development Loan Fund established in the State Treasury is hereby renamed the Urban Predevelopment Loan Fund.

(b) Notwithstanding Section 13340 of the Government Code, all money in the fund, including any interest on loans made from the fund, is hereby continuously appropriated to the department for carrying out the purposes of this chapter and for repaying any transfer made to the fund pursuant to Section 50748.1, together with interest as provided in that section. The fund shall be a revolving loan fund that shall be used to make predevelopment loans and land purchase loans to eligible sponsors for assisted housing in urban areas, for occupancy primarily by persons of low income.

(c) All interest, dividends, and pecuniary gains from investments or deposits of moneys in the fund shall accrue to the fund, notwithstanding Section 16305.7 of the Government Code.

There shall be paid into the fund all of the following:

(1) Any moneys appropriated and made available by the Legislature for the purposes of the fund.

(2) Any moneys that the department receives prior to July 1, 1996, in repayment of loans made from the fund, including any interest on loans made from the fund.

(3) Any other moneys that may be made available to the department prior to July 1, 1996, for the purposes of this chapter from any other source.

(d) Notwithstanding any other provision of law, on or after July 1, 1996, the unencumbered fund balance shall be transferred to the Rental Housing Construction Fund and subsequent income and other resources received by the department pursuant to this section shall be deposited in the Rental Housing Construction Fund.

SEC. 18. Section 50661 of the Health and Safety Code is amended to read:

50661. (a) There is hereby created in the State Treasury the Housing Rehabilitation Loan Fund. All interest or other increments resulting from the investment of moneys in the Housing Rehabilitation Loan Fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department for the following purposes:

(1) For making deferred-payment rehabilitation loans for financing all or a portion of the cost of rehabilitating existing housing to meet rehabilitation standards as provided in this chapter.

(2) For making deferred payment loans as provided in Sections 50668.5, 50669, and 50670.

(3) For making deferred payment loans pursuant to Sections 50662.5 and 50671.

(4) Subject to the restrictions of Section 53131, if applicable, for administrative expenses of the department made pursuant to this chapter, Article 3 (commencing with Section 50693) of Chapter 7.5, and Chapter 10 (commencing with Section 50775).

(5) For related administrative costs of nonprofit corporations and local public entities contracting with the department pursuant to Section 50663 in an amount, if any, as determined by the department, to enable the entities and corporations to implement a program pursuant to this chapter. The department shall ensure that not less than 20 percent of the funds loaned pursuant to this chapter shall be allocated to rural areas. For purposes of this chapter "rural area" shall have the same meaning as in Section 50199.21.

(b) There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any moneys that the department receives in repayment of loans made from the fund, including any interest thereon.

(3) Any other moneys that may be made available to the department for the purposes of this chapter from any other source or sources.

(4) Moneys transferred or deposited to the fund pursuant to Sections 50661.5 and 50778.

(c) Notwithstanding any other provision of law, any interest or other increment earned by the investment or deposit of moneys appropriated by subdivision (b) of Section 3 of Chapter 2 of the Statutes of the 1987–88 First Extraordinary Session, or Section 7 of Chapter 4 of the Statutes of the 1987–88 First Extraordinary Session, shall be deposited in a special account in the Housing Rehabilitation Loan Fund and shall be used exclusively for purposes of Sections 50662.5 and 50671.

(d) Notwithstanding any other provision of law, effective with the date of the act adding this subdivision, appropriations authorized by the Budget Act of 1996 for support of the Department of Housing and Community Development from the California Disaster Housing Repair Fund and the California Homeownership Assistance Fund shall instead be authorized for expenditure from the Housing Rehabilitation Loan Fund.

SEC. 19. Section 50661.5 of the Health and Safety Code is amended to read:

50661.5. (a) There is hereby created in the State Treasury the California Disaster Housing Repair Fund, into which shall be paid all moneys appropriated by the Legislature pursuant to subdivision (b) or transferred pursuant to subdivision (c) for housing repair loans pursuant to Sections 50662.7, 50671.5, and 50671.6. All interest or other increments resulting from the investment of moneys in the California Disaster Housing Repair Fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Notwithstanding Section 13340 of the Government Code, all money in that fund is continuously appropriated to the department for the following purposes:

(1) For making deferred payment loans and predevelopment loans pursuant to Sections 50662.7, 50671.5, and 50671.6.

(2) For related administrative expenses of the department.

(3) For related administrative expenses of any entity contracting with the department, pursuant to Sections 50662.7, 50671.5, and 50671.6 in an amount, if any, as determined by the department, to enable the entities to implement a program pursuant to those sections.

(4) For providing loan guarantees for disaster-related loans made by private institutional lending sources.

(b) There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for purposes of the fund.

(2) Any moneys transferred from the Special Fund for Economic Uncertainties prior to July 1, 1996, pursuant to subdivision (c).

(3) Any other moneys which may be made available to the department prior to July 1, 1996, for the purposes of this section from any other source or sources.

(4) The director may authorize the sale of the beneficiary interest of loans made pursuant to Section 50662.7. The proceeds from that sale prior to July 1, 1996, shall be deposited into the California Disaster Housing Repair Fund. Proceeds from that sale after July 1, 1996, shall be deposited in the General Fund.

(c) (1) To the extent that funds are not available, the Department of Housing and Community Development shall submit to the Department of Finance, within 90 days after a disaster, a deficiency request based on a minimum funding level based on a damage survey completed by the Office of Emergency Services and the Federal Emergency Management Agency. The request shall distinguish between owner-occupied housing of one to four units and rental housing of five or more units.

(2) Upon receipt of the deficiency request from the Department of Housing and Community Development pursuant to paragraph (1), the Department of Finance shall make a funding determination and notify the Legislature of the approval or disapproval of the deficiency amount. Any deficiency amount approved shall distinguish between owner-occupied housing of one to four units and rental housing of five or more units.

(3) Any payments made pursuant to this subdivision from funds made available under Section 50671.5 shall be matched by a corresponding and equal payment from funds made available under Section 50671.6, except that, upon the determination of the Director of Finance that one of the two rental repair programs has excess funds, moneys from that fund may be used for either of the other two disaster repair programs.

(d) In the event of a natural disaster, as defined in Section 8680.3 of the Government Code, the Director of Finance may transfer moneys from the Special Fund for Economic Uncertainties established by Section 16418 of the Government Code to the California Disaster Housing Repair Fund, provided the transfer is not

made sooner than 30 days after notification in writing of the necessity therefor is provided to the Joint Legislative Budget Committee.

(e) Notwithstanding any other provision of law, on or after July 1, 1996, the unencumbered fund balance and reserves shall be transferred to the Housing Rehabilitation Loan Fund and subsequent income and other resources payable pursuant to Sections 50662.7, 50671.5, and 50671.6, shall be deposited to the Housing Rehabilitation Loan Fund, except that payments of principal and interest on loans issued pursuant to Sections 50662.7, 50671.5, and 50671.6 shall be deposited in the General Fund.

(f) In making funds available to disaster victims pursuant to Sections 50662.7, 50671.5, and 50671.6, the department shall impose a one-year deadline for submission of applications.

(g) Any changes made on or after January 1, 1994, to any program funded by the California Disaster Housing Repair Fund shall not apply to applications submitted on or before December 31, 1993. The department may administer the program in accordance with guidelines until regulations are adopted.

SEC. 20. Section 50697.1 of the Health and Safety Code is amended to read:

50697.1. (a) The Self-Help Housing Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated for contracts entered into pursuant to subdivision (b) of Section 50696 and for costs incurred by the California Self-Help Housing Program in administering the program. The moneys in the fund are not subject to transfer to any other fund pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund. The department may require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. Notwithstanding Section 16305.7 of the Government Code, all interest, dividends, and pecuniary gains from the investments shall accrue to the fund.

(b) The Self-Help Housing Fund shall consist of all of the following:

(1) Any moneys appropriated to the fund by the Legislature.

(2) Any moneys which the California Self-Help Housing Program receives in repayment or return of the funds, including any interest on those moneys.

(3) Any other moneys which may be made available to the California Self-Help Housing Program for the purposes of subdivision (b) of Section 50696 from any other source or sources.

SEC. 21. Section 50740 of the Health and Safety Code is amended to read:

50740. (a) The Rental Housing Construction Incentive Fund established in the State Treasury is hereby renamed the Rental

Housing Construction Fund. Notwithstanding Section 13340 of the Government Code, all money in the fund is hereby continuously appropriated to the Department of Housing and Community Development, and, except as provided in subdivisions (b) and (c), shall be utilized for purposes of this chapter and for the purposes of Section 50775.5, Chapter 3.2 (commencing with Section 50517.5), Chapter 3.5 (commencing with Section 50530), and Chapter 15 (commencing with Section 50880). All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund.

(b) Money from the fund utilized by the agency for development costs which was repaid to the agency or disencumbered between June 30, 1982, and June 30, 1983, and any additional funds or interest which is available for encumbrance on June 30, 1983, shall be deposited in a separate account in the fund and utilized as follows:

(1) Eight million one hundred thousand dollars ($8,100,000) shall be utilized by the agency for activities authorized by Article 4.5 (commencing with Section 51180) of Chapter 5 of Part 3.

(2) Five hundred thousand dollars ($500,000) shall be transferred by the agency to the department for deposit in the Rural Community Facility Grant Fund, established pursuant to Section 6125, and utilized to carry out the program established by Chapter 11 (commencing with Section 6120) of Part 3 of Division 5.

(3) Three million dollars ($3,000,000) shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for making deferred payment loans for residential hotels as authorized by subdivision (b) of Section 50661 and for purposes of subdivision (c) of Section 50661.

(4) One million seven hundred thousand dollars ($1,700,000) shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800.

(5) Two million five hundred thousand dollars ($2,500,000) shall be transferred by the agency to the Trustees of the California State University for deposit in the Affordable Student Housing Revolving Fund, established pursuant to Section 90087 of the Education Code, and utilized to carry out the program established by Article 3 (commencing with Section 90085) of Chapter 8 of Part 55 of the Education Code.

(6) Three hundred thousand dollars ($300,000) shall be transferred by the agency to the department and utilized to carry out the program established by Chapter 3.6 (commencing with Section 50533).

(7) Four million two hundred thousand dollars ($4,200,000) shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes authorized by that section.

(c) An amount not to exceed four million dollars ($4,000,000) of the moneys from the fund utilized by the agency for development costs which is repaid to the agency or disencumbered on or after July 1, 1983, shall be deposited in the separate account established pursuant to subdivision (b) and utilized and apportioned in accordance with the following percentages as it becomes available:

(1) Fifty percent of the moneys shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for the purposes specified in paragraph (3) of subdivision (b).

(2) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized for the purposes specified in paragraph (4) of subdivision (b).

(3) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes specified in paragraph (7) of subdivision (b).

(d) Notwithstanding any other provision of law, effective with the date of the act adding this subdivision, appropriations authorized for support of the Department of Housing and Community Development from the Family Housing Demonstration Account and the Urban Predevelopment Loan Fund shall instead be authorized for expenditure from the Rental Housing Construction Fund.

SEC. 22. Section 50778 of the Health and Safety Code is amended to read:

50778. (a) The Homeownership Assistance Fund is hereby created in the State Treasury and, notwithstanding Section 13340 of the Government Code, is continually appropriated to the department for purposes of this chapter, including Section 50775.5, and for the purposes of Section 50745.1. Any moneys received by the department pursuant to this chapter shall be deposited in such fund. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provisions of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

(b) Not less than 50 percent of the moneys in the fund shall be used to assist lower income households. Not less than 20 percent of the units assisted shall be in rural areas.

(c) Funds available for the purpose of this chapter shall be allocated by the department throughout the state in accordance with identified housing needs.

(d) (1) Notwithstanding any other provision of law, commencing on July 1, 1992, the department shall not be required to make loans pursuant to this chapter.

(2) The department may retain within the fund moneys necessary for administration and monitoring of loans made prior to July 1, 1992, to make loans pursuant to loan commitments made prior to July 1, 1992. The department may also retain reserves for curing or averting a default that would jeopardize any security interest of the department.

(3) Notwithstanding any other provision of law, on or after July 1, 1996, the unencumbered fund balance and reserves shall be transferred to the Housing Rehabilitation Loan Fund. Subsequent income and resources shall be deposited to the Housing Rehabilitation Loan Fund.

SEC. 23. Section 50882 of the Health and Safety Code is amended to read:

50882. (a) The Family Housing Demonstration Account is hereby established in the Rental Housing Construction Fund. The account shall be organized into subaccounts as provided in this chapter. All of the following moneys shall be paid into the account:

(1) Any moneys appropriated and made available by the Legislature for the purposes of the account.

(2) Any moneys which the department receives prior to July 1, 1996, in repayment or return of loans made from the account, including any interest on those loans.

(3) Any other moneys which may be made available to the department prior to July 1, 1996, for the purposes of this chapter from any other source or sources.

(b) Notwithstanding Section 13340 of the Government Code, all money in the account is hereby continuously appropriated to the department and shall be utilized for the purposes of Article 1 (commencing with Section 50880) to Article 4 (commencing with Section 50893), inclusive, including administrative expenses of the department for the implementation and operation of the programs created by this chapter. All interest or other increment resulting from investment or deposit of moneys in the account shall be deposited in the account, notwithstanding Section 16305.7 of the Government Code. Moneys in the account are not subject to transfer to any other fund, except as set forth in this chapter, pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund.

(c) Money available for loans in the account shall be utilized and apportioned in accordance with the following percentages unless the terms of the transfers or deposit provide otherwise:

(1) Not less than 25 percent, nor more than 35 percent, shall be utilized for congregate housing developments pursuant to this chapter.

(2) The balance shall be utilized for community housing developments pursuant to this chapter.

(d) Notwithstanding any other provision of law, on or after July 1, 1996, the unencumbered account balance and reserves shall be transferred out of the Family Housing Demonstration Account, but shall be retained within the Rental Housing Construction Fund.

SEC. 24. Section 2105.1 is added to the Streets and Highways Code, to read:

2105.1. Notwithstanding Section 2105, the Solano County municipal court fines and forfeitures collected pursuant to Section 40508 of the Vehicle Code during fiscal years 1986–87 to 1988–89, inclusive, in the amount of four hundred twenty-six thousand three hundred eighty-one dollars ($426,381) shall be deposited in the General Fund of Solano County.

SEC. 25. Section 11453.05 of the Welfare and Institutions Code is repealed.

SEC. 26. Section 12201.05 of the Welfare and Institutions Code is repealed.

SEC. 27. Section 12303.51 of the Welfare and Institutions Code as added by Chapter 455 of the Statutes of 1990 is repealed.

SEC. 28. Section 12303.51 of the Welfare and Institutions Code as added by Chapter 458 of the Statutes of 1990 is repealed.

SEC. 29. Section 14029 of the Welfare and Institutions Code as added by Chapter 455 of the Statutes of 1990 is repealed.

SEC. 30. Section 14029 of the Welfare and Institutions Code as added by Chapter 458 of the Statutes of 1990 is repealed.

SEC. 31. Section 16702.01 of the Welfare and Institutions Code is repealed.

SEC. 32. Any appropriation made for support of the State Banking Department for supervision and regulation of savings associations, payable from the Savings Association Special Regulatory Fund, shall be deemed to be made for support of the Department of Savings and Loan for supervision and regulation of savings associations, payable from the Savings Association Special Regulatory Fund.

SEC. 33. 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 necessary statutory changes to implement the Budget Act of 1996 to take effect at the earliest possible time, it is necessary that this act take effect immediately.

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CHAPTER 202

An act amend Section 13108 of the Health and Safety Code, to add Sections 4145 and 5080.27 to, and to add and repeal Sections 515 and 14306.5 of, the Public Resources Code, and to amend Section 38225 of the Vehicle Code, relating to natural resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 13108 of the Health and Safety Code is amended to read:

13108. (a) Except as limited by Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code and Section 18930 of this code, the State Fire Marshal shall prepare and adopt building standards, not inconsistent with existing laws or ordinances, relating to fire protection in the design and construction of the means of egress and the adequacy of exits from, and the installation and maintenance of fire alarm and fire extinguishment equipment or systems in, any state institution or other state-owned building and submit those building standards to the State Building Standards Commission for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13. The State Fire Marshal shall prepare and adopt regulations other than building standards for the installation and maintenance of equipment and furnishings that present unusual fire hazards in any state institution or other state-owned building.

(b) The fire chief of any city, county, or fire protection district, or that person's authorized representative, may enter any state institution or any other state-owned or state-occupied building for the purpose of preparing a fire suppression preplanning program or for the purpose of investigating any fire in a state-occupied building.

(c) Except as otherwise provided in this section, the State Fire Marshal shall enforce the regulations adopted by him or her and building standards relating to fire and panic safety published in the California Building Standards Code in all state-owned buildings and state institutions throughout the state. Upon written request from the chief fire official of any city, county, or fire protection district, the State Fire Marshal may authorize that chief fire official and his or her authorized representatives, in their geographical area of responsibility, to make fire revention inspections of state-owned buildings, other than state institutions, for the purpose of enforcing the regulations relating to fire and panic safety adopted by the State Fire Marshal pursuant to this section and building standards relating to fire and panic safety published in the California Building Standards

Code. Authorization from the State Fire Marshal shall be limited to those fire departments or fire districts that maintain a fire prevention bureau staffed by paid personnel.

(d) Any requirement or order made by any chief fire official pursuant to this section may be appealed to the State Fire Marshal. The State Fire Marshal, upon receiving an appeal and subject to the provisions of Chapter 5 (commencing with Section 18945) of Part 2.5 of Division 13, shall determine if the requirement or order made is reasonably consistent with the fire and panic safety regulations adopted by him or her and building standards relating to fire and panic safety published in the California Building Standards Code.

SEC. 2. Section 515 is added to the Public Resources Code, to read:

515. (a) Notwithstanding any other provision of law, the department is hereby granted the authority, for which it may expend funds appropriated by the Budget Act of 1996, to do either of the following:

(1) Exercise the same authority granted to the Division of the State Architect and the Office of Real Estate and Design Services in the Department of General Services to acquire, plan, design, construct, and administer contracts and professional services.

(2) Permit the Prison Industry Authority to participate as a competitive bidder, rather than as the sole source with regard to contracts and services.

(b) Notwithstanding any other provision of law, the director, or his or her designee, in lieu of the Director of Finance, is authorized to carry out subdivisions (b), (c), and (d) of Section 31.00 of the Budget Act of 1996.

(c) Notwithstanding subdivision (a) of Section 948 and Section 965 of the Government Code, the director, or his or her designee, in lieu of the Director of Finance, is authorized to certify funds for the payment of all legal settlements, State Board of Control claims, judgments, and tort claims, for which the department has sufficient expenditure authority and funds without the need for an augmentation.

(d) Notwithstanding Section 11032 of the Government Code, the director, or his or her designee, may authorize its officers and employees to travel outside the state or country without approval by any other agency, and the funds appropriated by the Budget Act of 1996 may be used for that purpose.

(e) (1) Notwithstanding Sections 8647, 11005, and 11005.1 of the Government Code, but subject to paragraphs (2) and (3) of this subdivision, the department may accept gifts and donations of personal and real property without approval by the Director of Finance. The department shall bear any costs associated with the acceptance of those gifts and donations, and the funds appropriated by the Budget Act of 1996 may be used for this purpose. The

department shall not certify the fair market value of any gift or donation of real property without performing its own appraisal.

(2) Upon receipt of any gift or donation of real property, the department shall certify to the Department of Finance in writing that:

(A) The gift or donated property will have minimal impact on the operation and maintenance costs and the department will absorb the costs within its existing budget.

(B) The gift or donated property is adjacent to an existing park.

(C) The gift or donated property promotes park purposes.

(D) The gift or donated property has no evidence or history of environmental hazards or contamination.

(E) There are no lawsuits pending concerning the property, and clear title is a condition of the acceptance of the gift or donation.

(F) The gift or donated property has an estimated fair market value of less than five hundred thousand dollars ($500,000).

(G) There are no provisions that will restrict the department or the state from divesting title to the gift or donated property.

(H) There are no structures on the property, or any structures on the property will be razed.

(3) If one or more of the criteria listed in paragraph (2) are not met, the department shall obtain approval from the Department of Finance to accept the gift or donation of real property. Any gifts and donations that will require future budget change proposals shall be submitted to the Department of Finance for approval.

(f) Notwithstanding Section 12439 of the Government Code, the department is exempt from the provisions that abolish, effective July 1, 1996, any positions that were vacant continuously during the period between October 1, 1995, and June 30, 1996.

(g) Notwithstanding any other provision of law, the director, or his or her designee, in lieu of the Director of Finance, is authorized to approve Budget Revision, Standard Form 26.

(h) Notwithstanding Section 16304.1 of the Government Code, the director, or his or her designee, in lieu of the Director of Finance, is authorized to carry out this section as it relates to the reversion of undisturbed balances and the payment of unpaid encumbrances.

(i) This section shall become inoperative on June 30, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 4145 is added to the Public Resources Code, to read:

4145. (a) It is the intent of the Legislature that cooperative agreements that are entered into between the department and a local government shall provide for the equitable sharing of costs associated with capital outlay projects that enlarge, enhance, or replace facilities for the purposes of benefiting the cooperating local government.

(b) The department shall prescribe those terms and conditions for those cooperative agreements that would result in an equitable sharing of those costs in proportion to the benefits derived, including any in-kind, lump-sum, or installment payments. Any installment payment made in connection with a cooperative agreement entered into pursuant to this section shall be made over a period of time not exceeding a maximum of 20 years at the same rate of interest as the rate for the state's Pooled Money Investment Account. Any money that is received for reimbursements for facility improvement costs, under a cooperative agreement, shall be deposited in the General Fund.

SEC. 4. Section 5080.27 is added to the Public Resources Code, to read:

5080.27. Notwithstanding any other provision of law, the department is authorized to enter into a concession contract for the development, operation, and maintenance of the Crystal Cove Historic District as a public use facility for a period of up to 60 years, upon those terms and conditions that the department determines to be in the best interests of the state.

SEC. 5. Section 14306.5 is added to the Public Resources Code, to read:

14306.5. (a) Notwithstanding Section 11032 of the Government Code, the corps may authorize its officers and employees to travel outside the state without approval by any other agency, and the funds appropriated by the Budget Act of 1996 may be used for that purpose.

(b) Notwithstanding subdivisions (b), (c), and (d) of Section 31.00 of the Budget Act of 1996, the corps may authorize new positions, reclassifications, transfers to blanket authorizations, and the establishment of a blanket authorization, without prior notification to the Department of Finance or the Legislature, and the funds appropriated by the Budget Act of 1996 may be used for that purpose. The corps shall report to the Department of Finance and the Legislature on a quarterly basis regarding actions taken pursuant to this authority.

(c) Notwithstanding Sections 8647, 11005, and 11005.1 of the Government Code, the corps may accept gifts and donations of personal property without approval by the Director of Finance. The corps shall bear any costs associated with the acceptance of those gifts and donations, and the funds appropriated by the Budget Act of 1996 may be used for that purpose.

(d) Notwithstanding Section 19080.3 of the Government Code, the corps may make limited-term appointments, not exceeding a period of four years for any appointment, without the review or approval of the State Personnel Board, and the funds appropriated by the Budget Act of 1996 may be used for that purpose.

(e) Notwithstanding Section 2807 of the Penal Code, the corps may procure corpsmember-related goods and services from the private sector, and the funds appropriated by the Budget Act of 1996

may be used for that purpose. Notwithstanding this grant of authority, the corps shall contract with the Prison Industry Authority for this purpose if the Prison Industry Authority is able to meet the cost, quality, and time requirements established by the corps for the goods or services.

(f) Notwithstanding Sections 13332.06, 13332.08, and 14669 of, and Chapter 6 (commencing with Section 14825) and Chapter 6.5 (commencing with Section 1483.5) of Part 5.5 of Division 3 of Title 2 of, the Government Code, and Chapter 1 (commencing with Section 10100), Chapter 2 (commencing with Section 10290), and Chapter 3 (commencing with Section 12100) of Part 2 of Division 2, the corps may execute contracts, procure all goods and services, including any fleet needs within 60 days or less, and negotiate all lease agreements for office, warehouse, and other appropriate facilities without review or approval by the Department of General Services and pursuant to methods and procedures other than those set forth in the State Administrative Manual, and funds appropriated by the Budget Act of 1996 may be used for that purpose. The authority with regard to lease agreements set forth in this subdivision does not alter the authority or responsibilities of the Department of General Services concerning the consolidation of offices in the Sacramento metropolitan area or the consolidation plans for other metropolitan areas in the state.

(g) Notwithstanding Sections 14931 and 14931.1 of, or Part 6.5 (commencing with Section 15250) of Division 3 of Title 2 of, the Government Code, the corps may purchase electronic data processing and telecommunications goods and services, not exceeding one million dollars ($1,000,000) for any one procurement, without the requirement of review or approval by the Department of General Services and pursuant to methods and procedures other than those set forth in the State Administrative Manual, and funds appropriated by the Budget Act of 1996 may be used for that purpose. The corps shall continue to use the Department of General Services CALNET, except that, if the department is unable to provide the information and maintenance required for the corps' statewide data base network on a cost-competitive and timely basis, the corps shall be exempt from any restrictions relating to CALNET that are imposed by the Office of Telecommunications of the Department of General Services.

(h) Notwithstanding Chapter 7 (commencing with Section 14850) of Part 5.5 of Division 3 of Title 2 of the Government Code, the corps may procure printing services for its district field offices without the requirement of review or approval by the Department of General Services and pursuant to methods and procedures other than those set forth in the State Administrative Manual, and funds appropriated by the Budget Act of 1996 may be used for that purpose. In soliciting competitive bids for the procurement of those services, the Sacramento headquarters of the corps shall consider the

Department of General Services and the Office of State Printing as it would any other bidder.

(i) This section shall become inoperative on June 30, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 38225 of the Vehicle Code, as amended by Section 3 of Chapter 970 of the Statutes of 1995, is amended to read:

38225. (a) A service fee of seven dollars ($7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee specified in subdivision (a), a special fee of eight dollars ($8) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device.

(c) All money transferred pursuant to Sections 8352.6 and 8352.7 of the Revenue and Taxation Code, all fees received by the department pursuant to subdivision (b), and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation, shall be deposited in the Off-Highway Vehicle Trust Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, three-wheelers, motorcycles, and snowmobiles. All money shall be deposited in the fund, which is a trust fund, and, upon appropriation by the Legislature, shall be allocated by the Off-Highway Motor Vehicle Recreation Commission, as provided in this section. Money in the fund shall be administered by the commission, as trustee of the fund, and, subject to Section 5090.61 of the Public Resources Code, shall be allocated for those purposes set forth in Sections 38240 and 38240.1.

(d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.

(e) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date. Any unencumbered funds remaining in the Off-Highway Vehicle Trust Fund on January 1, 2003, shall be transferred to the General Fund.

SEC. 7. Section 38225 of the Vehicle Code, as amended by Section 4 of Chapter 970 of the Statutes of 1995, is amended to read:

38225. (a) A service fee of seven dollars ($7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) This section shall become operative on January 1, 2003.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 1996 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 203

An act to amend Section 42238 of, and to add Sections 42238.41, 42238.42, and 42238.43 to, the Education Code, relating to school finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 42238 of the Education Code is amended to read:

42238. (a) For the 1984–85 fiscal year and each fiscal year thereafter, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The base revenue limit for the current fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:

(1) The inflation adjustment specified in Section 42238.1.

(2) For the 1995–96 fiscal year, the equalization adjustment specified in Section 42238.4.

(3) For the 1996–97 fiscal year, the equalization adjustments specified in Sections 42238.41, 42238.42, and 42238.43.

(4) For the 1985–86 fiscal year, the amount received per unit of average daily attendance in the 1984–85 fiscal year pursuant to Section 42238.7.

(5) For the 1985–86, 1986–87, and 1987–88 fiscal years, the amount per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.

(c) Except for districts subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(d) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the current fiscal year than for the 1982–83 fiscal year, compute the

following amount, in lieu of the amount computed pursuant to subdivision (c):

(1) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982–83 fiscal year.

(2) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and 1982–83 fiscal years.

(3) Add the amounts in paragraphs (1) and (2).

(e) The base revenue limit per unit of average daily attendance shall be the lesser of the following amounts:

(1) The amount determined in subdivision (b).

(2) The amount computed pursuant to Section 42238 for the prior fiscal year divided by the prior fiscal year revenue limit average daily attendance times the sum of 1.0 and twice the percentage increase in revenue limits computed pursuant to Section 42238.1 for the current fiscal year.

(f) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(g) For the 1984–85 fiscal year only, the county superintendent shall reduce the total revenue limit computed in this section by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982, offset by any increase in those contributions, as of the 1983–84 fiscal year, resulting from subsequent changes in employer contribution rates.

The reduction shall be calculated as follows:

(1) Determine the amount of employer contributions that would have been made in the 1983–84 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 1983–84 fiscal year.

(2) Subtract from the amount determined in paragraph (1) the greater of subparagraph (A) or (B):

(A) The amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately after the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983–84 fiscal year.

(B) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1983–84 fiscal year.

(3) For purposes of this subdivision, employer contributions to the Public Employees' Retirement System for any of the following shall be excluded from the calculation specified above:

(A) Positions supported totally by federal funds that were subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to Section 42243.6.

(C) 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 the provisions of this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(4) For accounting purposes, the reduction made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(h) The Superintendent of Public Instruction shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior years taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

(7) The amount, if any, received pursuant to any provision of the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), except for any amount received pursuant to Section 33401 or 33676 of the Health and Safety Code that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance, except for any amount received pursuant to Section 33492.15, paragraph (3) of subdivision (a) of Section 33607.5, or Section 33607.7 of the Health and Safety Code that is allocated exclusively for educational facilities.

(i) This section shall become operative July 1, 1984.

SEC. 2. Section 42238.41 is added to the Education Code, to read:

42238.41. (a) For the 1996–97 fiscal year, the county superintendent of schools, in conjunction with the Superintendent of Public Instruction, shall compute an equalization adjustment for

each school district in the county, so that no district's 1995–96 base revenue limit per unit of average daily attendance is less than the 1995–96 fiscal year statewide average base revenue limit for the appropriate size and type of district listed in subdivision (b).

For purposes of this section, the district base revenue limit and the statewide average base revenue limit shall not include any amounts attributable to Section 45023.4, 46200, or 46201.

(b) Subdivision (a) shall apply to the following school districts, which shall be grouped according to size and type as follows:

District	ADA
Elementary	less than 101
Elementary	more than 100
High School	less than 301
High School	more than 300
Unified	less than 1,501
Unified	more than 1,500

(c) The Superintendent of Public Instruction shall compute a revenue limit equalization adjustment for each school district's base revenue limit per unit of average daily attendance as follows:

(1) Add the products of the amount computed for each school district by the county superintendent pursuant to subdivision (a) and the average daily attendance used to calculate the district's revenue limit for the current fiscal year as adjusted for the deficit factor in Section 42238.145.

(2) Divide the amount appropriated for purposes of this section for the current fiscal year by the amount computed pursuant to paragraph (1).

(3) Multiply the amount computed for the school district pursuant to subdivision (a) by the amount computed pursuant to paragraph (2).

(d) For the purposes of this section, the 1995–96 statewide average base revenue limits determined for the purposes of subdivision (a) and the fraction computed pursuant to paragraph (2) of subdivision (c) by the Superintendent of Public Instruction for the 1995–96 second principal apportionment shall be final, and shall not be recalculated at subsequent apportionments. In no event shall the fraction computed pursuant to paragraph (2) of subdivision (c) exceed 1.00. For the purposes of determining the size of a district used in subdivision (b), county superintendents of schools, in conjunction with the Superintendent of Public Instruction, shall use a school district's revenue limit average daily attendance for the 1995–96 fiscal year as determined pursuant the Section 42238.5 and Article 4 (commencing with Section 42280).

SEC. 3. Section 42238.42 is added to the Education Code, to read:

42238.42. (a) In the event that the amount required to be appropriated for the purpose of the state's minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution for the 1996–97 fiscal year, as determined in paragraph (1) of subdivision (b), exceeds the amount appropriated for that purpose for the 1996–97 fiscal year, as determined pursuant to paragraph (2) of subdivision (b), the amount computed pursuant to subdivision (d), is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the purposes of equalizing the revenue limits of school districts pursuant to subdivision (e) and Section 42238.43 and for the purpose of reducing the deficit factor applied to the revenue limits of county superintendents of schools pursuant to Section 2558.45 and reducing the deficit factor applied to the revenue limits of the school districts pursuant to Section 42238.145.

(b) To determine the amounts available for the purposes of this section, the Department of Finance shall make the following computations:

(1) At the first principal apportionment for the 1997–98 fiscal year, compute the level of General Fund revenues that meets the state's minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution for the 1996–97 fiscal year based upon the most current determination of data as defined in subdivision (a) of Section 41206 of the Education Code.

(2) Subtract from the amount determined in paragraph (1) an amount equal to the total amount of General Fund revenues that have been appropriated for the purpose of meeting the state's minimum funding obligation for the 1996–97 fiscal year to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution as of February 1, 1998.

(3) If the amount computed in paragraph (2) is greater than zero, that amount is the total amount available for the purposes of this section.

(c) To determine the portion of the amount computed in subdivision (a) to set aside for community college districts pursuant to this section, the Department of Finance shall make the following computations:

(1) Add the total General Fund allocations to school districts and community college districts for the purposes of meeting the state's minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution for the 1996–97 fiscal year to the total statewide amount of "allocated local proceeds of taxes," as defined in subdivisions (g) and (h) of Section 41202, allocated to school districts and community college districts for the 1996–97 fiscal year.

(2) Divide the sum of the General Fund allocations made to community college districts for the purposes of meeting the state's minimum funding obligation to community college districts pursuant to Section 8 of Article XVI of the California Constitution for the 1996–97 fiscal year and the total statewide amount of "allocated local proceeds of taxes," as defined in subdivision (h) of Section 41202, allocated to community college districts for the 1996–97 fiscal year by the sum computed pursuant to paragraph (1).

(3) Multiply the amount computed pursuant to subdivision (b) by the percentage determined in paragraph (2). Community college districts shall be entitled to receive an amount equal to the amount computed pursuant to this paragraph and that amount shall be set aside from the General Fund for appropriation to community college districts by the Legislature.

(d) The amount of the appropriation made pursuant to subdivision (a) of this section shall be computed by subtracting the amount computed in paragraph (3) of subdivision (c) from the amount computed pursuant to subdivision (b). The Director of the Department of Finance shall certify to the Controller the amount of the appropriation computed pursuant to this subdivision and under no circumstances shall funds be released by the Controller for purposes of this section before that certification is received by the Controller.

(e) Prior to the allocation provided in subdivision (f), the Superintendent of Public Instruction shall allocate 50 percent of the amount computed pursuant to subdivision (d) to school districts for the purpose of making equalization adjustments to the base revenue limit of school districts for the 1996–97 fiscal year, as follows:

(1) The Superintendent of Public Instruction shall perform the computations set forth in Section 42238.43 for the purpose of equalization adjustments to the base revenue limits of school districts for the 1996–97 fiscal year to determine the amount to allocate to each school district pursuant to this paragraph.

(2) The Superintendent of Public Instruction shall repeat the process of computing equalization adjustments to the base revenue limits of school districts for the 1996–97 fiscal year pursuant to Section 42238.43 until the total amount of funds available for that purpose pursuant to this subdivision is allocated to school districts.

(3) If the total amount of funds available for allocation pursuant to this subdivision is insufficient to fully fund the amounts computed pursuant to paragraph (1) or the amount computed pursuant to any of the iterations made pursuant to paragraph (2), the allocations computed pursuant to those paragraphs shall be reduced proportionately.

(f) The Superintendent of Public Instruction shall allocate 50 percent of the amount computed pursuant to subdivision (d) to county superintendents of schools for the purpose of reducing the 1996–97 and 1997–98 deficit factors applied to the revenue limits of

county superintendent of schools and school districts pursuant to Sections 2558.45 and 42238.145, respectively. The amount of the allocation made to each school district and county superintendent of schools for the purpose of reducing their respective deficit factors shall be computed in proportion to their respective shares of the total statewide amount of the deficit factors applied to the revenue limits for school districts and county superintendents of schools.

(g) In no event shall this section be construed to require an appropriation that would cause the aggregate amount required to be appropriated from the General Fund for the 1996-97 fiscal year pursuant to Section 8 of Article XVI of the California Constitution to be exceeded.

SEC. 4. Section 42238.43 is added to the Education Code, to read:

42238.43. (a) For the 1996–97 fiscal year, the county superintendent of schools, in conjunction with the Superintendent of Public Instruction, shall compute an equalization adjustment for each school district in the county, so that no district's base revenue limit per unit of average daily attendance is less than the 1996–97 fiscal year statewide average base revenue limit for the appropriate size and type of district listed in subdivision (b) plus the inflation adjustment specified in Section 42238.1 for the current fiscal year for the appropriate type of district.

For purposes of this section, the district base revenue limit and the statewide average base revenue limit shall not include any amounts attributable to Section 45023.4, 46200, or 46201.

(b) Subdivision (a) shall apply to the following school districts, which shall be grouped according to size and type as follows:

District	ADA
Elementary	less than 101
Elementary	more than 100
High School	less than 301
High School	more than 300
Unified	less than 1,501
Unified	more than 1,500

(c) The equalization adjustment computed pursuant to this section shall only be funded from amounts appropriated for that purpose pursuant to Section 42238.42.

(d) For the purposes of the computation made pursuant to paragraph (1) of subdivision (e) of Section 42238.42, the 1996–97 statewide average base revenue limits determined for the purposes of subdivision (a) and the fraction, if any, computed pursuant to paragraph (3) of subdivision (e) of Section 42238.42 by the Superintendent of Public Instruction for the 1996–97 second principal apportionment shall be final, and shall not be calculated as subsequent apportionments. In no event shall the fraction computed

pursuant to paragraph (3) of subdivision (e) of Section 42238.42 exceed 1.00. If any iterations are required pursuant to paragraph (2) of Section 42238.42, the Superintendent of Public Instruction shall recompute the 1996–97 statewide average base revenue limit to include any adjustments made by the immediately preceeding iteration. For the purposes of determining the size of a district used in subdivision (b), the Superintendent of Public Instruction shall use a school district's revenue limit average daily attendance for the 1996–97 fiscal year as determined pursuant to Section 42238.5 and Article 4 (commencing with Section 42280).

SEC. 5. (a) The Legislature hereby appropriates from the General Fund to the Superintendent of Public Instruction, for allocation to school districts, a sum that is equal to the total statewide amount necessary to fund the equalization adjustments computed for each school district for the 1996–97 fiscal year pursuant to Section 42238.41 of the Education Code. The Director of the Department of Finance shall certify to the Controller the amount of the appropriation computed pursuant to this section. In no event shall the total amount appropriated for the purpose of Section 42238.41 of the Education Code pursuant to this section exceed one hundred forty-seven million one hundred thousand dollars ($147,100,000). The Superintendent of Public Instruction, if necessary, shall reduce the equalization adjustments computed for the base revenue limits of school districts pursuant to Section 42238.41 of the Education Code as provided in that section. This section shall not be construed to limit in any way the amounts computed pursuant to Sections 42238.42 and 42238.43 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code for the 1996–97 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1996–97 fiscal year.

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 California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make statutory changes necessary for the implementation of the Budget Act of 1996, it is necessary for this act to take effect immediately.

CHAPTER 204

An act to amend Sections 2558.45, 8208, 8265, 8450, 35160.5, 41203.1, 42238.145, 42243.7, 42301, 42258.9, and 56728.8 of, to add Sections 8237 and 8451 to, to add Article 5 (commencing with Section 51450) to Chapter 3 of Part 28 of, and to add Chapter 3.1 (commencing with Section 58520) to Part 31 of, the Education Code, relating to education finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

On this date I have signed Assembly Bill No. 3488 with the following deletions.

Section 10 and Section 38. Providing Continuation School Adjustment Equalization. I am deleting subdivision (f) of Section 10 and I eliminate Section 38. These sections would provide $2,000,000 to equalize the continuation school revenue limit add-on on a per pupil basis. Because the law does not provide for any change to the continuation school revenue limit add-on from the original amount, and each continuation school's pupil population may vary annually, equalization is an unrealistic objective. This proposal is further complicated by the fact that for some districts, the continuation school adjustment was rolled into the district base revenue limit. Continuation schools provide important services to our pupils, such as functioning as the first safety net for at-risk pupils. While I cannot support the proposal in this bill, I would be receptive to reviewing a comprehensive proposal that addresses issues regarding continuation school funding formulas.

Section 18. Regarding the Community Colleges Block Grant. I am deleting subdivision (b) of Section 18. This subdivision would provide $2,100,000 for the Mt. San Antonio Community College MIS project. This MIS project could be modified in scope and funded through the various supporting colleges' portion of one-time block grant funds or ongoing funds, if it is a high priority at the local level.

Section 30. Regarding the Alhambra City High School District Loan. I am deleting this section. This section would provide a loan of $650,000 to the Alhambra City High School District to compensate for a loss of pupils due to a district reorganization. The district, however, is currently meeting its budget reserve requirements and shows no evidence that its fiscal solvency is jeopardized. Only in such cases would a loan be appropriate.

Section 41. Related to Adult Basic Education. I am deleting this section. This section would provide $6,400,000 adult education funds to provide to immigrants classes in basic skills, citizenship, English as a second language, and workforce preparation classes such as reading, writing, speaking, and problem solving. The 1996 Budget Act appropriates over $477 million for adult education programs, with $28 million in General Fund (pursuant to the Immigration and Workforce Preparation Act) and $7.7 million in federal funds, specifically earmarked for the purposes described above. I believe those amounts should be sufficient to address the adult education needs of our immigrant population.

With the above deletions, I hereby approve AB 3488.

PETE WILSON, Governor

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

SECTION 1. Section 2558.45 of the Education Code is amended to read:

2558.45. For the purposes of this article the revenue limit of each county superintendent of schools shall be reduced by a deficit factor, as follows:

(a) (1) The revenue limit for the 1994–95 fiscal year for each county superintendent of schools determined pursuant to this article shall be reduced by a 12.59 percent deficit factor.

(2) The revenue limit for the 1995–96 fiscal year determined pursuant to this article for each county superintendent of schools shall be reduced by an 11.70 percent deficit factor.

(3) The revenue limit for the 1996–97 and 1997–98 fiscal years determined pursuant to this article for each county superintendent of schools shall be reduced by an 11.547 percent deficit factor, as adjusted pursuant to Section 42238.41.

(b) (1) The revenue limit for each county superintendent of schools for the 1994–95 fiscal year shall be determined as if the revenue limit for each county superintendent of schools had been determined for the 1993–94 fiscal year without being reduced by the deficit factor required pursuant to Section 2558.4.

(2) When computing the revenue limit for each county superintendent of schools for the 1995–96 or any subsequent fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for each county superintendent of schools had been determined for the previous fiscal year without being reduced by the deficit factor specified in this section.

SEC. 2. Section 8208 of the Education Code is amended to read:

8208. As used in this chapter:

(a) "Assigned reimbursement rate" is that rate established by the contract with the agency and is derived by dividing the total dollar amount of the contract by the minimum child day of average daily enrollment level of service required.

(b) "Alternative payments" includes payments that are made by one child care agency to another agency or child care provider for the provision of child care and development services, and payments that are made by an agency to a parent for the parent's purchase of child care and development services.

(c) "Applicant or contracting agency" means a school district, community college district, college or university, county superintendent of schools, county, city, public agency, private non-tax-exempt agency, private tax-exempt agency, or other entity that is authorized to establish, maintain, or operate services pursuant to this chapter. Private agencies and parent cooperatives, duly licensed by law, shall receive the same consideration as any other authorized entity with no loss of parental decisionmaking prerogatives as consistent with the provisions of this chapter.

(d) "Attendance" means the number of children present at a child care and development facility. "Attendance," for the purposes of reimbursement, includes excused absences by children because of illness, quarantine, illness or quarantine of their parent, family

emergency, or to spend time with a parent or other relative as required by a court of law or that is clearly in the best interest of the child.

(e) "Capital outlay" means the amount paid for the renovation and repair of child care and development facilities to comply with state and local health and safety standards, and the amount paid for the state purchase of relocatable child care and development facilities for lease to qualifying contracting agencies.

(f) "Caregiver" means a person who provides direct care, supervision, and guidance to children in a child care and development facility.

(g) "Child care and development facility" means any residence or building or part thereof in which child care and development services are provided.

(h) "Child care and development programs" means those programs that offer a full range of services for children from infancy to 14 years of age, for any part of a day, by a public or private agency, in centers and family child care homes. These programs include, but are not limited to, all of the following:

(1) Campus child care and development.
(2) General child care and development.
(3) Intergenerational child care and development.
(4) Migrant child care and development.
(5) Schoolage parenting and infant development.
(6) State preschool.
(7) Resource and referral.
(8) Severely handicapped.
(9) Family day care.
(10) Alternative payment.
(11) Child abuse protection and prevention services.
(12) Schoolage community child care.

(i) "Short-term respite child care" means child care service to assist families whose children have been identified through written referral from a legal, medical, social service agency, or emergency shelter as being neglected, abused, exploited, or homeless, or at risk of being neglected, abused, exploited, or homeless. Child care is provided for less than 24 hours per day in child care centers, treatment centers for abusive parents, family child care homes, or in the child's own home.

(j) "Child care and development services" means those services designed to meet a wide variety of needs of children and their families, while their parents or guardians are working, in training, seeking employment, incapacitated, or in need of respite. These services include direct care and supervision, instructional activities, resource and referral programs, and alternative payment arrangements.

(k) "Children at risk of abuse, neglect, or exploitation" means children who are so identified in a written referral from a legal, medical, or social service agency, or emergency shelter.

(*l*) "Children with exceptional needs" means children who have been determined to be eligible for special education and related services by an individualized education program team according to the special education requirements contained in Part 30 (commencing with Section 56000), and meeting eligibility criteria described in Section 56026 and Sections 56333 to 56338, inclusive, and Sections 3030 and 3031 of Title 5 of the California Code of Regulations. These children have an active individualized education program, and are receiving appropriate special education and services, unless they are under three years of age and permissive special education programs are available. These children may be mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multihandicapped, or children with specific learning disabilities, who require the special attention of adults in a child care setting.

(m) "Children with special needs" includes infants and toddlers under the age of three years; limited-English-speaking-proficient children; children with exceptional needs; limited-English-proficient handicapped children; and children at risk of neglect, abuse, or exploitation.

(n) "Closedown costs" means reimbursements for all approved activities associated with the closing of operations at the end of each growing season for migrant child development programs only.

(o) "Cost" includes, but is not limited to, expenditures that are related to the operation of child development programs. "Cost" may include a reasonable amount for state and local contributions to employee benefits, including approved retirement programs, agency administration, and any other reasonable program operational costs. "Reasonable and necessary costs" are costs that, in nature and amount, do not exceed what an ordinary prudent person would incur in the conduct of a competitive business.

(p) "Elementary school," as contained in Section 425 of Title 20 of the United States Code (the National Defense Education Act of 1958, Public Law 85-864, as amended), includes early childhood education programs and all child development programs, for the purpose of the cancellation provisions of loans to students in institutions of higher learning.

(q) "Severely handicapped children" are children who require instruction and training in programs serving pupils with the following profound disabilities: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbance, or severe mental retardation. These children, ages birth to 21 years, inclusive, may be assessed by public school special education staff, regional center staff, or another appropriately licensed clinical professional.

(r) "Health services" includes, but is not limited to, all of the following:

(1) Referral, whenever possible, to appropriate health care providers able to provide continuity of medical care.

(2) Health screening and health treatment, including a full range of immunization recorded on the appropriate state immunization form to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), but only to the extent that ongoing care cannot be obtained utilizing community resources.

(3) Health education and training for children, parents, staff, and providers.

(4) Followup treatment through referral to appropriate health care agencies or individual health care professionals.

(s) "Higher educational institutions" means the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the governing bodies of any accredited private nonprofit institution of postsecondary education.

(t) "Intergenerational staff" means persons of various generations.

(u) "Limited-English-speaking-proficient and non-English-speaking-proficient children" means children who are unable to benefit fully from an English-only child care and development program as a result of either of the following:

(1) Having used a language other than English when they first began to speak.

(2) Having a language other than English predominantly or exclusively spoken at home.

(v) "Parent" means any person living with a child who has responsibility for the care and welfare of the child.

(w) "Program director" means a person who, pursuant to Sections 8244 and 8360.1, is qualified to serve as a program director.

(x) A "proprietary child care agency" means an organization or facility providing child care, which is operated for profit.

(y) "Resource and referral programs" means programs that provide information to parents, including referrals and coordination of community resources for parents and public or private providers of care. Services frequently include, but are not limited to: technical assistance for providers, toy-lending libraries, equipment-lending libraries, toy- and equipment-lending libraries, staff development programs, health and nutrition education, and referrals to social services.

(z) "Site supervisor" means a person who, regardless of his or her title, has operational program responsibility for a child care and

development program at a single site. A site supervisor shall hold a regular children's center instructional permit, and shall have completed not less than six units of administration and supervision of early childhood education or child development, or both. The Superintendent of Public Instruction may waive the requirements of this subdivision if the superintendent determines that the existence of compelling need is appropriately documented.

In respect to state preschool programs, a site supervisor may qualify under any of the provisions in this subdivision, or may qualify by holding an administrative credential or an administrative services credential. A person who meets the qualifications of a site supervisor under both Section 8244 and subdivision (e) of Section 8360.1 is also qualified under this subdivision.

(aa) "Standard reimbursement rate" means that rate established by the Superintendent of Public Instruction pursuant to Section 8265.

(bb) "Startup costs" means those expenses an agency incurs in the process of opening a new or additional facility prior to the full enrollment of children.

(cc) "State preschool services" means part-day educational programs for low-income or otherwise disadvantaged prekindergarten-age children.

(dd) "Support services" means those services which, when combined with child care and development services, help promote the healthy physical, mental, social, and emotional growth of children. Support services include, but are not limited to: protective services, parent training, provider and staff training, transportation, parent and child counseling, child development resource and referral services, and child placement counseling.

(ee) "Teacher" means a person with the appropriate certificate who provides program supervision and instruction which includes supervision of a number of aides, volunteers, and groups of children.

(ff) "Workday" means the time that the parent requires temporary care for a child for any of the following reasons:

(1) To undertake training in preparation for a job.

(2) To undertake or retain a job.

(3) To undertake other activities that are essential to maintaining or improving the social and economic function of the family, are beneficial to the community, or are required because of health problems in the family.

SEC. 3. Section 8237 is added to the Education Code, to read:

8237. A state preschool program applicant or contracting agency has 120 calendar days prior to the first day of the beginning of the new preschool year to certify eligibility and enroll families into their program.

SEC. 4. Section 8265 of the Education Code is amended to read:

8265. (a) The Superintendent of Public Instruction shall implement a plan that establishes reasonable standards and assigned

reimbursement rates, which vary with the length of the program year and the hours of service.

Parent fees shall be used to pay reasonable and necessary costs for providing additional services.

When establishing standards and assigned reimbursement rates, the Superintendent of Public Instruction shall confer with applicant agencies.

The reimbursement system, including standards and rates, shall be submitted to the Joint Legislative Budget Committee.

The Superintendent of Public Instruction may establish any regulations he or she deems advisable concerning conditions of service and hours of enrollment for children in the programs.

(b) The standard reimbursement rate shall be three thousand five hundred twenty-three dollars ($3,523) per unit of average daily enrollment for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature beginning July 1, 1980.

(c) The plan shall require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard reimbursement rate.

(d) The plan shall provide for adjusting reimbursement on a case-by-case basis, in order to maintain service levels for agencies currently at a rate less than the standard reimbursement rate. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:

(1) Loss of program resources from other sources.

(2) Need of an agency to pay the same child care rates as those prevailing in the local community.

(3) Increased costs directly attributable to new or different regulations.

(4) Documented increased costs necessary to maintain the prior year's level of service and ensure the continuation of threatened programs.

Child care agencies funded at the lowest rates shall be given first priority for increases.

(e) The plan shall provide for expansion of child development programs at no more than the standard reimbursement rate for that fiscal year.

(f) The Superintendent of Public Instruction may reduce the percentage of reduction for any public agency:

(1) Which is currently serving more than 400 children; or

(2) Which has in effect a collective bargaining agreement; or

(3) For which other extenuating circumstances apply as determined by the Superintendent of Public Instruction.

SEC. 5. Section 8450 of the Education Code is amended to read:

8450. (a) All child development contractors are encouraged to develop and maintain a reserve within the child development fund,

derived from earned but unexpended funds. Child development contractors may retain all earned funds. For the purpose of this section, "earned funds" are those for which the required number of eligible service units have been provided.

(b) Earned funds may not be expended for any activities proscribed by Section 8406.7. Earned but unspent funds shall remain in the contractor's reserve account within the child development fund and shall be expended only by direct service child development programs that are funded under contract with the department.

(c) Notwithstanding subdivisions (a) and (b), a contractor may retain a reserve fund balance for a resource and referral program, separate from the balance retained pursuant to subdivision (b), not to exceed 3 percent of the contract amount. Funds from this reserve account shall be expended only by resource and referral programs that are funded under contract with the department.

(d) Notwithstanding subdivisions (a) and (b), a contractor may retain a reserve fund for alternative payment model and certificate child care contracts, separate from the reserve fund retained pursuant to subdivisions (b) and (c). Funds from this reserve account shall be expended only by alternative payment model and certificate child care programs that are funded under contract with the department. The reserve amount allowed by this section may not exceed either of the following whichever is greater:

(1) Two percent of the sum of the parts of each contract to which that contractor is a party that is allowed for administration pursuant to Section 8276.7 and that is allowed for supportive services pursuant to the provisions of the contract.

(2) One thousand dollars ($1,000).

(e) Each contractor's audit shall identify any funds earned by the contractor for each contract through the provision of contracted services in excess of funds expended.

(f) Any interest earned on reserve funds shall be included in the fund balance of the reserve. This reserve fund shall be maintained in an interest-bearing account.

(g) Moneys in a contractor's reserve fund shall be used only for expenses that are reasonable and necessary costs as defined in subdivision (o) of Section 8208.

(h) Any reserve fund balance in excess of the amount authorized pursuant to subdivisions (c) and (d) shall be returned to the State Department of Education pursuant to procedures established by the department and reappropriated as second-year funds consistent with Section 8278.

(i) Upon termination of all child development contracts between a contractor and the State Department of Education, all moneys in a contractor's reserve fund shall be returned to the department pursuant to procedures established by the department, and reappropriated as second-year funds consistent with Section 8278.

(j) Expenditures from, additions to, and balances in, the reserve fund shall be included in the agency's annual financial statements and audit.

SEC. 6. Section 8451 is added to the Education Code, to read:

8451. (a) Notwithstanding the provisions of this chapter and implementing regulations, the State Department of Education shall develop a prototype of a new contracting system pursuant to the discussion of relevant issues raised in the preliminary report titled "Revisions to the Current Contracting System for Child Care and Development Programs" dated February 6, 1996, as required by the Budget Act of 1995.

(b) The prototype shall be implemented by no more than 5 percent of child care and development contractors.

(c) The department shall develop a plan for the prototype by January 1, 1997, and shall commence testing it July 1, 1997, with any necessary amendments completed by September 1, 1997. The prototype test shall be conducted over a two-year period and may be extended only with the concurrence of the Department of Finance and 30 days' notification to the Joint Legislative Budget Committee. The department may not implement the prototype without the concurrence of the Department of Finance and 30 days' notification to the Joint Legislative Budget Committee. In developing the plan, the department shall fully consult with the Department of Finance, the Office of the Legislative Analyst, and representative child care and development contractors.

(d) Except for separately authorized cost-of-living increases or expansions, the prototype shall neither increase aggregate state costs nor lower the total number of children served by the participating agencies.

(e) An independent evaluation shall be conducted of the prototype. An interim evaluation shall be submitted to the legislative budget committees by January 1, 1999, with a final evaluation report submitted to the legislative budget committees by January 2000.

SEC. 7. Section 35160.5 of the Education Code is amended to read:

35160.5. (a) The governing board of each school district that maintains one or more schools containing any of grades 7 to 12, inclusive, shall, as a condition for the receipt of an inflation adjustment pursuant to Section 42238.1, establish a school district policy regarding participation in extracurricular and cocurricular activities by pupils in grades 7 to 12, inclusive. The criteria, which shall be applied to extracurricular and cocurricular activities, shall ensure that pupil participation is conditioned upon satisfactory educational progress in the previous grading period. Pupils who are eligible for differential standards of proficiency pursuant to subdivision (d) of Section 51215 are covered by this section consistent with that subdivision. No person shall classify a pupil as eligible for differential standards of proficiency pursuant to subdivision (d) of

Section 51215 for the purpose of circumventing the intent of this subdivision.

(1) For purposes of this subdivision, "extracurricular activity" means a program that has all of the following characteristics:

(A) The program is supervised or financed by the school district.

(B) Pupils participating in the program represent the school district.

(C) Pupils exercise some degree of freedom in either the selection, planning, or control of the program.

(D) The program includes both preparation for performance and performance before an audience or spectators.

(2) For purposes of this subdivision, an "extracurricular activity" is not part of the regular school curriculum, is not graded, does not offer credit, and does not take place during classroom time.

(3) For purposes of this subdivision, a "cocurricular activity" is defined as a program that may be associated with the curriculum in a regular classroom.

(4) Any teacher graded or required program or activity for a course that satisfies the entrance requirements for admission to the California State University or the University of California, is not an extracurricular or cocurricular activity as defined by this section.

(5) For purposes of this subdivision, "satisfactory educational progress" shall include, but not be limited to, the following:

(A) Maintenance of minimum passing grades, which is defined as at least a 2.0 grade point average in all enrolled courses on a 4.0 scale.

(B) Maintenance of minimum progress toward meeting the high school graduation requirements prescribed by the governing board.

(6) For purposes of this subdivision, "previous grading period" does not include any grading period in which the pupil was not in attendance for all, or a majority of, the grading period due to absences excused by the school for reasons such as serious illness or injury, approved travel, or work. In that event, "previous grading period" is deemed to mean the grading period immediately prior to the grading period or periods excluded pursuant to this paragraph.

(7) A program that has, as its primary goal, the improvement of academic or educational achievements of pupils is not an extracurricular or cocurricular activity as defined by this section.

(8) The governing board of each school district may adopt, as part of its policy established pursuant to this subdivision, provisions that would allow a pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), in the previous grading period to remain eligible to participate in extracurricular and cocurricular activities during a probationary period. The probationary period shall not exceed one semester in length, but may be for a shorter period of time, as determined by the governing board of the school district. A pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), during the probationary period

shall not be allowed to participate in extracurricular and cocurricular activities in the subsequent grading period.

(9) Nothing in this subdivision shall preclude the governing board of a school district from imposing a more stringent academic standard than that imposed by this subdivision. If the governing board of a school district imposes a more stringent academic standard, the governing board shall establish the criteria for participation in extracurricular and cocurricular activities at a meeting open to the public pursuant to Section 35145.

The governing board of each school district shall annually review the school district policies adopted pursuant to the requirements of this section.

(b) (1) On or before July 1, 1994, the governing board of each school district shall, as a condition for the receipt of school apportionments from the state school fund, adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. This requirement does not apply to any school district that has only one school or any school district with schools that do not serve any of the same grade level.

(2) The policy shall include all of the following elements:

(A) It shall provide that the parents or guardian of each schoolage child who is a resident in the district may select the schools the child shall attend, irrespective of the particular locations of his or her residence within the district, except that school districts shall retain the authority to maintain appropriate racial and ethnic balances among their respective schools at the school districts' discretion or as specified in applicable court-ordered or voluntary desegregation plans.

(B) It shall include a selection policy for any school that receives requests for admission in excess of the capacity of the school that ensures that selection of pupils to enroll in the school is made through a random, unbiased process that prohibits an evaluation of whether any pupil should be enrolled based upon his or her academic or athletic performance. For purposes of this subdivision, the governing board of the school district shall determine the capacity of the schools in its district. However, school districts may employ existing entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants. This subdivision shall not be construed to prohibit school districts from using academic performance to determine eligibility for, or placement in, programs for gifted and talented pupils established pursuant to Chapter 8 (commencing with Section 52200) of Part 28.

(C) It shall provide that no pupil who currently resides in the attendance area of a school shall be displaced by pupils transferring from outside the attendance area.

(3) Notwithstanding the requirement of subparagraph (B) of paragraph (2) that the policy include a selection policy for any school that receives requests for admission in excess of the capacity of the

school that ensures that the selection is made through a random, unbiased process, the policy may include any of the following elements:

(A) It may provide that special circumstances exist that might be harmful or dangerous to a particular pupil in the current attendance area of the pupil, including, but not limited to, threats of bodily harm or threats to the emotional stability of the pupil, that serve as a basis for granting a priority of attendance outside the current attendance area of the pupil. A finding of harmful or dangerous special circumstances shall be based upon either of the following:

(i) A written statement from a representative of the appropriate state or local agency, including, but not limited to, a law enforcement official or a social worker, or properly licensed or registered professionals, including, but not limited to, psychiatrists, psychologists, or marriage, family and child counselors.

(ii) A court order, including a temporary restraining order and injunction, issued by a judge.

A finding of harmful or dangerous special circumstances pursuant to this subparagraph may be used by a school district to approve transfers within the district to schools that have been deemed by the school district to be at capacity and otherwise closed to transfers that are not based on harmful or dangerous special circumstances.

(B) It may provide that any pupil attending a school prior to July 1, 1994, may be considered a current resident of that school for purposes of this section until the pupil is promoted or graduates from that school.

(C) It may provide that no pupil who was on a waiting list for a school or specialized program, on or before July 1, 1994, pursuant to a then-existing district policy on transfers within the district, shall be displaced by pupils transferring after July 1, 1994, from outside the attendance area, as long as the continued maintenance on a waiting list remains consistent with the former policy.

(D) It may provide that schools receiving requests for admission shall give priority for attendance to siblings of children already in attendance in that school.

(E) It may include a process by which the school district informs parents or guardians that certain schools or grade levels within a school are currently, or are likely to be, at capacity and, therefore, those schools or grade levels are unable to accommodate any new pupils under the open enrollment policy.

(4) It is the intent of the Legislature that, upon the request of the pupil's parent or guardian and demonstration of financial need, each school district provide transportation assistance to the pupil to the extent that the district otherwise provides transportation assistance to pupils.

SEC. 8. Section 41203.1 of the Education Code is amended to read:

41203.1. (a) For the 1990–91 fiscal year and each fiscal year thereafter, allocations calculated pursuant to Section 41203 shall be distributed in accordance with calculations provided in this section. Notwithstanding Section 41203, and for the purposes of this section, school districts, community college districts, and direct elementary and secondary level instructional services provided by the State of California shall be regarded as separate segments of public education, and each of these three segments of public education shall be entitled to receive respective shares of the amount calculated pursuant to Section 41203 as though the calculation made pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution were to be applied separately to each segment and the base year for the purposes of this calculation under paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution were based on the 1989–90 fiscal year. Calculations made pursuant to this subdivision shall be made so that each segment of public education is entitled to the greater of the amounts calculated for that segment pursuant to paragraph (1) or (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(b) If the single calculation made pursuant to Section 41203 yields a guaranteed amount of funding that is less than the sum of the amounts calculated pursuant to subdivision (a), then the amount calculated pursuant to Section 41203 shall be prorated for the three segments of public education.

(c) Notwithstanding any other provision of law, this section shall not apply to the 1992–93 fiscal year.

(d) Notwithstanding any other provision of law, this section shall not apply to the 1993–94 fiscal year.

(e) Notwithstanding any other provision of law, this section shall not apply to the 1994–95 fiscal year.

(f) Notwithstanding any other provision of law, this section shall not apply to the 1995–96 fiscal year.

(g) Notwithstanding any other provision of law, this section shall not apply to the 1996–97 fiscal year.

SEC. 9. Section 42238.145 of the Education Code is amended to read:

42238.145. For the purposes of this article, the revenue limit for each school district shall be reduced by a deficit factor, as follows:

(a) (1) For the 1994–95 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by an 11.01 percent deficit factor.

(2) For the 1995–96 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 10.12 percent deficit factor.

(3) For the 1996–97 and 1997–98 fiscal years the revenue limit for each school district determined pursuant to this article shall be

reduced by a 9.967 percent deficit factor, as adjusted pursuant to Section 42238.41.

(b) (1) The revenue limit for the 1994–95 fiscal year for each school district shall be determined as if the revenue limit for each school district had been determined for the 1993–94 fiscal year without being reduced by the deficit factor required pursuant to Section 42238.14.

(2) When computing the revenue limit for each school district for the 1995–96 or any subsequent fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that school district had been determined for the previous fiscal year without being reduced by the deficit factor specified in this section.

SEC. 10. Section 42243.7 of the Education Code is amended to read:

42243.7. (a) For any unified school district which commenced operations on or after June 30, 1978, or any school district which receives approval from the State Department of Education for a new continuation education high school for the 1979–80 fiscal year, or any fiscal year thereafter, the Superintendent of Public Instruction shall compute an adjustment to the district revenue limit pursuant to this section.

(b) Determine the amount of foundation program which the district would have been entitled to pursuant to subdivision (a) of Section 41711 if the district had operated during the 1977–78 fiscal year utilizing the number of units of average daily attendance attending high school in the district in the fiscal year for which the revenue limit is being computed.

(c) Determine the amount of foundation program which the district would have been entitled to pursuant to paragraph (1) of subdivision (b) of Section 41711 if the district had operated during the 1977–78 fiscal year utilizing the same number of units of average daily attendance used in subdivision (b) of this section.

(d) Subtract the amount determined pursuant to subdivision (c) from the amount computed pursuant to subdivision (b).

(e) The amount computed pursuant to subdivision (d), if greater than zero, shall be added to the revenue limit computed pursuant to subdivision (c) of Section 42237 or pursuant to Section 42238. If the amount in subdivision (d) is less than zero there is no adjustment.

(f) For each school district that claimed average daily attendance for continuation education high schools at the second principal apportionment for the 1995–96 fiscal year, increase the amount of the revenue limit per unit of average daily attendance computed by the school district by one hundred dollars ($100); except that if the amount appropriated for the purposes of this subdivision for any fiscal year is insufficient to increase each such unit of average daily attendance by that amount, then the Superintendent of Public Instruction shall adjust the amount of the increase on a pro rata basis.

(g) The Superintendent of Public Instruction shall reduce by the amount computed pursuant to subdivisions (d) and (f) the revenue limit computed pursuant to Section 42238 of any district discontinuing the operation of a continuation education school approved pursuant to subdivision (a).

(h) Commencing with the 1994–95 fiscal year and each fiscal year thereafter, the adjustment computed pursuant to this section shall not be adjusted by the deficit factor applied to the revenue limit of each school district pursuant to Section 42238.145.

(i) The adjustment computed pursuant to this section for a new continuation education high school may be applicable for any unified school district that was not fully operational during the first year of operation of the continuation education high school. The number of units of average daily attendance to be used in computing the adjustment shall be the number of units of average daily attendance generated by the continuation education high school in the district for the first year that the district is fully operational in all grades.

SEC. 11. Section 42301 of the Education Code is amended to read:

42301. (a) Notwithstanding any other provision, the State Department of Education shall grant applications for apportionments for purposes of this article, to the extent that funds are available, according to the following priorities:

(1) First priority for apportionments shall be for the purchase of new schoolbuses to replace existing schoolbuses owned by an eligible district or county office that do not conform to federal safety standards.

(2) Second priority for apportionments shall be for the reconditioning of existing schoolbuses owned by an eligible district or county office. For purposes of this paragraph, "reconditioning" includes, but is not limited to, retrofitting schoolbuses to conform to the federal Motor Vehicle Safety Standard 222 relating to schoolbus passenger seating and crash protection requirements.

(3) Any remaining funds shall be apportioned for the purchase of new schoolbuses by eligible districts or county offices which have proposed to increase the number of schoolbuses owned by the district or county office of education.

(4) In awarding grants, in accordance with the priorities established by paragraphs (1), (2), and (3), the State Department of Education shall give priority to eligible school districts with the smallest average daily attendance, as determined by the department.

(b) The governing board of any school district or county office of education shall be eligible to receive apportionments under this article for the replacement of schoolbuses.

(c) Any school district or county office of education receiving funds under this section shall be required to pay one-half of the estimated cost of a new schoolbus.

Each school district or county office shall also be required to contribute 50 percent of any proceeds from the sale of any schoolbus to be replaced with a new schoolbus purchased under this article.

(d) Insofar as possible, any purchases of new schoolbuses with funds apportioned pursuant to this article shall be made by the Department of General Services. Title to any schoolbus purchased by the Department of General Services pursuant to this section shall be in the name of the school district or county office of education for which the schoolbus was purchased.

(e) The State Department of Education shall develop priority categories for funding under this section which are based solely on vehicle age and mileage. Seventy-five percent of the funds available in any fiscal year for the purposes of this section shall be distributed to school districts and county offices of education based upon priority categories that utilize only vehicle age, mileage, and type of vehicle. Twenty-five percent of the funds available in any fiscal year for purposes of this section shall be allocated based upon the condition of the vehicles to be replaced. School districts and county offices shall submit as evidence of the condition of the vehicle to be replaced, the most recent California Highway Patrol inspection report, a repair estimate made by an independent repair shop, and any other information requested by the department.

(f) The State Department of Education shall estimate the cost of a replacement vehicle of the same capacity as the vehicle being replaced. A school district's or county office's entitlement shall equal the department's estimated cost, less any contributions determined pursuant to this section. A district or county office may use additional district or county office funds to purchase a schoolbus which is more expensive than the model used by the department to estimate the cost.

(g) Funds allocated pursuant to this section shall not be used to purchase a vehicle which does not meet the schoolbus passenger seating and crash protection requirements of the federal Motor Vehicle Safety Standard 222.

SEC. 12. Section 44258.9 of the Education Code is amended to read:

44258.9. (a) The Legislature finds that continued monitoring of teacher assignments by county superintendents of schools will ensure that the rate of teacher misassignment remains low. To the extent possible and with funds provided for that purpose, each county superintendent of schools shall perform the duties specified in subdivisions (b) and (c).

(b) (1) Each county superintendent of schools shall annually monitor and review school district certificated employee assignment practices according to the following priority:

(A) Schools and school districts that are likely to have problems with teacher misassignment based on past experience or other available information.

(B) All other schools on a four-year cycle.

(2) The Commission on Teacher Credentialing shall be responsible for the monitoring and review of those counties or cities and counties in which there is a single school district, including the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco. All information related to the misassignment of certificated personnel shall be submitted to each affected district within 45 calendar days of the monitoring activity.

(e) County superintendents of schools shall submit an annual report to the Commission on Teacher Credentialing summarizing the results of all assignment monitoring and reviews. These reports shall include, but need not be limited to, the following:

(1) The numbers of teachers assigned and types of assignments made by local district governing boards under the authority of Sections 44256, 44258.2, and 44263 of the Education Code.

(2) Information on actions taken by local committees on assignment, including the number of assignments authorized, subject areas into which committee-authorized teachers are assigned, and evidence of any departures from the implementation plans presented to the county superintendent by school districts.

(3) Information on each school district reviewed regarding misassignments of certificated personnel, including efforts to eliminate these misassignments.

(4) After consultation with representatives of county superintendents of schools, other information as may be determined to be needed by the Commission on Teacher Credentialing.

(f) Commencing in 1990, the Commission on Teacher Credentialing shall submit biennial reports to the Legislature concerning teacher assignments and misassignments which shall be based, in part, on the annual reports of the county superintendents of schools.

(g) (1) The Commission on Teacher Credentialing shall establish reasonable sanctions for the misassignment of credential holders.

Prior to the implementation of regulations establishing sanctions, the Commission on Teacher Credentialing shall engage in a variety of activities designed to inform school administrators, teachers, and personnel within the offices of county superintendents of schools of the regulations and statutes affecting the assignment of certificated personnel. These activities shall include the preparation of instructive brochures and the holding of regional workshops.

(2) Commencing July 1, 1989, any certificated person who has been required by an administrative superior to accept an assignment for which he or she has no legal authorization shall, after exhausting any existing local remedies, notify the county superintendent of schools in writing of the illegal assignment. The county superintendent of schools shall, within 15 working days, advise the affected certificated person concerning the legality of his or her

assignment. There shall be no adverse action taken against a certificated person who files a notification of misassignment with the county superintendent of schools. During the period of the misassignment, the certificated person who has filed a written notification with the county superintendent of schools shall be exempt from the provisions of Section 45034. If it is determined that a misassignment has taken place, any performance evaluation of the employee under Sections 44660 to 44664, inclusive, in any misassigned subject shall be nullified.

(3) Commencing July 1, 1989, the county superintendent of schools shall notify, through the office of the district superintendent, any certificated school administrator responsible for the assignment of a certificated person to a position for which he or she has no legal authorization of the misassignment and shall advise him or her to correct the assignment within 30 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignment if the certificated school administrator has not corrected the misassignment within 30 days of the initial notification, or if the certificated school administrator has not described, in writing, within the 30-day period, to the county superintendent of schools the extraordinary circumstances which make this correction impossible.

(4) Commencing July 1, 1989, the county superintendent of schools shall notify any superintendent of a school district in which 5 percent or more of all certificated teachers in the secondary schools are found to be misassigned of the misassignments and shall advise him or her to correct the misassignments within 120 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignments if the school district superintendent has not corrected the misassignments within 120 days of the initial notification, or if the school district superintendent of schools has not described, in writing, within the 120-day period, to the county superintendent of schools the extraordinary circumstances which make this correction impossible.

(h) Commencing July 1, 1989, each applicant for a professional administrative service credential shall be required to demonstrate knowledge of existing credentialing laws, including knowledge of assignment authorizations.

SEC. 13. Article 5 (commencing with Section 51450) is added to Chapter 3 of Part 28 of the Education Code, to read:

Article 5. Golden State Seal Merit Diploma

51450. The Golden State Seal Merit Diploma is hereby established as an honors diploma to recognize high school graduates who have mastered the high school curriculum. The Golden State Seal Merit Diploma shall be awarded jointly by the State Board of

Education and the Superintendent of Public Instruction to each qualifying high school student.

51451. A student who meets the following requirements shall qualify for a Golden State Seal Merit Diploma:

(a) The completion of all requirements for a high school diploma.

(b) A demonstration of the mastery of the curriculum in at least six subject matter areas, four of which shall be mathematics, English language arts, science, and United States history, with the remaining two subject matter areas selected by the student.

51452. The State Board of Education shall determine and adopt, based upon the recommendations of the Superintendent of Public Instruction, the following:

(a) The means by which students may demonstrate mastery of the curriculum. For subject matter areas included in the Golden State Examination (Article 5 (commencing with Section 60650) of Chapter 5 of Part 33), that examination shall serve as the means by which students may demonstrate mastery of the curriculum. For other subject matter areas, the means may include, but shall not be limited to, any subject matter examinations deemed appropriately rigorous by the board. For this purpose, the board may designate examinations administered by or under the auspices of the State Department of Education, or examinations produced by private providers or local educational agencies, that are supervised and administered under conditions that are deemed adequate by the board.

(b) Student performance standards or achievement levels that demonstrate mastery of the curriculum.

51453. Under the policy direction of the State Board of Education and the administrative leadership of the Superintendent of Public Instruction, the State Department of Education shall do the following:

(a) Ensure that the results of the Golden State Examination are sent to school districts in a timely manner and work with providers of other examinations to provide timely information to school districts on students who have met the performance standards so that school districts can efficiently maintain student records and identify pupils who meet the requirements of the Golden State Seal Merit Diploma.

(b) Prepare and distribute to school districts an appropriate insignia to be affixed to a student's diploma and transcript indicating that the student has been awarded a Golden State Seal Merit Diploma by the State Board of Education and the Superintendent of Public Instruction.

(c) Consider whether it would be appropriate and feasible to provide any additional awards to recipients of the Golden State Seal Merit Diploma.

51454. Each school district that confers high school diplomas shall maintain appropriate records in order to identify students who have earned a Golden State Seal Merit Diploma, and shall affix the

appropriate insignia to the diploma and transcript of each student that earns a Golden State Seal Merit Diploma.

51455. (a) It is the intent of the Legislature that no fee or other cost be charged to any pupil pursuant to this article. However, notwithstanding any other provision of law, a school district receiving funds pursuant to Chapter 1 (commencing with Section 54000) of Part 29 may expend any portion of those funds to pay for all or part of the costs of one or more examinations pursuant to this article that are charged to economically disadvantaged pupils.

(b) An economically disadvantaged pupil means a pupil from a family that receives Aid to Families with Dependent Children.

SEC. 14. Section 56728.8 of the Education Code is amended to read:

56728.8. (a) Notwithstanding subdivision (d) of Section 56760, for the 1985–86 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of those instructional personnel service units operated and fundable for services to individuals with exceptional needs younger than three years of age at the second principal apportionment of the prior fiscal year, as long as the pupil count of these pupils divided by the number of instructional personnel service units is not less than the following:

(1) For special classes and centers—12, based on the unduplicated pupil count.

(2) For resource specialist programs—24, based on the unduplicated pupil count.

(3) For designated instruction and services—12, based on the unduplicated pupil count, or 39, based on the duplicated pupil count.

(b) Notwithstanding subdivision (d) of Section 56760, in the 1985–86 fiscal year and each fiscal year thereafter, a special education local plan area shall be eligible for state funding of instructional personnel service units for services to individuals with exceptional needs younger than three years of age in excess of the number of instructional personnel service units operated and fundable at the second principal apportionment of the prior fiscal year only with the authorization of the Superintendent of Public Instruction.

(c) The Superintendent of Public Instruction shall base the authorization of funding for special education local plan areas pursuant to this section, including the reallocation of instructional personnel service units, upon criteria that shall include, but not be limited to, the following:

(1) Changes in the total number of pupils younger than three years of age enrolled in special education programs.

(2) High- and low-average caseloads per instructional personnel service unit for each instructional setting.

(d) Notwithstanding subdivision (e) of Section 56760, infant programs in special classes and centers funded pursuant to this item shall be supported by two aides, unless otherwise required by the Superintendent of Public Instruction.

(e) Infant services in resource specialist programs funded pursuant to this item shall be supported by one aide.

(f) In determining the number of instructional personnel service units for which a special education local plan area may qualify, a minimum of six infants shall constitute eligibility for the initial unit. However, programs operating pursuant to Section 56425 shall be allowed a minimum of one initial unit for the 1985–86 fiscal year. When units are allocated pursuant to this subdivision, the Superintendent of Public Instruction shall allocate only the least expensive unit appropriate.

(g) Beginning with the 1986–87 fiscal year, those programs operating pursuant to Section 56425 with fewer than six infants shall receive a partial unit, as determined by the Superintendent of Public Instruction.

(h) Notwithstanding Sections 56211 and 56212, a special education local plan area may apply for, and the superintendent may grant, a waiver of any of the standards and criteria specified in this section if compliance would prevent the provision of a free, appropriate public education or would create undue hardship. In granting the waivers, the superintendent shall give priority to the following factors:

(1) Applications from special education local plan areas for waivers for a period not to exceed three years to specifically maintain or increase the level of special education services necessary to address the special education service requirements of individuals with exceptional needs residing in sparsely populated districts or attending isolated schools designated in the application.

(A) Sparsely populated districts are school districts that meet one of the following conditions:

(i) A school district or combination of contiguous school districts in which the total enrollment is less than 600 pupils, kindergarten and grades 1 to 12, inclusive, and in which one or more of the school facilities is an isolated school.

(ii) A school district or combination of contiguous school districts in which the total pupil density ratio is less than 15 pupils, kindergarten and grades 1 to 12, inclusive, per square mile and in which one or more of the school facilities is an isolated school.

(B) Isolated schools are schools with enrollments of less than 600 pupils, kindergarten and grades 1 to 12, inclusive, that meet one or more of the following conditions:

(i) The school is located more than 45 minutes average driving time over commonly used and well-traveled roads from the nearest school, including schools in adjacent special education local plan areas, with an enrollment greater than 600 pupils, kindergarten and grades 1 to 12, inclusive.

(ii) The school is separated, by roads that are impassable for extended periods of time due to inclement weather, from the nearest school, including schools in adjacent special education local plan

areas, with an enrollment greater than 600 pupils, kindergarten and grades 1 to 12, inclusive.

(iii) The school is of a size and location that, when its enrollment is combined with the enrollments of the two largest schools within an average driving time of not more than 30 minutes over commonly used and well-traveled roads, including schools in adjacent special education local plan areas, the combined enrollment is less than 600 pupils, kindergarten and grades 1 to 12, inclusive.

(iv) The school is the one of normal attendance for a severely disabled individual, as defined in Section 56030.5, or an individual with a low-incidence disability, as defined in Section 56026.5, who otherwise would be required to be transported more than 75 minutes, average one-way driving time over commonly used and well-traveled roads, to the nearest appropriate program.

(2) The location of licensed children's institutions, foster family homes, residential medical facilities, or similar facilities within the boundaries of a local plan if 3 percent or more of the local plan's unduplicated pupil count resides in those facilities.

(i) By authorizing units pursuant to this section, the superintendent shall not increase the statewide total number of instructional personnel service units for purposes of state apportionments unless an appropriation specifically for growth in the number of instructional personnel service units is made in the annual Budget Act or other legislation. The allocation for implementation in the 1990–91 fiscal year shall not exceed the amount of five hundred thousand dollars ($500,000) provided by subdivision (a) of Provision 6 of Item 6110-161-001 of Section 2.00 of the Budget Act of 1990. If that growth appropriation is made, units authorized by the superintendent pursuant to this section are subject to the following restrictions:

(1) The units shall be funded only by that growth appropriation and no other funds may be apportioned for the units.

(2) All units shall be fully funded pursuant to Chapter 7 (commencing with Section 56700) of Part 30.

(j) The superintendent shall monitor the use of instructional personnel service units retained or authorized by the granting of waivers pursuant to subdivision (h) to ensure that the instructional personnel service units are used in a manner wholly consistent with the basis for the waiver request.

(k) Notwithstanding Section 56726 or 56731, or paragraph (2) of subdivision (e) of Section 56737 of the Education Code, or any other provision of law, the State Department of Education shall allocate funds for the 1995–96 and 1996–97 fiscal years to those educational agencies receiving allocations for instructional personnel service units pursuant to this section based on computing 200-day entitlements. The 200-day entitlements shall not exceed 111 percent of the current entitlement for each educational agency. Notwithstanding any other provision of law, no funds shall be

allocated pursuant to Section 56726 for the 1995–96 and 1996–97 fiscal years for services provided to children with exceptional needs who are younger than three years of age.

SEC. 15. Chapter 3.1 (commencing with Section 58520) is added to Part 31 of the Education Code, to read:

CHAPTER 3.1. SINGLE GENDER ACADEMIES PILOT PROGRAM

58520. (a) This chapter shall be known and may be cited as the Single Gender Academies Pilot Program Act of 1996.

58521. (a) The Legislature hereby finds and declares that a primary goal of the Single Gender Academies Pilot Program is to increase the diversity of California's public educational offering by making single gender academies available to those pupils of each gender who because of their unique educational needs will benefit from single gender education.

(b) It is the intent of the Legislature that single gender academies operated pursuant to this chapter shall be tailored to the differing needs and learning styles of boys as a group and girls as a group. It is further the intent of the Legislature that if a particular program or curriculum is available to one gender, it shall also be available to those pupils in the other gender who would benefit from the particular program or curriculum.

(c) It is further the intent of the Legislature that single gender academies operated pursuant to this chapter offer the following:

(1) Diversity in educational opportunity.

(2) Equal opportunities at both boys' and girls' academies.

(3) Equal funding and facilities at both boys' and girls' academies.

58522. (a) The Superintendent of Public Instruction shall administer this chapter.

(b) A school district may submit an application to the Superintendent of Public Instruction to receive a grant for the establishment and operation of a single gender academy pursuant to this chapter. To be eligible to receive a grant pursuant to this chapter, the single gender academy for which the school district has applied for a grant shall meet the following requirements:

(1) Enrollment in the single gender academy must be on a voluntary basis.

(2) Boys and girls enrolled in similar schools must have equal access to the schools.

(3) In all aspects of the curricula, the educational opportunity must be equal for boys and girls.

(4) A plan for conducting an evaluation of the results of the single gender academies.

(c) The Superintendent of Public Instruction shall award grants to 10 applicant school districts for the establishment of one single gender academy for girls and one single gender academy for boys in each of those selected school districts. Grant recipients shall be

selected on a competitive basis. In selecting grant recipients, the superintendent shall consider whether the proposed single gender academy meets the requirements set forth in subdivision (b). The superintendent shall select grant recipients that have clearly demonstrated the expected benefits of single gender education at the proposed academy and how a single gender academy will meet the unique educational needs of the pupils and communities they serve. When choosing between grant applicants that have similar qualifications, the superintendent shall give preference to applicant school districts seeking to establish single gender academies for both boys and girls that will be in close geographical proximity to ensure equal access to single gender academies for both genders in the school districts.

58523. (a) The governing board of a school district receiving a grant pursuant to this chapter shall establish a single gender academy as a magnet school pursuant to its general power established under Section 35160 or an an alternative education magnet school pursuant to Chapter 3 (commencing with Section 58500).

(b) The governing board of a school district receiving a grant pursuant to this chapter shall provide a detailed report of the relative success of the single gender academy to the Superintendent of Public Instruction, Department of Finance, office of the Legislative Analyst, Joint Legislative Budget Committee, Senate Committee on Education, and to the Assembly Committee on Education on or before January 1, 2000.

58524. The Superintendent of Public Instruction shall allocate two hundred fifty thousand dollars ($250,000) for each single gender academy established pursuant to this chapter to the school district establishing the academy.

SEC. 16. Notwithstanding any other provision, for the purposes of Sections 14002, 14004, and 41301 for the 1997-98 fiscal year, the Superintendent of Public Instruction shall certify to the Controller amounts that do not exceed the amounts needed to fund the revenue limits of school districts, as determined pursuant to Section 42238 of the Education Code and as adjusted by the deficit factor specified for the fiscal year in Section 42238.145 of the Education Code, and the revenue limits of county superintendents of schools as determined pursuant to Section 2558 of the Education Code as adjusted by the deficit factor specified for the fiscal year in Section 2558.45 of the Education Code.

SEC. 17. (a) The sum of forty-eight thousand dollars ($48,000) is hereby appropriated from the General Fund in augmentation of schedule (a) of Item 6870-101-001 of Section 2.00 of the Budget Act of 1995 (Ch. 303, 1995 Stats.), for the purposes of apportionments to community college districts for property tax deficiencies.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be

"General Fund revenues appropriated to community college districts," as defined in subdivision (d) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 18. (a) The sum of seventy-six million nine hundred thirty-two thousand dollars ($76,932,000) is hereby appropriated from the General Fund for transfer by the Controller to Section B of the State School Fund for the purpose of providing one-time block grants to community college districts for the 1996–97 fiscal year. The Chancellor of the Community Colleges shall allocate the amounts appropriated pursuant to this section in an average amount per actual statewide full-time equivalent student enrollment reported for the 1995–96 fiscal year, except that each community college district shall be allocated an amount not less than one hundred thousand dollars ($100,000) and the average amount per unit of full-time enrollment shall be computed accordingly. Community college districts shall expend the allocations made pursuant to this section for the purpose of instructional supplies, instructional equipment, and library materials, including equipment and materials that increase the use of modern technology for instructional purposes.

(b) Of the sum appropriated pursuant to subdivision (a), the sum of two million one hundred thousand dollars ($2,100,000) shall be allocated to the Mt. San Antonio Community College District for the acquisition and pilot testing of a fully integrated management information system. Any procurement of software is to be purchased through a competitive bid process pursuant to Part 3 (commencing with Section 20100) of the Public Contracts Code with the Mt. San Antonio Community College District issuing the contract.

(c) Of the funds allocated pursuant to this section to the Los Angeles Community College District, five hundred ninety-six thousand seven hundred and nineteen dollars ($596,719) of that total apportionment to the Los Angeles Community College District shall be allocated for the purposes of equipment at the East Los Angeles College's Automotive Technology Training Facility.

(d) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, fifty-five million six hundred fifteen thousand dollars ($55,615,000) of the amounts appropriated pursuant to subdivision (a) shall be deemed to be "General Fund revenues appropriated to community college districts," as defined in subdivision (d) of Section 41202 of the Education Code for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to

Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code for the 1995–96 fiscal year.

(e) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, nineteen million six hundred fifty-nine thousand dollars ($19,659,000) of the amounts appropriated by subdivision (a) shall be deemed to be "General Fund revenues appropriated to community college districts," as defined in subdivision (a) of Section 41202 of the Education Code for the 1994–95 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1994–95 fiscal year.

(f) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, one million six hundred fifty-eight thousand dollars ($1,658,000) of the amounts appropriated by subdivision (a) shall be deemed to be "General Fund revenues appropriated to community college districts," as defined in subdivision (d) of Section 41202 of the Education Code for the 1991–92 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1991–92 fiscal year.

SEC. 19. (a) The sum of sixty million dollars ($60,000,000) is hereby appropriated from the General Fund to the Chancellor of the California Community Colleges for the purpose of allocating funds to community college districts for one-time deferred maintenance projects for the 1996–97 fiscal year. Allocations shall be made in accordance with Section 84660 of the Education Code, except that for a community college district to be eligible for funds appropriated pursuant to this section and pursuant to schedule (o) of Item 6870-101-001 of Section 2.00 of the Budget Act of 1996, the community college district shall pay for a portion of the project from other revenues available to the community college districts. The matching fund requirement under this section may be waived in whole or in part as specified in Section 84660 of the Education Code. The amount of the match shall be determined as follows:

(1) Determine the amount scheduled for deferred maintenance in Item 6870-101-0001 of Section 2.00 of the Budget Act of 1996.

(2) Add the amount determined in paragraph (1) to the amount appropriated for deferred maintenance in this section.

(3) Divide the amount determined in paragraph (1) above by the sum of paragraphs (1) and (2).

(4) Multiply the quotient computed pursuant to paragraph (2) by 100. The result of this calculation is the percentage of the cost of the deferred maintenance project that each community college district

is required to make toward the cost of a deferred maintenance project.

(5) Multiply the percentage computed in paragraph (4) by the cost of the deferred maintenance project for which the community college district is requesting funds. This is the amount of the match the community college must contribute to the cost of the deferred maintenance project.

(b) Of the amount appropriated in subdivision (a), up to fourteen million dollars ($14,000,000) may be utilized by the Chancellor of the California Community Colleges to backfill a property tax deficiency for community college districts for the 1995–96 fiscal year provided that the following conditions are met:

(1) No property tax backfill will occur until final property tax figures have been certified by the Chancellor of the California Community College Districts.

(2) The final dollar amount must be adjusted to reflect repayment of six million two hundred thirty-two thousand dollars ($6,232,000) advanced to the Chancellor of the California Community College Districts pursuant to Chapter 142 of the Statutes of 1994.

(3) The dollar amount of the property tax deficiency must be certified by the Director of Finance prior to the allocation of funds.

(c) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to community college districts," as defined in subdivision (d) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 20. (a) The sum of twenty million dollars ($20,000,000) is hereby appropriated from the General Fund to the Chancellor of the California Community Colleges for the 1996–97 fiscal year for the purpose of allocating funds to community college districts to fund architectural barrier removal projects. The amounts appropriated in this section shall be distributed by the Chancellor of the California Community Colleges to community college districts on a project-by-project basis based on priority of need for the project. As a condition to receiving funds, community college districts shall provide an equal matching amount, unless the Board of Governor's of the California Community Colleges waives this requirement. The Chancellor of the California Community Colleges shall develop specific architectural barrier removal criteria and no funds shall be encumbered under this section until the chancellor has done so. The Chancellor of the California Community Colleges shall submit their recommendations on for architectural barrier removal criteria to the Joint Legislative Budget Committee, the Budget Committee of the

Assembly, the Budget and Fiscal Review Committee of the Senate, the Legislative Analyst's Office, and the Department of Finance no later than October 1, 1996. Funds shall be available for allocation of this appropriation until June 30, 1997.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to community college districts," as defined in subdivision (d) of Section 41202 of the Education Code for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 21. (a) Notwithstanding Chapter 7 (commencing with Section 56700) of Part 30 of the Education Code, funds appropriated pursuant to schedule (b) of Item 6110-161-001 of the Budget Act of 1996 are hereby reappropriated to the State Department of Education for the purpose of Title 14 (commencing with Section 95000) of the Government Code, as follows:

(1) The reappropriation shall only be made if the amount appropriated pursuant to schedule (b) of Item 6110-161-001 of Section 2.00 of the Budget Act of 1996 exceeds the amount necessary to fund the total statewide number of instructional personnel services units computed pursuant to Section 56728.8 of the Education Code for the 1996–97 fiscal year and the reimbursement amount received by the State Department of Education from the Department of Developmental Services pursuant to Title 14 (commencing with Section 95000) of the Government Code is not sufficient to fully fund the costs of operating the programs set forth in that title for the 1996–97 fiscal year.

(2) If the conditions in paragraph (1) are met, the amount of the reappropriation shall be the lesser of the amounts determined pursuant to subparagraph (A) or (B), except that if the amounts determined in those subparagraphs are the same, then that shall be the amount of the reappropriation:

(A) The amount necessary to fully fund the costs of the State Department of Education in operating the programs set forth in Title 14 (commencing with Section 95000) of the Government Code, as determined under paragraphs (1) and (2) of subdivision (b).

(B) The amount by which the appropriation made pursuant to schedule (b) of Item 6110-161-001 of Section 2.00 of the Budget Act of 1996 is in excess of the amount necessary to fund the total statewide number of instructional personnel services units computed pursuant to Section 56728.2 of the Education Code for the 1996–97 fiscal year.

(b) From the amounts reappropriated pursuant to subdivision (a), each local education agency that has costs for operating a program established pursuant to Title 14 (commencing with Section

95000) of the Government Code that exceed the amount allocated by the State Department of Education to the local education agency for that purpose shall be eligible to receive an amount not to exceed the amount computed as follows:

(1) Subtract the number of children under the age of three years with solely low-incidence disabilities served by the local education agency in the 1992–93 fiscal year, as reported on the April 1993 pupils count made pursuant to Section 56728.5 of the Education Code, from the number of solely low-incidence children under three years of age that the local education agency is projected to serve in the 1996–97 fiscal year.

(2) Multiply the number computed in paragraph (1) by six thousand six hundred eighty dollars ($6,680).

(3) If the funds reappropriated pursuant to subdivision (a) are insufficient to fully fund the allocations computed pursuant to this subdivision, the amount of the allocations shall be reduced on a pro rata basis.

SEC. 22. For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (d) of Section 42 of Chapter 308 of the Statutes of 1995, shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1994–95 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1994–95 fiscal year.

SEC. 23. (a) The sum of six million sixty-five thousand dollars ($6,065,000) is hereby appropriated from the General Fund to the Controller for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution, of claims filed by school districts for the 1994–95 fiscal year for the teacher evaluations required by Section 35160.5 of the Education Code, as that section existed on the date prior to the effective date of this section.

(b) The sum of one million five hundred thirty-three thousand dollars ($1,533,000) is hereby appropriated from the General Fund to the Controller for transfer to the State Teachers' Retirement Fund for reimbursement of costs incurred in the 1994–95 fiscal year pursuant to Chapter 1036 of the Statutes of 1979.

(c) For purposes of making computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivisions (a) and (b) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1994–95 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes

appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1994–95 fiscal year.

SEC. 24. (a) The sum of three million six hundred sixteen thousand dollars ($3,616,000) is hereby appropriated from the General Fund to the Controller for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution, of claims filed by school districts for the 1994–95 fiscal year for the teacher evaluations required by Section 35160.5 of the Education Code, as that section existed on the date prior to the effective date of this section.

(b) The sum of ten million five hundred thousand dollars ($10,500,000) is hereby appropriated, from the General Fund to the Controller for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution of claims filed by school districts for the 1995–96 fiscal year for the teacher evaluations required by Section 35160.5 of the Education Code, as that section existed on the date prior to the effective date of this section.

(c) For purposes of making computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivisions (a) and (b) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 25. (a) The sum of two hundred million dollars ($200,000,000) is hereby appropriated from the General Fund for transfer to Section A of the State School Fund for allocation to school districts and county offices of education on the basis of an equal amount per unit of average daily attendance, as defined in subdivision (b) of Section 42235.5 of the Education Code, and including average daily attendance used to compute funding for small school districts pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24 of the Education Code, reported for the second principal apportionment for the 1995–96 fiscal year pursuant to Section 41601 of the Education Code. That allocation shall be used solely for instructional materials, library resources, deferred maintenance, education technology, or any other nonrecurring costs.

(b) Prior to the use of funds appropriated in subdivision (a), the governing board of the school district or the county board of education shall hold a public hearing or hearings at which time the governing board of the school district or the county board of education shall report on the needs of, and resources for, instructional materials, library resources, deferred maintenance, education

technology, and any other nonrecurring costs in the district or county office of education. The governing board of the school district or county board of education shall encourage the participation of parents, teachers, members of the community interested in the affairs of the school district or county office of education, and collective bargaining unit leaders. The board shall provide 10 days notice of the public hearing or hearings. The notice shall contain the time, place, and purpose of the hearing and shall be posted in three public places. The governing board of the school district or county board of education may include the hearing specified in this section as part of any regularly scheduled meeting.

(c) Prior to the use of funds appropriated in subdivision (a) for nonrecurring costs related to employee compensation, the governing board of the school district or the county board of education shall hold a public hearing or hearings, in addition to, and no less than, 10 days subsequent to the hearing or hearings provided in subdivision (b), at which time the board shall report on the needs of and resources for instructional materials, library resources, deferred maintenance, and education technology. The governing board of the school district or county board of education shall encourage the participation of parents, teachers, members of the community interested in the affairs of the school district or county office of education, and collective bargaining unit leaders. The governing board of the school district or county board of education shall provide 10 days notice of the public hearing or hearings. The notice shall contain the time, place, and purpose of the hearing. The governing board of the school district or county board of education may include the hearing specified in this section as part of any regularly scheduled meeting.

(d) The appropriation made in subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202, for the 1995–96 fiscal year, and "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of that fiscal year, for purposes of Section 8 of Article XVI of the California Constitution for the 1995–96 fiscal year.

SEC. 26. (a) The sum of thirty-five million dollars ($35,000,000) is hereby appropriated from the General Fund to the State Department of Education for apportionment to school districts and county offices of education pursuant to Section 42301 of the Education Code for the 1996–97 fiscal year.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code for the 1995–96 fiscal year, and included within the "total allocations to

school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 27. (a) The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund to the State Department of Education without regard to fiscal year for the purposes of the Single Gender Academies Pilot Program established pursuant to Chapter 3.1 (commencing with Section 58520) of Part 31 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 28. (a) The sum of fifty million dollars ($50,000,000) is hereby appropriated from the General Fund to the State School Deferred Maintenance Fund, without regard to fiscal year, to be allocated by the State Allocation Board to fund applications received by the Office of Public School Construction for the purposes of payments for deferred maintenance projects for school districts maintaining kindergarten or any of grades 1 to 12, inclusive. Notwithstanding any other sections of the Education Code and to the extent that funds are available within this section, the State Allocation Board shall give first priority for apportionment of these funds to school districts requesting funding for projects that meet the criteria for critical hardship pursuant to Section 39619.5 of the Education Code as of June 30, 1996. If, after funding all projects that meet the critical hardship criteria, additional funds remain from this appropriation, the State Allocation Board shall allocate any remaining funds to school districts pursuant to Section 39619 of the Education Code and any criteria established by the State Allocation Board for general deferred maintenance projects.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 29. (a) The sum of seven million two hundred thousand dollars ($7,200,000) is hereby appropriated from the General Fund for transfer by executive order of the Director of Finance to the Controller, for reimbursement of approved claims received from the following school districts and county offices of education for costs of court ordered desegregation programs operated pursuant to Sections 42243.6, 42243.9, and 42247 of the Education Code for the 1993–94 fiscal year.

The appropriation made by this subdivision shall be allocated according to the following schedule:

	Reimbursement amount for the 1993-94 fiscal year
Bakersfield City School District court-ordered desegregation	$ 12,300
Los Angeles Unified School District court-ordered desegregation	3,287,700
Menlo Park Elementary School District court-ordered desegregation	4,800
Ravenwood City Elementary School District court-ordered desegregation	9,000
Redwood City Elementary School District court-ordered desegregation	8,800
San Bernardino City Unified School District court-ordered desegregation	682,900
San Diego Unified School District court-ordered desegregation	722,500
San Francisco Unified School District court-ordered desegregation	84,700
San Jose Unified School District court-ordered desegregation	1,112,200
San Mateo County Office of Education court-ordered desegregation	2,900
Santa Clara County Office of Education court-ordered desegregation	1,800
Sequoia Union High School District court-ordered desegregation	270,500
Stockton Unified School District court-ordered desegregation	999,900

(b) The appropriations made by subdivision (a) is subject to all of the following:

(1) Before submittal of a claim to the Controller for payment, school districts shall subject their past year actual claims to audit, in accordance with standards utilized by the Controller in prior years for the audit of past year actual desegregation claims, to ensure its claim complies with the requirements of Sections 42247, 42247.1, 42248, 42249 and 42249.2 of the Education Code. School districts may contract with the Controller for the performance of those audits. All past year actual claims submitted to the Controller for payment shall be accompanied by any reports issued by the auditing entity, unless the auditing entity was the Controller.

(2) The Controller shall only reimburse those past year actual claims that conform to the requirements of paragraph (2).

(3) The Controller shall allocate funds appropriated in this section in accordance with Section 42247 of the Education Code. The Controller shall reimburse these claims only from funds appropriated specifically for that purpose by the Legislature.

(4) The Controller shall allocate funds appropriated in this section in accordance with the schedule contained herein, unless a revision of that schedule has been approved by the Department of Finance.

(5) The Department of Finance may not authorize any revisions to the schedule in this section sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

(6) Funds appropriated in this item shall not be used to reimburse claims by school districts for facilities lease costs, school construction, reconstruction, replacement of facilities, purchase of existing facilities, purchase of land, or the performance of deferred maintenance activities on facilities.

(7) Effective July 1, 1991, and notwithstanding any other provision of law to the contrary, no school district shall be required to comply with Sections 90 to 101, inclusive, of Title 5 of the California Code of Regulations. Any costs incurred after that date in compliance with those regulations shall be deemed incurred voluntarily and shall not be reimbursable as a state-mandated local program. Nothing in this provision shall be interpreted to deny reimbursement of claims for court-ordered or voluntary desegregation plans or programs.

(c) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year and included within the "total allocations to school districts and community college districts from General Fund

proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 30. (a) The sum of six hundred fifty thousand dollars ($650,000) is hereby appropriated from the General Fund to Section A of the State School Fund for apportionment by the Superintendent of Public Instruction to the Alhambra City High School District for the purposes of making a loan to the district for the 1996–97 fiscal year.

(b) The funds appropriated in subdivision (a) shall not be disbursed until the Alhambra City High School District has notified the Controller of its acceptance of the terms of the loan. If the district does not notify the Controller within 90 days of the effective date of this section the funds shall revert to the Proposition 98 Reversion Account within the General Fund.

(c) Interest on the loan made pursuant to subdivision (a) shall accrue from the date the funds are disbursed to the school district, at the investment rate of the Pooled Money Investment Account as of the date the funds are disbursed to the district. The loan shall be repaid in three equal annual installments, to be repaid each January 1, beginning January 1, 1998. If payment is not made by the school district within 60 days after the scheduled date, the Controller shall pay the defaulted loan payment of principal and interest by withholding that amount from the next available apportionment to the county treasurer on behalf of the school district pursuant to Section 42238 of the Education Code.

(d) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 31. (a) The sum of four million dollars ($4,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the purpose of establishing the Discovery Science Center in Orange County for the 1996–97 fiscal year. Funds appropriated in this section shall be used on a one-time basis for the construction and start-up costs for the Discovery Science Center in Orange County. The center shall be an 80,000 square foot, hands-on, interactive learning facility. The center shall be in a centrally located site to benefit all of Orange County, and shall afford access to science to children who live in the less affluent areas of the county. The center shall serve as a resource for public elementary and secondary

schools, and shall offer programs to Orange County schools, residents, and visitors.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 32. (a) The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction, without regard to fiscal year, for the purpose of allocating funds to the Soledad Union School District for the construction of a regional community library in Monterey County. Funds appropriated in this section shall be used on a one-time basis to provide the remaining balance of funds necessary for construction of a joint use library in Monterey County that will serve the pupils of the Soledad Union School District and adults in the community.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 33. (a) The sum of eight hundred thousand dollars ($800,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation to the Claremont Unified School District for the purpose of allocating funds to that school district for the one-time costs related to special education facilities at the Sumner Elementary School site for the 1996–97 fiscal year.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 34. The funds appropriated in Items 6110-105-001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-196-0001 and 6110-230-0001, of Section 2.00 of the Budget Act of 1996, are in lieu of the amounts that would otherwise be required to be appropriated pursuant to any other provision of law.

SEC. 35. (a) The sum of three hundred and seventy-five thousand dollars ($375,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation to the Oakland Museum of California for the 1996–97 fiscal year. Funds allocated in this section shall be used on a one-time basis for education activities related to the California Gold Rush. These activities shall include curriculum development, teacher training, outreach development, exhibits, on-line resources, and museum programs.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code for the 1995–96, fiscal year and be included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 36. The sum of two million seven hundred sixty thousand dollars ($2,760,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction, without regard to fiscal year, for allocation to the Pomona Unified School District for the purpose of funding the one-time startup costs for the Educational Village Project at that school district.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year and be included within the "total allocations to school districts and community college districts from General fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code for the 1995–96 fiscal year.

SEC. 37. (a) The sum of twelve million dollars ($12,000,000) is hereby appropriated from the General fund to the California Public School Library Protection Fund established pursuant to Section 18178 of the Education Code, without regard to fiscal year, for the purposes set forth in that section.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined

in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 38. (a) The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund for transfer to Section A of the State School Fund for the purposes of continuation high school equalization for the 1996–97 fiscal year pursuant to subdivision (f) of Section 42243.7 of the Education Code.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1996–97 fiscal year and be included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1996–97 fiscal year.

SEC. 39. (a) The sum of fifty million dollars ($50,000,000) is hereby appropriated from the General Fund as a contingency expenditure, to be authorized by the Department of Finance for allocation as appropriate for the reimbursement of state-mandated cost claims submitted by school districts and county offices of education.

(b) Prior to the use of funds appropriated in subdivision (a), the Controller shall ensure audits of the claims are complete.

(c) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 40. (a) The sum of five hundred twenty-eight thousand dollars ($528,000) is hereby appropriated from the General Fund for transfer by executive order of the Director of Finance to the Controller, for reimbursement of approved claims received from the Ocean View Elementary School District in Huntington Beach for the costs of operating its voluntary desegregation program pursuant to Sections 42247 and 42249 of the Education Code, for the 1992–93, 1993–94, 1994–95, and 1995–96 fiscal years.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 41. (a) The sum of six million four hundred thousand dollars ($6,400,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction to be apportioned to school districts for the costs of programs and services established pursuant to the Immigrant Workforce Preparation Act contained in Chapter 10.5 (commencing with Section 52651) of Part 28 of the Education Code for the 1996–97 fiscal year.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included with the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 42. (a) The sum of nine hundred and eighty thousand dollars ($980,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation to the Museum of Tolerance at the Simon Wiesenthal Center for the 1996–97 fiscal year. Funds allocated in this section shall be used on a one-time basis to acquire the necessary hardware and software to upgrade the Multimedia Learning Center so that it can be formatted for direct communication into California's classrooms. This shall include the capability to transmit, via the Internet, text and images from the museum to anywhere in the state. It may also include the potential for on-line conferencing that will access teachers directly and immediately to the museum's curriculum experts.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and be included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined

in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 43. (a) The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation to the Golden Gate Institute for Indigenous Cultures and to the California Indian Museum for the 1996–97 fiscal year for the one-time purpose of assisting in the retrofit and renovation of designated buildings at the Presidio in San Francisco.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and be included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 44. (a) The sum of three hundred eighty-seven million dollars ($387,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the purpose of providing funds to each regular public school in the state for the 1996–97 fiscal year. The Superintendent of Public Instruction shall allocate the funds on the basis of an equal amount per unit of actual average daily attendance for the 1995–96 second principal apportionment for each regular public school, provided, however, that no regular public school shall receive less than twenty-five thousand dollars ($25,000).

(b) The use of funds allocated pursuant to subdivision (a) for schools under the jurisdiction of a school district shall be proposed by each school's schoolsite council, as defined in Section 52012 of the Education Code, or if the school does not have a schoolsite council, by schoolwide advisory groups or school support groups that conform to the requirements of Section 52012 of the Education Code. The proposals shall be approved by the governing board of the school district prior to expenditure of the funds allocated pursuant to subdivision (a). If the governing board of a school district does not approve the use proposed pursuant to this subdivision, the governing board of the school district shall inform the schoolsite council, schoolwide advisory group, or school support group of the reasons why the proposal was disapproved. If the schoolsite council, schoolwide advisory group, or school support group and the governing board of the school district are not able to agree on the use of the funds by May 1, 1997, the county superintendent of schools shall notify the Superintendent of Public Instruction of the impasse. The Superintendent of Public Instruction shall require that the funds allocated to the school be returned to the state and the funds shall

revert to the Proposition 98 Reversion Account within the General Fund.

(c) The use of funds allocated pursuant to subdivision (a) for schools under the jurisdiction of a county office of education shall be proposed by each school's schoolwide advisory group or school support group that conforms to the requirements of Section 52012 of the Education Code. The proposals shall be approved by the county board of education prior to expenditure of the funds allocated pursuant to subdivision (a).

(d) For purposes of this section, the term "regular public school," as provided in subdivision (a), shall be defined as any public school at a distinct and wholly self-contained public schoolsite, with a separate county-district-school (CDS) code, as maintained by the Superintendent of Public Instruction as of June 30, 1996, and which is in operation during the 1996–97 school year. Two or more schools that share a physical site or staff shall be considered a single "regular public school" for purposes of qualifying for the minimum twenty-five thousand dollar ($25,000) grant, which shall be allocated to the separate schools sharing the site based on each school's share of qualifying average daily attendance. Funds allocated pursuant to subdivision (a) shall not be allocated to parents or pupils.

(e) For the purposes of this section, the term "regular public school," as provided in subdivision (a), shall include charter schools that have pupils who are currently enrolled and that have a current county-district-school (CDS) code, as maintained by the Superintendent of Public Instruction as of June 30, 1996. The use of the funds allocated to charter schools pursuant to subdivision (a) shall further the program specified in the school's charter and shall not be allocated to parents, pupils, or staff of the charter school. A charter school shall obtain approval from the governing board of the school district for the use of the funds allocated pursuant to subdivision (a) if the terms of its charter require the approval of the governing board of the school district for similar uses of funds.

(f) Schools that choose to accept funds allocated pursuant to subdivision (a) agree to implement all of the provision of this section.

(g) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, of the appropriation made by subdivision (a), fourteen million five hundred ninety-three thousand dollars ($14,593,000) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1991–92 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1991–92 fiscal year.

(h) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, of the

appropriation made by subdivision (a), one hundred eighty-six million five hundred eighty-four thousand dollars ($186,584,000) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1994–95 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1994–95 fiscal year.

(i) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, of the appropriation made by subdivision (a), one hundred eighty-five million eight hundred twenty-three thousand dollars ($185,823,000) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 45. (a) The sum three hundred fifty thousand dollars ($350,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction, without regard to fiscal year, for allocation to the Los Angeles Unified School District for the purpose of the Los Angeles Police Academy Magnet Schools Program. The Los Angeles Police Academy Magnet Schools Program at the three participating schools enables pupils to better understand the duties and roles of law enforcement in addition to the coursework that is otherwise required for those pupils.

(b) For purposes of making computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 46. (a) The sum of twenty thousand dollars ($20,000) is hereby appropriated to the Superintendent of Public Instruction, without regard to fiscal year, for allocation to the Chino Unified School District for the purposes of the Chino Drug Awareness program provided to pupils enrolled in that school district.

(b) For purposes of making computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision

(c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 47. (a) The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction, without regard to fiscal year, for the purposes of the Golden State Seal Merit Diploma contained in Article 5 (commencing with Section 51450) of Chapter 3 of Part 28 of the Education Code.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated to school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 1995–96 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B" as defined in subdivision (e) of Section 41202 of the Education Code, for the 1995–96 fiscal year.

SEC. 48. 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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 49. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the Budget Act of 1996 with respect to public schools and community colleges, it is necessary that this act take effect immediately.

CHAPTER 205

An act to add Chapter 10 (commencing with Section 10985) to Part 2 of Division 9 of the Welfare and Institutions Code, relating to public

social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Chapter 10 (commencing with Section 10985) is added to Part 2 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 10. REPORTING ON INCARCERATED INDIVIDUALS

10985. (a) Each city, county, or city and county, that operates a jail, shall report twice each month to the department the name, known aliases, birth date, social security number, and expected released date, if known, of any person whose period of incarceration in jail has exceeded 30 days. The report shall not include names previously reported unless it is for a new period of incarceration.

(b) (1) The director may establish a uniform data format for the reporting of the data required to be reported in subdivision (a).

(2) The director shall reimburse each reporting entity, except for those entities seeking reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, at a rate of ten dollars for each unduplicated person reported pursuant to subdivision (a).

(3) The state may make payments to local entities pursuant to paragraph (1) or pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code only for a name previously reported by that entity if it is reported for a new period of incarceration.

(4) The director shall annually determine the program savings to the state that result from the reporting of names required by subdivision (a). The annual Budget Act may provide for reimbursement at a level below that provided in paragraph (2) if the savings are not sufficient to offset the cost of the reimbursements.

(c) The director shall distribute information received pursuant to subdivision (a) to departments of the state and federal government and to local agencies that administer public benefits for which incarceration affects eligibility, to ensure that public assistance payments and other public benefits are not paid to persons who are ineligible to receive those benefits based on incarceration, or whose absence from the household would result in a recalculation of the benefits of other members of the household. For the purpose of reports to federal agencies under this section, the local jail shall be considered the reporting institution.

(d) The director may suspend the reporting requirement established in this section if the director determines that data available from other sources provide timely information on the identity of jail inmates that will ensure that public assistance payments and other public benefits are not paid to ineligible persons.

SEC. 2. The sum of two hundred thirty thousand dollars ($230,000) is hereby appropriated from the General Fund to the State Department of Social Services for the purpose of implementing this act in the 1996–97 fiscal year. The State Department of Social Services may hire the equivalent of two personnel years and may contract for services necessary for the implementation of this act.

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, except with respect to any agency obtaining reimbursement from the State Department of Social Services pursuant to subdivision (b) of Section 10985 of the Welfare and Institutions 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, 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 inappropriate public social services program payments, at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 206

An act to amend Section 1611.5 of the Unemployment Insurance Code, to amend Sections 11450, 11450.01, 11450.015, 11450.017, 11450.018, 11453, 11462, 11501, 11501.5, 12200.01, 12200.015, 12200.017, 12200.018, 12201, 12201.03, 12301.6, 12302.1, 12550, 12551, 12552, 16525.10, 16525.40, 17000.6, 17001.5, 19356, and 19356.6 of, to amend and repeal Section 15200.6 of, to add Sections 11462.1 and 11501.1 to, to add Chapter 4.6 (commencing with Section 10830) to Part 2 of Division 9 of, to repeal and add Sections 11466.25, 11487.5, and 19355.5 of, and to repeal, add, and repeal Section 12302.7 of, the Welfare and

Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 1611.5 of the Unemployment Insurance Code is amended to read:

1611.5. (a) Notwithstanding Section 1611, the Legislature may appropriate from the Employment Training Fund up to twenty million dollars ($20,000,000) in the Budget Act of 1994, twenty-two million seven hundred thirty-five thousand dollars ($22,735,000) in the Budget Act of 1995, and twenty million dollars ($20,000,000) in the Budget Act of 1996 for purposes of funding the local assistance portion of the nonfederal share of cost in the Greater Avenues for Independence (GAIN) program, 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, as administered by the State Department of Social Services.

(b) Notwithstanding any other provision of law, the panel may execute training contracts for up to twenty million dollars ($20,000,000) in excess of the amounts appropriated by Item 5100-001-0514 of the Budget Act of 1996.

SEC. 1.5. Chapter 4.6 (commencing with Section 10830) is added to Part 2 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 4.6. STATEWIDE FINGERPRINT IMAGING SYSTEM

10830. (a) The department and the Health and Welfare Data Center shall design, implement, and maintain a statewide fingerprint imaging system for use in connection with the determination of eligibility for benefits under the Aid to Families with Dependent Children (AFDC) program under Chapter 2 (commencing with Section 11200) of Part 3 excluding Aid to Families with Dependent Children-Foster Care (AFDC-FC), and the Food Stamp Program under Chapter 10 (commencing with Section 18900) of Part 6.

(b) (1) Every applicant for, or recipient of, aid under Chapter 2 (commencing with Section 11200) of Part 3 excluding the AFDC-FC program and Chapter 10 (commencing with Section 18900) of Part 6, other than dependent children or persons who are physically unable to be fingerprint imaged, shall, as a condition of eligibility for assistance, be required to be fingerprint imaged.

(2) A person subject to the requirements of paragraph (1) shall not be eligible for the Aid to Families with Dependent Children program or the Food Stamp Program until fingerprint images are provided, except as provided in subdivision (e). Ineligibility may

extend to an entire case of any person who refuses to provide fingerprint images.

(c) The department may adopt emergency regulations to implement this section specifying the statewide fingerprint imaging requirements and exemptions to the requirements 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). The initial adoption of any emergency regulations implementing this section, as added during the 1996 portion of the 1995–96 Regular Session, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this subdivision shall remain in effect for no more than 180 days.

(d) All persons required to be fingerprint imaged pursuant to this section shall be informed that fingerprint images obtained pursuant to this section shall be used only for the purpose of verifying eligibility and preventing multiple enrollments in the Aid to Families with Dependent Children program or the Food Stamp Program. The department, county welfare agencies, and all others shall not use or disclose the data collected and maintained for any purpose other than the prevention or prosecution of fraud. Fingerprint imaging information obtained pursuant to this section shall be confidential under Section 10850.

(e) (1) Except as provided in paragraph (2), the fingerprint imaging required under this chapter shall be scheduled only during the application appointment or other regularly scheduled appointments. No other special appointment shall be required. No otherwise eligible individual shall be ineligible to receive benefits under this chapter due to any technical problem occurring in the fingerprint imaging system or as long as the person consents to and is available for fingerprint imaging at a mutually agreed upon time, not later than 60 days from the initial attempt to complete fingerprint imaging.

(2) During the first nine months following implementation, recipients may be scheduled for separate appointments to complete the fingerprint imaging required by this section. Notice shall be mailed first class by the department to recipients at least 10 days prior to the appointment, and shall include procedures for the recipient to reschedule the scheduled appointment within 30 days.

(f) If the fingerprint image of an applicant or recipient of aid to which this section applies matches another fingerprint image on file, the county shall notify the applicant or recipient. In the event that a match is appealed, the fingerprint image match shall be verified by a trained individual and any matching case files reviewed prior to the denial of benefits. Upon confirmation that the applicant or recipient is receiving or attempting to receive multiple Aid to Families with

Dependent Children program checks, a county fraud investigator shall be notified.

SEC. 2. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) (1) Aid shall be paid for each needy family, which shall include all eligible brothers and sisters of each eligible applicant or recipient child and the parents of the children, but shall not include unborn children, or recipients of aid under Chapter 3 (commencing with Section 12000), qualified for aid under this chapter. In determining the amount of aid paid, the family's income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (e) or Section 11453.1 shall be deducted from the sum specified in Section 11452, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2) of subdivision (a) of Section 11450. In no case shall the amount of aid paid for each month exceed the sum specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453 and paragraph (2) of subdivision (a) of Section 11450, plus any special needs, as specified in subdivisions (c), (e), and (f):

Number of eligible needy persons in the same home	Maximum aid
1	$ 326
2	535
3	663
4	788
5	899
6	1,010
7	1,109
8	1,209
9	1,306
10 or more	1,403

If, when, and during such times as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to that increase or decrease by the United States government, provided that no increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(2) The sums specified in paragraph (1) shall not be adjusted for cost of living for the 1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96, and 1996–97 fiscal years, and through October 31, 1997, nor shall that amount be included in the base for calculating any

cost-of-living increases for any fiscal year thereafter. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(b) When the family does not include a needy child qualified for aid under this chapter, aid shall be paid to a pregnant mother for the month in which the birth is anticipated and for the three-month period immediately prior to the month in which the birth is anticipated in the amount which would otherwise be paid to one person, as specified in subdivision (a), if the mother, and child if born, would have qualified for aid under this chapter. Verification of pregnancy shall be required as a condition of eligibility for aid under this subdivision. Aid shall also be paid to a pregnant woman with no other children in the amount which would otherwise be paid to one person under subdivision (a) at any time after verification of pregnancy if the pregnant woman is also eligible for the Cal-Learn Program described in Article 3.5 (commencing with Section 11331) and if the mother and child, if born, would have qualified for aid under this chapter.

(c) The amount of forty-seven dollars ($47) per month shall be paid to pregnant mothers qualified for aid under subdivision (a) or (b) to meet special needs resulting from pregnancy if the mother, and child, if born, would have qualified for aid under this chapter. County welfare departments shall refer all recipients of aid under this subdivision to a local provider of the Women, Infants and Children program. If that payment to pregnant mothers qualified for aid under subdivision (a) is considered income under federal law in the first five months of pregnancy, payments under this subdivision shall not apply to persons eligible under subdivision (a), except for the month in which birth is anticipated and for the three-month period immediately prior to the month in which delivery is anticipated, if the mother, and the child if born, would have qualified for aid under this chapter.

(d) For children receiving AFDC-FC under this chapter, there shall be paid, exclusive of any amount considered exempt as income, an amount of aid each month which, when added to the child's income, is equal to the rate specified in Section 11460, 11461, 11462, 11462.1, or 11463. In addition, the child shall be eligible for special needs, as specified in departmental regulations.

(e) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. These recurring special needs shall include, but not be limited to, special diets upon the recommendation of a physician for circumstances other than pregnancy, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the

sum of ten dollars ($10) by the number of recipients in the family who are eligible for assistance.

(f) After a family has used all available liquid resources, both exempt and nonexempt, in excess of one hundred dollars ($100), the family shall also be entitled to receive an allowance for nonrecurring special needs.

(1) An allowance for nonrecurring special needs shall be granted for replacement of clothing and household equipment and for emergency housing needs other than those needs addressed by paragraph (2). These needs shall be caused by sudden and unusual circumstances beyond the control of the needy family. The department shall establish the allowance for each of the nonrecurring special need items. The sum of all nonrecurring special needs provided by this subdivision shall not exceed six hundred dollars ($600) per event.

(2) Homeless assistance is available to a homeless family seeking shelter when the family is eligible for aid under this chapter. Homeless assistance for temporary shelter is also available to homeless families which are apparently eligible for aid under this chapter. Apparent eligibility exists when evidence presented by the applicant or which is otherwise available to the county welfare department and the information provided on the application documents indicate that there would be eligibility for aid under this chapter if the evidence and information were verified. However, an alien applicant who does not provide verification of his or her eligible alien status, or a woman with no eligible children who does not provide medical verification of pregnancy, is not apparently eligible for purposes of this section.

A family is considered homeless, for the purpose of this section, when the family lacks a fixed and regular nighttime residence; or the family has a primary nighttime residence that is a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or the family is residing in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(A) (i) A nonrecurring special need of thirty dollars ($30) a day shall be available to families for the costs of temporary shelter, subject to the requirements of this paragraph. County welfare departments may increase the daily amount available for temporary shelter to large families as necessary to secure the additional bed space needed by the family.

(ii) This special need shall be granted or denied immediately upon the family's application for homeless assistance, and benefits shall be available for up to three working days. The county welfare department shall verify the family's homelessness within the first three working days and if the family meets the criteria of questionable homelessness established by the department, the county welfare department shall refer the family to its early fraud

prevention and detection unit, if the county has such a unit, for assistance in the verification of homelessness within this period.

(iii) After homelessness has been verified, the three-day limit shall be extended for a period of time which, when added to the initial benefits provided, does not exceed a total of 16 calendar days. This extension of benefits shall be done in increments of one week and shall be based upon searching for permanent housing which shall be documented on a housing search form; good cause; or other circumstances defined by the department. Documentation of housing search shall be required for the initial extension of benefits beyond the three-day limit and on a weekly basis thereafter as long as the family is receiving temporary shelter benefits. Good cause shall include, but is not limited to, situations in which the county welfare department has determined that the family, to the extent it is capable, has made a good faith but unsuccessful effort to secure permanent housing while receiving temporary shelter benefits.

(B) A nonrecurring special need for permanent housing assistance is available to pay for last month's rent and security deposits when these payments are reasonable conditions of securing a residence.

The last month's rent portion of the payment (1) shall not exceed 80 percent of the family's maximum aid payment without special needs for a family of that size and (2) shall only be made to families that have found permanent housing costing no more than 80 percent of the family's maximum aid payment without special needs for a family of that size, in accordance with the maximum aid schedule specified in subdivision (a).

However, if the county welfare department determines that a family intends to reside with individuals who will be sharing housing costs, the county welfare department shall, in appropriate circumstances, set aside the condition specified in clause (2) of the preceding paragraph.

(C) The nonrecurring special need for permanent housing assistance is also available to cover the standard costs of deposits for utilities which are necessary for the health and safety of the family.

(D) A payment for or denial of permanent housing assistance shall be issued no later than one working day from the time that a family presents evidence of the availability of permanent housing. If an applicant family provides evidence of the availability of permanent housing before the county welfare department has established eligibility for aid under this chapter, the county welfare department shall complete the eligibility determination so that the denial of or payment for permanent housing assistance is issued within one working day from the submission of evidence of the availability of permanent housing, unless the family has failed to provide all of the verification necessary to establish eligibility for aid under this chapter.

(E) (i) Except as provided in clauses (ii) and (iii), eligibility for the temporary shelter assistance and the permanent housing assistance pursuant to this paragraph shall be limited to one period of up to 16 consecutive calendar days of temporary assistance and one payment of permanent assistance. Any family that includes a parent or nonparent caretaker relative living in the home who has previously received temporary or permanent homeless assistance at any time on behalf of an eligible child shall not be eligible for further homeless assistance. Any person who applies for homeless assistance benefits shall be informed that the temporary shelter benefit of up to 16 consecutive days is available only once in a lifetime, with certain exceptions, and that a break in the consecutive use of the benefit constitutes permanent exhaustion of the temporary benefit.

(ii) A family that becomes homeless as a direct and primary result of a state or federally declared natural disaster shall be eligible for temporary and permanent homeless assistance.

(iii) A family shall be eligible for temporary and permanent homeless assistance when homelessness is a direct result of domestic violence by a spouse, partner, or roommate; physical or mental illness that is medically verified that shall not include a diagnosis of alcoholism, drug addiction, or psychological stress; or, the uninhabitability of the former residence caused by sudden and unusual circumstances beyond the control of the family including natural catastrophe, fire, or condemnation. These circumstances shall be verified by a third-party governmental or private health and human services agency and homeless assistance payments based on these specific circumstances may not be received more often than once in any 24-month period.

(iv) The county welfare department shall report to the department through a statewide homeless assistance payment indicator system, necessary data, as requested by the department, regarding all recipients of aid under this paragraph.

(F) The county welfare departments, and all other entities participating in the costs of the AFDC program, have the right in their share to any refunds resulting from payment of the permanent housing. However, if an emergency requires the family to move within the 24-month period specified in subparagraph (E), the family shall be allowed to use any refunds received from its deposits to meet the costs of moving to another residence.

(G) Payments to providers for temporary shelter and permanent housing and utilities shall be made on behalf of families requesting these payments.

(H) The daily amount for the temporary shelter special need for homeless assistance may be increased if authorized by the current year's Budget Act by specifying a different daily allowance and appropriating the funds therefor.

(I) No payment shall be made pursuant to this paragraph unless the provider of housing is a commercial establishment, shelter, or

person in the business of renting properties who has a history of renting properties.

(g) The department shall establish rules and regulations assuring the uniform application statewide of this subdivision.

(h) The department shall notify all applicants and recipients of aid through the standardized application form that these benefits are available and shall provide an opportunity for recipients to apply for the funds quickly and efficiently.

(i) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a).

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

SEC. 3. Section 11450.01 of the Welfare and Institutions Code is amended to read:

11450.01. (a) Notwithstanding any other provision of law, commencing October 1, 1992, the maximum aid payments specified in paragraph (1) of subdivision (a) of Section 11450 in effect on July 1, 1992, shall be reduced by 4.5 percent.

(b) (1) The department shall seek the approval from the United States Department of Health and Human Services that is necessary to reduce the maximum aid payments specified in subdivision (a) by an additional amount equal to 1.3 percent of the maximum aid payments specified in paragraph (1) of subdivision (a) of Section 11450 in effect on July 1, 1992.

(2) The reduction provided by this subdivision shall be made on the first day of the month following 30 days after the date of approval by the United States Department of Health and Human Services.

SEC. 4. Section 11450.015 of the Welfare and Institutions Code is amended to read:

11450.015. Notwithstanding any other provision of law, the maximum aid payments in effect on June 30, 1993, in accordance with paragraph (1) of subdivision (a) of Section 11450 as reduced by subdivisions (a) and (b) of Section 11450.01, shall be reduced by 2.7 percent beginning the first of the month following 60 days after the enactment of this section.

SEC. 5. Section 11450.017 of the Welfare and Institutions Code is amended to read:

11450.017. Notwithstanding any other provision of law, the maximum aid payment in effect on June 30, 1994, in accordance with paragraph (1) of subdivision (a) of Section 11450 as reduced by subdivisions (a) and (b) of Section 11450.01 and Section 11450.015, shall be reduced by 2.3 percent beginning the first of the month following 50 days after the effective date of this section.

SEC. 6. Section 11450.018 of the Welfare and Institutions Code is amended to read:

11450.018. (a) Notwithstanding any other provision of law, the maximum aid payment in accordance with paragraph (1) of

subdivision (a) of Section 11450 as reduced by subdivisions (a) and (b) of Section 11450.01, Section 11450.015, and Section 11450.017, shall be reduced by 4.9 percent for counties in Region 2, as specified in Section 11452.018.

(b) Notwithstanding any other provision of law, through October 31, 1997, the maximum aid payment in accordance with paragraph (1) of subdivision (a) of Section 11450, as reduced by subdivision (a) and (b) of Section 11450.01, Section 11450.015, Section 11450.017, and subdivision (a) shall be reduced by 4.9 percent.

(c) Prior to implementing the reductions specified in subdivisions (a) and (b), the director shall apply for and obtain a waiver from the United States Department of Health and Human Services of Section 1396a(c)(1) of Title 42 of the United States Code. The reduction shall be implemented to the extent the waiver is granted and only so long as the waiver is effective. This subdivision shall not apply if either the federal waiver process set forth at Section 1315 of Title 42 of the United States Code or Section 1396a(c) is repealed or modified such that a waiver is not necessary to implement subdivision (a) or (b).

(d) This section shall become operative and the reductions specified in subdivisions (a) and (b) shall commence on the first day of the month following 30 days after the receipt of federal approval or on the first day of the month following 30 days after a change in federal law that allows states to reduce aid payments without any risk to federal funding under Title XIX of the Social Security Act, whichever is earlier, but no earlier than October 1, 1995.

SEC. 7. Section 11453 of the Welfare and Institutions Code is amended to read:

11453. (a) Except as provided in subdivision (c), the amounts set forth in Section 11452 and subdivision (a) of Section 11450 shall be adjusted annually by the department to reflect any increases or decreases in the cost of living. These adjustments shall become effective July 1 of each year, unless otherwise specified by the Legislature. The cost-of-living adjustment shall be calculated by the Department of Finance based on the changes in the California Necessities Index, which as used in this section means the weighted average changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

(b) The overall adjustment factor determined by the preceding computation steps shall be multiplied by the schedules established pursuant to Section 11452 and subdivision (a) of Section 11450 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules which shall be filed with the Secretary of State.

(c) (1) No adjustment to the maximum aid payment set forth in subdivision (a) of Section 11450 shall be made under this section for the purpose of increasing the benefits under this chapter for the

1990–91, 1991–92, 1992–93, 1993–94, 1994–95, 1995–96, and 1996–97 fiscal years, and through October 31, 1997, to reflect any change in the cost of living. For the 1997–98 fiscal year, the cost-of-living adjustment that would have been provided on July 1, 1997, pursuant to subdivision (a) shall be made on November 1, 1997. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 11453.05, and no further reduction shall be made pursuant to that section.

(2) No adjustment to the minimum basic standard of adequate care set forth in Section 11452 shall be made under this section for the purpose of increasing the benefits under this chapter for the 1990–91 and 1991–92 fiscal years to reflect any change in the cost of living.

(d) Adjustments for subsequent fiscal years pursuant to this section shall not include any adjustments for any fiscal year in which the cost of living was suspended pursuant to subdivision (c).

SEC. 8. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) (1) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(2) Notwithstanding paragraph (1), foster care providers licensed as group homes shall have rates established only if the group home is organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400. The department shall terminate the rate effective January 1, 1993, of any group home not organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, "The Classification of Group Home Programs under the Standardized Schedule of Rates System," prepared by the State Department of Social Services, August 30, 1989.

(c) The rate for each rate classification level (RCL) has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986–87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

(d) As used in this section, "standardized schedule of rates" means a listing of the 14 rate classification levels, the single rate established for each RCL, and the rate floor for each RCL.

(e) The standardized schedule of rates shall be phased in commencing July 1, 1990.

(1) In order to phase in the standardized schedule of rates, a "rate floor" has been established for each RCL.

(2) The rate floor for fiscal year 1990–91 shall be 85 percent of the standard rate for each RCL. The rate floor shall be increased to 92.5 percent of the standard rate for fiscal year 1991–92 for each RCL, shall be equal to the standard rate for each RCL for the period July 1, 1992, to September 13, 1992, inclusive, and shall be 92.5 percent of the standard rate for each RCL for the period September 14, 1992, to June 30, 1993, inclusive.

(3) The rate floor for each RCL shall be 95 percent of the standard rate for each RCL for the 1993–94 fiscal year. The rate floor shall be equal to the standard rate for each RCL for the 1994–95 fiscal year and beyond.

(f) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) For a group home program for which the department established a rate effective prior to June 30, 1990, that took into account the program's historical costs, the department shall establish the rate for fiscal year 1990–91 by determining the RCL on a retrospective basis, according to the level of care and services actually provided between July 1 and December 31, 1989, or between July 1, 1989, and March 31, 1990.

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall inform the department. The department shall develop regulations specifying procedures to be applied when a group home fails to maintain the level of services projected, including, but not limited to, rate reduction and recovery of overpayments.

(3) The department shall not reduce the rate, establish an overpayment, or take other actions pursuant to paragraph (2) for any period that a group home program maintains the level of care and services associated with the RCL for children actually residing in the facility. Determinations of levels of care and services shall be made in the same way as modifications of overpayments are made pursuant to paragraph (2) of subdivision (b) of Section 11466.2.

(4) Beginning July 1, 1994, for group homes paid at rates below the standard rate established by subdivision (g), a group home program shall remain at its current RCL if it maintains at least the level of care and services associated with that percentage of the points required

to be at that RCL that equals the percentage of the standard rate used to establish the group home's rate. In no event, however, shall points per child per month be reduced more than 10 points below the minimum required for the current RCL. The RCL for a program shall not increase due to the operation of this paragraph absent any program changes approved by the department pursuant to subdivision (k).

(5) A group home program that substantially changes it staffing pattern from that reported in the group home program statement shall provide notification of this change to all counties that have placed children currently in care. This notification shall be provided whether or not the RCL for the program may change as a result of the change in staffing pattern.

(g) The standardized schedule of rates for fiscal year 1990–91 is:

		FY 1990–91	
Rate Classification Level	Point Ranges	Standard Rate	Rate Floor (85%)
1	Under 60	$1,183	$1,006
2	60–89	1,478	1,256
3	90–119	1,773	1,507
4	120–149	2,067	1,757
5	150–179	2,360	2,006
6	180–209	2,656	2,258
7	210–239	2,950	2,508
8	240–269	3,245	2,758
9	270–299	3,539	3,008
10	300–329	3,834	3,259
11	330–359	4,127	3,508
12	360–389	4,423	3,760
13	390–419	4,720	4,012
14	420 & Up	5,013	4,261

(h) (1) For fiscal year 1990–91, the standardized schedule of rates shall be implemented as follows:

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year below the standard rate for the fiscal year 1990–91 RCL shall receive their 1989–90 rate plus an amount equal to the California Necessities Index (CNI). The rate for fiscal year 1990–91 at which the state will participate shall not exceed the standard rate for the RCL.

(B) If the CNI increase to the group home program's fiscal year 1989–90 rate does not raise the group home program to the rate floor for the RCL, the group home program shall receive a rate equal to the rate floor for the RCL.

(C) A group home program which received an AFDC-FC rate for fiscal year 1989–90 at or above the standard rate for the RCL for fiscal year 1990–91 shall continue to receive that fiscal year 1989–90 rate.

(2) For that portion of the 1997–98 fiscal year, commencing on November 1, 1997, and the 1998–99 fiscal year, the standardized rate for each RCL shall be adjusted by an amount equal to the California Necessities Index computed pursuant to the methodology described in Section 11453.

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year at or above the adjusted standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(B) A group home program which received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive that rate adjusted by an amount equal to the CNI. The rate for the current fiscal year shall not exceed the standard rate for the RCL and shall not be less than the rate floor for the RCL.

(3) Beginning with the 1999–2000 fiscal year. the standardized schedule of rates shall be adjusted annually by an amount equal to the CNI computed pursuant to Section 11453, subject to the availability of funds.

(A) Any group home program which received an AFDC-FC rate in the prior fiscal year at or above the adjusted standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(B) Any group home program which received an AFDC-FC rate in the prior fiscal year below the adjusted standard rate for the RCL in the current fiscal year shall receive the adjusted RCL rate.

(i) (1) (A) The rate for a new group home program of a new or existing provider shall be established at the rate floor for the new program's projected RCL.

(B) On and after the operative date of this subparagraph, the department shall not, prior to July 1, 1993, establish a rate for a new group home program of a new or existing provider.

(2) The department shall not establish a rate for a new program of a new or existing provider unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in that county; that the provider is capable of effectively and efficiently operating the program; and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(3) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the

purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(4) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Sections 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

(j) The department shall develop regulations specifying ratesetting procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services.

(k) (1) For the purpose of this subdivision, "program change" means any alteration to an existing group home program planned by a provider that will increase the RCL or AFDC-FC rate. An increase in the licensed capacity or other alteration to an existing group home program that does not increase the RCL or AFDC-FC rate shall not constitute a program change.

(2) (A) Prior to July 1, 1993, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective June 30, 1992. For rate increases as a result of a program change which became effective between July 1, 1992, and the effective date of this paragraph, the department shall adjust rates downward as necessary to comply with this chapter. Notwithstanding any other provisions of law, a group home provider shall be allowed to change a group home program to reflect a decrease in services due to the provisions of this paragraph.

(B) For the 1993–94 fiscal year, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective July 1, 1993, except as provided in paragraph (3).

(C) For the 1994–95 fiscal year, the 1995–96 fiscal year, and the 1996–97 fiscal year, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective July 1, 1994, except as provided in paragraph (3).

(3) (A) For the 1993–94 fiscal year, the 1994–95 fiscal year, the 1995–96 fiscal year, and the 1996–97 fiscal year, the department shall not establish a rate for a new program of a new or existing provider or approve a program change for an existing provider that either increases the program's RCL or AFDC-FC rate, or increases the licensed capacity of the program as a result of decreases in another program with a lower RCL or lower AFDC-FC rate that is operated by that provider, unless both of the conditions specified in this paragraph are met.

(i) The licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program.

(ii) The county determines that there is no increased cost to the General Fund.

(B) Notwithstanding subparagraph (A), the department may grant a request for a new program or program change, not to exceed 25 beds, statewide, if (i) the licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program, and (ii) the new program or program change will result in a reduction of referrals to state hospitals during the 1993–94 fiscal year, the 1994–95 fiscal year, the 1995–96 fiscal year, or the 1996–97 fiscal year.

(*l*) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be deducted from the cost of providing services pursuant to this section.

(m) The department shall, by October 1 each year, commencing October 1, 1992, provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group homes care. The committee may, in fiscal year 1993–94 and beyond, use the list to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

(n) This section shall become operative on July 1, 1995.

SEC. 9. Section 11462.1 is added to the Welfare and Institutions Code, to read:

11462.1. (a) No later than February 1, 1997, the department shall establish a proposal for a basic rate for the care and supervision of children subject to Section 300 or Section 602 who are placed in out-of-home care facilities, regardless of the type of placement. In addition, the proposal shall include a rate structure with incremental rates for various service components provided to children subject to Section 300 or Section 602 who are placed in out-of-home care to facilitate the provision of those services according to the individual needs of each child.

(b) The rate structure proposed pursuant to subdivision (a) shall, in the aggregate, cost no more than the aggregate cost of the rate structure in effect on January 1, 1997.

(c) The department, in developing the rate structure proposal required by this section, shall seek and consider the advice and participation of county welfare and probation departments, group home providers, foster family agencies, group home associations, the Foster Parent Association, representatives of the Legislature, and other interested parties.

(d) The department shall provide the proposal to the chairs of the appropriate policy committees and fiscal committees in the Senate

and the Assembly by February 1, 1997. Any change to the current rate system proposed by the department pursuant to this section shall require statutory authorization.

SEC. 10. Section 11466.25 of the Welfare and Institutions Code is repealed.

SEC. 11. Section 11466.25 is added to the Welfare and Institutions Code, to read:

11466.25. Interest begins to accrue on a group home provider overpayment on the date of the issuance of the final audit report.

SEC. 12. Section 11487.5 of the Welfare and Institutions Code is repealed.

SEC. 13. Section 11487.5 is added to the Welfare and Institutions Code, to read:

11487.5. (a) Notwithstanding any other provision of law, including Sections 11487 and 15204.5, the department shall implement a program in any participating county whereby the county shall be reimbursed for overpayment recoveries under Section 11004 as follows:

(1) Reimbursement shall be made to a participating county based on a plan of operations for a program of overpayment recoveries that is approved by the department. No operating plan shall be approved by the department unless the plan contains assurances that the participating county will maintain a centralized unit or designate a person or persons to perform the overpayment recovery activities.

(2) Reimbursement shall be made for all allowable administrative costs incurred, as defined by the department, to make a recovery of overpayments under Section 11004, not to exceed the state's share of the overpayments recovered by the county.

(b) For purposes of this section, "participating county" means any county in which the welfare director applies to the department for participation in the program prescribed by this section.

(c) On or before January 30, 1997, the department shall report to the appropriate committees of the Legislature on the implementation of this section.

(d) This section shall be implemented when both of the following have occurred:

(1) The federal government has made funding available for the activities described in this section.

(2) The Department of Finance has examined the annual projection of costs and savings for these activities certified by the director, and has determined that during each fiscal year in which the director proposes to implement these provisions the savings to the General Fund from increased overpayment recoveries equals or exceeds the additional costs to the state.

SEC. 14. Section 11501 of the Welfare and Institutions Code is amended to read:

11501. (a) Families who were formerly recipients of aid under this chapter for three of the previous six months, and who meet all

federal requirements for transitional child care shall be eligible for 12 months of transitional child care under this article. Transitional child care services shall include the same services as those child care supportive services provided under subdivision (b) and paragraphs (1), (2), and (5) of subdivision (c) of Section 11323.8, except for those portions which are specifically prohibited by federal law or regulations.

(b) To the extent permissible under federal law and regulations, transitional child care supportive services provided pursuant to subdivision (b) and paragraphs (1), (2), and (5) of subdivision (c) of Section 11323.8 shall be provided by the county in the same manner as they are provided to families in the county GAIN program. The county may contract out with public and private child care programs to provide any or all of the services.

(c) No funding shall be provided for nonfederal cases or for costs which are not eligible for federal matching funds unless specifically provided under this chapter.

(d) This section shall become inoperative if, and commencing on the date that, the director executes a declaration, that shall be retained by the director, stating that any federal approval required for federal financial participation in the provision of transitional child care pursuant to Section 11501.1, as added during the 1996 portion of the 1995–96 Regular Session of the Legislature, has been obtained, and shall remain inoperative until the date that either Section 11501.1 is repealed or the director executes a declaration, that shall be retained by the director, stating that federal financial participation for implementation of Section 11501.1 has terminated, whichever occurs first.

SEC. 15. Section 11501.1 is added to the Welfare and Institutions Code, to read:

11501.1. (a) Families who were formerly recipients of aid under this chapter for three of the previous six months, and who meet all federal requirements for transitional child care, shall be eligible for 24 months of transitional child care under this article. Transitional child care services shall include the same services as those child care supportive services provided under subdivision (b) and paragraphs (1), (2), and (5) of subdivision (c) of Section 11323.8, except for those portions that are specifically prohibited by federal law or regulations.

(b) To the extent permissible under federal law and regulations, transitional child care supportive services provided pursuant to subdivision (b) and paragraphs (1), (2), and (5) of subdivision (c) of Section 11323.8, shall be provided by the county in the same manner as they are provided to families in Article 3.2 (commencing with Section 11320). The county may contract with public and private child care programs to provide any or all of the services.

(c) No funding shall be provided for nonfederal cases or for costs that are not eligible for federal matching funds unless specifically provided under this chapter.

(d) It is the intent of the Legislature that, to the extent feasible, in order to promote the efficient delivery of services, social service agencies, in implementing this section, shall operate in cooperation with existing child care delivery systems in their area.

(e) No later than October 1, 1996, the director shall seek approval from the United States Department of Health and Human Services for federal financial participation in the implementation of this section.

(f) Subdivisions (a) to (c), inclusive, shall be implemented only if, and commencing on the date that, the director executes a declaration, that shall be retained by the director, stating that approval for federal financial participation has been obtained in accordance with subdivision (d).

SEC. 15.5. Section 11501.5 of the Welfare and Institutions Code is amended to read:

11501.5. (a) Families who, because of marriage or because separated spouses reunite, lose eligibility under this chapter because the family either no longer meets the need requirement specified in Section 11250 or has increased assets or income, or both, shall be eligible for transitional child care benefits as specified under this article for a period not to exceed 12 months.

(b) This section shall not be implemented until the director has executed a declaration, that shall be retained by the director, that any necessary waivers and federal financial participation have been obtained.

SEC. 16. Section 12200.01 of the Welfare and Institutions Code is amended to read:

12200.01. (a) Notwithstanding any other provision of law, commencing November 1, 1992, the payments schedules set forth in Section 12200 in effect on June 30, 1992, except subdivisions (e), (g), and (h) shall be reduced by 5.8 percent.

(b) Notwithstanding subdivision (a), in no event shall the combined amount of the federal Supplementary Security Income payment and the state Supplementary State Program payment level for any applicant or recipient be reduced below the level required by the federal Social Security Act in order to maintain eligibility for federal funding under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code).

SEC. 17. Section 12200.015 of the Welfare and Institutions Code is amended to read:

12200.015. (a) Notwithstanding any other provision of law, the maximum aid payments in effect on June 30, 1993, in accordance with Section 12200, as reduced by subdivision (a) of Section 12200.01, except subdivisions (e), (g), and (h) of Section 12200, shall be reduced by 2.7 percent beginning the first of the month following 60 days after the enactment of this section.

(b) Notwithstanding subdivision (a), in no event shall the payment schedules be reduced below the level required by the federal Social Security Act in order to maintain eligibility for federal funding under Title XIX of the federal Social Security Act, contained in Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

SEC. 18. Section 12200.017 of the Welfare and Institutions Code is amended to read:

12200.017. (a) Notwithstanding any other provision of law, the maximum aid payments in effect on June 30, 1994, in accordance with Section 12200, as reduced by subdivision (a) of Section 12200.01 and Section 12200.015, except subdivisions (e), (g), and (h) of Section 12200, shall be reduced by 2.3 percent effective September 1, 1994.

(b) Notwithstanding subdivision (a), in no event shall any maximum aid payment schedule in any payment category established pursuant to Section 12200 be reduced below the level required by the federal Social Security Act in order to maintain eligibility for federal funding under Title XIX of the federal Social Security Act, contained in Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(c) In no event shall the reduction of any maximum aid payment level pursuant to this section result in a change in share of cost or eligibility for services under Article 7 (commencing with Section 12300) for any aged, blind, or disabled person who was receiving services under that article in 1994 prior to the enactment of this section because of that reduction in maximum aid payment, provided he or she continues to meet other applicable requirements.

SEC. 19. Section 12200.018 of the Welfare and Institutions Code is amended to read:

12200.018. (a) If permitted by federal law, and notwithstanding any other provision of law, through October 31, 1997, the payment schedules set forth in Section 12200 in effect on June 30, 1995, as reduced by subdivision (a) of Section 12200.01, Section 12200.015, and subdivision (a) of Section 12200.017, except subdivisions (e), (g), and (h), shall be reduced by 4.9 percent.

(b) If permitted by federal law, and notwithstanding any other provision of law, the payment schedules set forth in Section 12200 in effect on June 30, 1995, as reduced by subdivision (a) of Section 12200.01, Section 12200.015, subdivision (a) of Section 12200.017, and subdivision (a) of this section, except subdivision (e), (g), and (h), shall be adjusted, for each county to reflect regional variations in housing costs based on the lowest quartile of monthly rents reported in the Decennial Census data for 1990, in the following manner:

(1) For the regions where the lowest quartile rent equals or exceeds four hundred dollars ($400) per month, the payment schedules shall not be reduced. This region shall consist of the following counties:

(A) Alameda County

(B) Contra Costa County
(C) Los Angeles County
(D) Marin County
(E) Monterey County
(F) Napa County
(G) Orange County
(H) San Diego County
(I) San Francisco County
(J) San Luis Obispo County
(K) San Mateo County
(L) Santa Barbara County
(M) Santa Clara County
(N) Santa Cruz County
(O) Solano County
(P) Sonoma County
(Q) Ventura County

(2) For counties where lowest quartile rent is below four hundred dollars ($400) per month, the payment schedules shall be reduced by 4.9 percent. This paragraph shall apply to the following counties:

(A) Alpine County
(B) Amador County
(C) Butte County
(D) Calaveras County
(E) Colusa County
(F) Del Norte County
(G) El Dorado County
(H) Fresno County
(I) Glenn County
(J) Humboldt County
(K) Imperial County
(L) Inyo County
(M) Kern County
(N) Kings County
(O) Lake County
(P) Lassen County
(Q) Madera County
(R) Mariposa County
(S) Mendocino County
(T) Merced County
(U) Modoc County
(V) Mono County
(W) Nevada County
(X) Placer County
(Y) Plumas County
(Z) Riverside County
(AA) Sacramento County
(AB) San Benito County
(AC) San Bernardino County

(AD) San Joaquin County
(AE) Shasta County
(AF) Sierra County
(AG) Siskiyou County
(AH) Stanislaus County
(AI) Sutter County
(AJ) Tehama County
(AK) Trinity County
(AL) Tulare County
(AM) Tuolumne County
(AN) Yolo County
(AO) Yuba County

(c) Subdivisions (a) and (b) shall be operative, and the reductions in payment schedules shall commence on the first of the month following approval and implementation by the Social Security Administration but no earlier than December 1, 1995.

(d) Subdivisions (a) and (b) shall not be operative if any payment schedule set forth in Section 12200 would be reduced below the level required by subsection (e) of Section 1382g of Title 42 of the United States Code in order to maintain eligibility for federal funding under Title XIX of the Social Security Act, contained in Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(e) If subdivisions (a) and (b) are not operative, the payment schedules set forth in Section 12200, except subdivisions (e), (g), and (h), shall for the 1996–97 fiscal year through October 31, 1997, be reduced, commencing December 1, 1995, to the minimum amounts, not to exceed 4.9 percent of the maximum aid payment in effect on June 30, 1995, permitted by the federal Social Security Act by subsection (e) of Section 1382g of Title 42 of the United States Code that will maintain eligibility for federal funding under Title XIX of the Social Security Act, contained in Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(f) In no event shall the reduction of any payment schedule pursuant to this section result in a change in eligibility or share of cost for services under Article 7 (commencing with Section 12300) for any aged, blind, or disabled person who was receiving services under that article in 1995 prior to the enactment of this section because of that reduction in maximum aid payment, provided he or she continues to meet other applicable requirements.

SEC. 20. Section 12201 of the Welfare and Institutions Code is amended to read:

12201. (a) Except as provided in subdivision (d), the payment schedules set forth in Section 12200 shall be adjusted annually to reflect any increases or decreases in the cost of living. These adjustments shall become effective January 1 of each year. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the

weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(1) The base period expenditure amounts for each expenditure category within the California Necessities Index used to compute the annual grant adjustment are:

Food	$ 3,027
Clothing (apparel and upkeep)	406
Fuel and other utilities	529
Rent, residential	4,883
Transportation	1,757
Total	$10,602

(2) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the 12-month period which ends twelve months prior to the January in which the cost-of-living adjustment will take effect, for each expenditure category specified in paragraph (1) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the state which include not less than 80 percent of recipients of aid under this chapter.

(3) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(4) Calculate a category adjustment factor for each expenditure category in paragraph (1) by (1) adding 100 to the applicable weighted percentage change as determined in paragraph (2) and (2) dividing the sum by 100.

(5) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in paragraph (4).

(6) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in paragraph (4) for the current year by (2) the sum of the expenditure amounts as determined in paragraph (4) for the prior year.

(b) The overall adjustment factor determined by the preceding computational steps shall be multiplied by the payment schedules

established pursuant to Section 12200 as are in effect during the month of December preceding the calendar year in which the adjustments are to occur, and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules for the categories given under subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 12200, and shall be filed with the Secretary of State. The amount as set forth in subdivision (h) of Section 12200 shall be adjusted annually pursuant to this section in the event that the secretary agrees to administer payment under that subdivision. The payment schedule for subdivision (i) of Section 12200 shall be computed as specified, based on the new payment schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

(c) The department shall adjust any amounts of aid under this chapter to insure that the minimum level required by the Social Security Act in order to maintain eligibility for funds under Title XIX of that act is met.

(d) (1) No adjustment shall be made under this section for the 1991, 1992, 1993, 1994, 1995, 1996, and 1997 calendar years to reflect any change in the cost of living. Elimination of the cost-of-living adjustment pursuant to this paragraph shall satisfy the requirements of Section 12201.05, and no further reduction shall be made pursuant to that section.

(2) Any cost-of-living adjustment granted under this section for any calendar year shall not include adjustments for any calendar year in which the cost of living was suspended pursuant to paragraph (1).

SEC. 21. Section 12201.03 of the Welfare and Institutions Code is amended to read:

12201.03. (a) For the 1992, 1993, 1994, 1995, 1996, and 1997 calendar years, if no cost-of-living adjustment is made pursuant to Section 12201, the payment schedules set forth in Sections 12200, 13920, and 13921, as adjusted pursuant to Section 12201, shall include the pass along of any cost-of-living increases in federal benefits under Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code.

(b) Notwithstanding paragraph (2) of subdivision (d) of Section 12201, any adjustments made pursuant to this section to reflect the pass along of federal cost-of-living adjustments shall be included in the base amounts for purposes of determining cost-of-living adjustments made pursuant to Section 12201.

(c) Notwithstanding subdivision (a), no pass along of any cost-of-living increase in federal benefits under Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code shall be made in 1994. This provision shall not apply to those persons receiving payments pursuant to subdivisions (e), (g), and (h) of Section 12200.

(d) Notwithstanding subdivision (a), in no event shall the payment schedules be reduced below the level required by the federal Social Security Act in order to maintain eligibility for federal

funding under Title XIX of the federal Social Security Act, contained in Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

SEC. 22. 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 and that makes or provides for direct payment to a provider chosen by the recipient for the purchase of services pursuant to Sections 12302 and 12302.2. 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 hire, fire, and supervise 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 hire, fire, and supervise the work of any in-home supportive services personnel providing services for them.

(3) When any increase in provider wages or benefits is negotiated or agreed to by a public authority or nonprofit consortium under this section, then the county shall use county-only funds to fund both the county share and the state share, including employment taxes, of any increase in the cost of the program, unless otherwise provided for in the annual Budget Act or appropriated by statute. No increase in wages or benefits negotiated or agreed to pursuant to this section shall take effect unless and until, prior to its implementation, the department has obtained the approval of the State Department of Health Services for the increase pursuant to a determination that it is consistent with federal law and to ensure federal financial participation for the services under Title XIX of the federal Social Security Act.

(d) A public authority established pursuant to this section or a nonprofit consortium contracting with a county pursuant to this section, when providing for the delivery of services under this article by contract in accordance with Sections 12302 and 12302.1 or by direct payment to a provider chosen by a recipient in accordance with Sections 12302 and 12302.2, shall comply with and be subject to, all statutory and regulatory provisions applicable to the respective delivery mode.

(e) 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 for 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.

(f) (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.

(g) 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).

(h) 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.

(i) Nothing in this section shall be construed to affect the state's responsibility with respect to the state payroll system, unemployment insurance, or workers' compensation and other provisions of Section 12302.2 for providers of in-home supportive services. Any county that elects to provide in-home supportive services pursuant to this section shall be responsible for any increased costs to the in-home supportive services case management, information, and payrolling system attributable to that election. The department shall collaborate with any county that elects to provide in-home supportive services pursuant to this section prior to implementing the amount of financial obligation for which the county shall be responsible.

(j) 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.

(k) 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.

(*l*) (1) The department may adopt regulations implementing this section 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. 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.

(2) 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.

(3) 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.

(m) (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.

(n) (1) One year after the effective date of the first approval by the department granted to the first public authority, the Bureau of State Audits shall commission a study to review the performance of that public authority.

(2) The study shall be submitted to the Legislature and the Governor not later than two years after the effective date of the approval specified in subdivision (a). The study shall give special attention to the health and welfare of the recipients under the public authority, including the degree to which all required services have been delivered, out-of-home placement rates, prompt response to recipient complaints, and any other issue the director deems relevant.

(3) The report shall make recommendations to the Legislature and the Governor for any changes to this section that will further ensure the well-being of recipients and the most efficient delivery of required services.

(o) Commencing July 1, 1997, the department shall provide annual reports to the appropriate fiscal and policy committees of the Legislature on the efficacy of the implementation of this section, and shall include an assessment of the quality of care provided pursuant to this section.

SEC. 23. Section 12302.1 of the Welfare and Institutions Code is amended to read:

12302.1. (a) Contracts entered into by a county under Section 12302 shall be for terms not exceeding three years. In the event of a three-year contract, the county, at the end of the first contract term, may renew the contract for a second term not exceeding one year. The rate of reimbursement shall be negotiated consistent with regulations promulgated by the State Department of Social Services. For any extended contract, the rate shall reflect, but is not limited to, the following financial considerations:

(1) Actual expenditures by the contractor as documented during the first contract term and approved by the state.

(2) Changes in federal, state, or county program requirements.

(3) Federal and state minimum wage and contractual step merit increases.

(4) Statutory taxes.

(5) Insurance costs.

(6) Reasonable costs which have been approved by the county department of social services, as long as those costs do not increase unreimbursed county expenditures or lead to a reduction in client services, and those costs can be funded within the maximum allowable rates set by the department for in-home supportive services contracts and the county's state allocation for in-home supportive services.

(7) Other reasonable costs over which the contracting parties have no control.

(b) (1) Except as provided in paragraph (2), the purchase of services regulations adopted by the department that govern county welfare departments shall also govern acceptable in-home supportive services contracting, including the methods used to advertise, procure, select, and award the contracts, and the procedures used to amend, renew, or extend an existing contract with the same contractor, including, in addition to rate changes, any other change in other terms of the contract. In no case shall the department's regulations governing in-home supportive services contracting procedures differ from the contract procedures specified in the department's purchase of service regulations for other services purchased by county welfare departments, except as required by federal law.

(2) The department may, through regulation, require until July 1, 2000, the prior review of all bid and contract documents for managed care contracts under Section 12302.7.

SEC. 24. Section 12302.7 of the Welfare and Institutions Code is repealed.

SEC. 25. Section 12302.7 is added to the Welfare and Institutions Code, to read:

12302.7. (a) (1) Any county may contract on a nonexclusive basis with any qualified individual, organization, entity, or entities to provide or arrange for in-home supportive services as specified in Section 12300 and personal care services as specified in Section 14132.95. Subject to subdivisions (j), (k), and (*l*), contracts under this section may be entered into on a "task frequency mode of service delivery" basis. For purposes of this section "task frequency mode of service" means a mode of service delivery under which the contractor is financially at risk for providing all in-home supportive services identified as necessary by the county pursuant to Section 12301.1 to enrolled beneficiaries in the county. The costs of these contracts shall not exceed the sum of 100 percent of the county's

average cost per case at the time the contract is entered into for the average cost per case for persons eligible to receive services under subdivision (a) of Section 12303.4 and the average cost per case for persons eligible to receive services under subdivision (b) of Section 12303.4 for cases covered by the contract, adjusted to reflect subsequent increases in state or federal minimum wage requirements and any adjustments for wages provided in Budget Acts enacted after January 1, 1997.

(2) The contract authorized by paragraph (1) may include provisions to do the following:

(A) Provide for service delivery on a task frequency basis or on an hourly basis.

(i) To the extent a contract provides for a task frequency basis of service assessment and delivery, and if services are to be claimed and reimbursed on an hourly basis, the task frequency basis shall be converted to an hourly equivalency by the county.

(ii) For purposes of this section, a "task frequency basis" means the provision of all services identified as necessary by the county to a beneficiary at intervals that are consistent with the needs identified by the county. This clause shall not require that each service be provided for the same duration as the same or substantially similar service provided in other modes of service delivery.

(B) Provide for the delivery of in-home supportive services authorized under this article and Medi-Cal personal care services provided for pursuant to Section 14132.95, or both, in a manner consistent with the task frequency mode of service delivery to ensure the most cost-effective and appropriate scope, frequency, and quality of services.

(C) (i) The county shall provide the case management services.

(ii) For purposes of this section, "case management services" includes, but is not limited to, the development of a plan of care based on the county's needs assessment and quality of care assurance.

(D) Provide for alternative methods of payment for services, including, but not limited to, a prospectively set reimbursement rate, a negotiated reimbursement rate, or other basis permissible under state and federal law.

(3) Any contract authorized by paragraph (1) shall include provisions to provide that any in-home supportive services direct service provider shall not also serve as a case manager.

(b) (1) The contracts shall apply to recipients becoming eligible for these services on or after the start date of the contract. Persons who qualified for in-home supportive services prior to hospitalization or institutionalization in a long-term care facility and who return home shall be considered as current recipients for purposes of this section. Recipients may elect to be served under a contract subject to this subdivision and shall be informed of the contractor's obligation to deliver all the services identified on a task frequency basis. Recipients may change contractors if there is more than one

contractor with the county. A recipient consenting to services from a contractor under this section may choose his or her home attendant and replace the home attendant if so desired. Recipients shall be informed of the task frequency mode of service delivery under the contract pursuant to subdivision (f) and the contractor's obligation to deliver all the services identified on a task frequency basis, to change contractors if there is more than one contractor with the county and they are informed that the recipients have the right to choose their home attendant and replace the home attendant if so desired and they voluntarily consent to services under this method.

(2) At the county's option, recipients who became eligible prior to the start date of the contract may elect to be served under a contract subject to this subdivision, provided they are informed of the task frequency mode of service delivery under the contract pursuant to subdivision (f) and the contractor's obligation to deliver all the services identified on a task frequency basis, to change contractors if there is more than one contractor with the county and they are informed that the recipients have the right to choose their home attendant and replace the home attendant if so desired and they voluntarily consent to services under this method.

(c) In all cases regarding the provision of services pursuant to contracts under this section, the county shall perform all of the following:

(1) Needs assessments.

(2) Needs assessment redeterminations, including determinations for the termination of services.

(3) Quality of care assurance meeting the standards established by the director pursuant to subdivision (g).

(4) The assignment of a recipient to a contractor subject to the provisions of subdivision (e).

(d) The contract shall permit a recipient to immediately change his or her caregiver provided by the contractor.

(e) A recipient of benefits under this article in a county that has entered into a contract pursuant to paragraph (1) of subdivision (a) may elect to receive benefits through any mode of service available in the county notwithstanding the manner in which the recipient had been receiving benefits prior to the date the county contract became effective, and may elect to disenroll from any mode of service delivery authorized by the county or change to another contractor if there is more than one contractor with the county at any time, upon 72 hours' notice. Any recipient who believes his or her health or safety may be in jeopardy shall have the right immediately to disenroll from a mode of service or change contractors.

(f) A county that contracts with an entity pursuant to subdivision (a) shall be required to fully inform recipients about the task frequency mode of service delivery, the requirements for the contractor to provide all services to which the recipient is entitled, including the frequency of the services, the recipient's right to

choose either the task frequency mode of service delivery or the individual provider mode of service delivery, the recipient's right to disenroll from the task frequency mode of service delivery, and the method by which the recipient may exercise his or her right to disenroll. The county shall also inform recipients of their right to request a hearing pursuant to Section 10950 if they are dissatisfied with any action concerning the delivery of service.

(g) (1) The director shall specify performance and quality assurance standards to be included in contracts under this section for in-home supportive services to assure delivery of all required services at the time the services are needed, including weekends and nights, establish proper screening, training, and supervision of persons providing direct services and institute frequent periodic quality control audits and utilization review of all services. These standards shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Quality control audits and utilization review shall be performed by entities that are independent of the county and the contractor. The reports of the audits and utilization review shall be made available to the public. The cost of those quality control audits and utilization review shall be considered as part of the county administrative costs under the contract.

(h) (1) Contracts subject to this section shall, to the greatest extent possible, permit recipients to set their own service schedule.

(2) Contractors shall have the capacity to deliver services on weekends and at night.

(i) (1) One year after the effective date of the first contract approved pursuant to this section, the Bureau of State Audits shall commission a study to review the performance of all contracts under this section.

(2) The study shall be submitted to the Legislature and the Governor not later than two years after the effective date of the first contract approved pursuant to this section.

(3) The study shall give special attention to both of the following:

(A) The health and welfare of the recipients under task frequency based contracts, including the degree to which all required services have been delivered, out-of-home placement rates, prompt response to recipient complaints, and any other issue the director deems relevant.

(B) The cost implications of task frequency based contracts, estimating the potential for ongoing savings, if any.

(4) The report shall make recommendations to the Legislature and the Governor for any changes to this section that would further ensure the well-being of recipients and the most efficient delivery of required services.

(j) The department shall obtain the approval of the State Department of Health Services for any contract providing personal care services entered into pursuant to this section prior to its

execution to determine that it is consistent with federal law and to ensure federal financial participation for the services under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code). The department shall expedite the approval of regulations, invitations for bids, requests for proposals, and contracts under this section.

(k) The Director of Health Services shall seek any federal waivers or approvals necessary for implementation of this section. Prior to, or at, the time the director submits any request or requests for federal approval, the director shall submit copies of the request or requests to the County Welfare Directors Association and to the appropriate committees of the Legislature.

(*l*) This section shall be implemented only if, and to the extent that, the Director of Health Services executes a declaration that states that any necessary federal approvals have been obtained and that federal financial participation under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code), if applicable, has been approved.

(m) Any contract entered into pursuant to this section shall provide for an assurance by the contractor that the scope, frequency, and quality of services provided under the contract shall not be reduced below the level authorized by the county pursuant to this article. A county shall ensure that the contractor provides all required service tasks to eligible recipients in accordance with their levels of need.

(n) If the department finds that the amount, scope, duration, or quality of care in a county has been reduced from that provided in the individual provider mode of service, then the department shall inform the county of its specific findings and the department shall require the county to take one of the following actions:

(1) Terminate the contract entered into under this section.

(2) Continue the contract and address the department's concerns. However, the county shall use county-only funds to fund both the county share and the state share of any increase in the cost of the program to fund necessary increases in the level of service, if any. A contract under this paragraph that does not increase the average cost per case in the county at the time of the program change shall be deemed not to increase the cost of the program.

(o) Increased costs attributable to a county contracting pursuant to this section, including increased costs that are associated with case management, information, and payrolling system augmentation shall be borne by the county.

(p) Any contract entered into pursuant to this section shall meet all applicable federal and state procurement requirements.

(q) All contracts subject to this section shall require the contractor to provide a plan for coordinating recruitment with the Greater Avenues for Independence (GAIN) program, provided for pursuant

to Article 3.2 (commencing with Section 11320) of Chapter 2, in order to maximize the employment opportunities of GAIN recipients.

(r) (1) A county contracting pursuant to this section shall appoint an advisory committee of not more than 11 individuals. 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.

(2) Prior to making designations of committee members, the board of supervisors shall solicit recommendations of qualified members 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.

(s) The department shall provide annual reports to the appropriate committees of the Legislature beginning on July 1, 1997, on the efficacy of the implementation of this section, and shall include an assessment of the quality of care provided pursuant to this section.

(t) The department may adopt regulations implementing this section 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. 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.

(u) This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 26. Section 12550 of the Welfare and Institutions Code is amended to read:

12550. For the purposes of this article, "special circumstances" means those which are not common to all recipients and which arise out of need for certain goods or services, and physical infirmities or other conditions peculiar, on a nonrecurring basis, to the individual's situation. Special circumstances shall include replacement of essential household furniture and equipment, or clothing when lost, damaged or destroyed by a catastrophe, necessary moving expenses, required housing repairs, and unmet shelter needs.

This section shall become operative on July 1, 1997.

SEC. 27. Section 12551 of the Welfare and Institutions Code is amended to read:

12551. Special circumstances shall also include special needs as provided in Sections 11023 and 11023.1.

This section shall become operative on July 1, 1997.

SEC. 28. Section 12552 of the Welfare and Institutions Code is amended to read:

12552. The county shall verify that a special circumstance does exist and shall issue a warrant for payment within the guidelines provided by the department. The county shall then send a claim to the state for payment.

This section shall become operative on July 1, 1997.

SEC. 29. Section 15200.6 of the Welfare and Institutions Code, as added by Section 129 of Chapter 722 of the Statutes of 1992, is repealed.

SEC. 30. Section 15200.6 of the Welfare and Institutions Code, as added by Section 6 of Chapter 851 of the Statutes of 1992, is amended to read:

15200.6. (a) It is the intent of the Legislature for the State Department of Social Services to allocate to counties funds as specified in this section to assist counties to increase child support collections through the child support enforcement program. For the 1992–93 fiscal year, the total amount allocated under the two methods specified in this section shall not exceed ten million dollars ($10,000,000). "Department," as used in this section, means the State Department of Social Services.

(b) The funds may be used for the following purposes and in any manner that will enhance child support collections.

(1) To purchase equipment and fund staff to further a county's effort to automate its offices as long as the automation is in accordance with the Statewide Automated Child Support System being implemented statewide.

(2) To fund staff who will further the county's collection efforts.

(3) To match federal funds to increase court time given to child support, including, but not limited to, funding additional family law commissioner or referee positions which are authorized by law, renting or leasing additional space, funding additional support staff and litigant services, and obtaining additional equipment. More than one county may jointly fund a family support commissioner or referee position to serve the participating counties. For the 1996–97 and 1997–98 fiscal years, funds shall be made available to the extent appropriated by the Budget Act to the Judicial Council to implement Section 4251 of, and Division 14 (commencing with Section 10000) of, the Family Code. The Judicial Council shall allocate the funds to counties for the purpose of matching federal funds for the costs of commissioners, family law facilitators, and related costs. The Judicial Council may also use the funds to offset the nonfederal share of costs incurred for performing the duties specified in Section 4252 of the Family Code. The funds may only be used to match federal funds to increase court time if the county does not decrease its current allocation of court time to child support cases or decrease the time more than in other areas under its plan for trial court funding. The

funds allocated pursuant to this section and the federal matching funds for increased court time for child support cases shall be considered outside the requirements of trial court funding. Funds allocated to the Judicial Council shall not be subject to the requirements of subdivision (c).

(c) Counties may choose one of the following methods for obtaining these funds to increase child support collections:

(1) Matching funds method:

(A) It is the intent of the Legislature to appropriate the sum of ten million dollars ($10,000,000), or any higher amount specified in the annual Budget Act, from the General Fund to the State Department of Social Services. Within 60 days of the enactment of the annual Budget Act, any county choosing to apply for funds under this method shall submit to the department a plan specifying the amount of county match funds the county will provide, the amount of General Fund moneys the county is requesting, and the intended uses of the funds consistent with subdivision (b).

(B) The department shall allocate the funds to counties based on the amount each county has reported it is to match. In order to receive these funds, a county shall match every dollar of the General Fund money provided to the county with fifty cents ($0.50) of county funds, which shall be used for the child support program. In the event that the department receives applications that exceed the total funds available, the department shall allocate the available funds among the applications based on collections-to-cost ratios.

(C) Funds expended to comply with Section 15200.97 shall qualify for this match.

(2) Loan method:

(A) The Director of Finance is authorized to transfer up to ten million dollars ($10,000,000), or any higher amount as may be specified in the annual Budget Act, from Item 5180-101-001 to Item 5180-141-001 of the annual Budget Act for allocation by the State Department of Social Services to county child support enforcement programs. There shall be no requirement for counties to match these funds, but the State Department of Social Services shall take any steps necessary to ensure that the maximum amount of federal funds are available to match these funds.

(B) The State Department of Social Services shall allocate these funds to counties based upon an approved application. In the event that the department receives applications that exceed the total funds available, the department shall allocate the available funds among the approved applications based on collections-to-cost ratios. In order to be approved, the application shall be signed by the district attorney and shall, at a minimum, specify:

(i) The county's estimate of the state share of baseline Aid to Families with Dependent Children (AFDC) collections in the county for the state fiscal year in which the requested allocation will be spent. For purposes of this section, "baseline AFDC collections"

means the collections that would be made by the county in the absence of this section. The department shall review the county's baseline AFDC and non-AFDC collections estimate and shall approve the estimate if it is reasonably consistent with recent trends and developments in the county.

(ii) The specific program activities for which the county proposes to use the funds. The county shall certify that these activities are in addition to the activities, or the levels of activity, funded in the previous year.

(iii) The amount requested.

(iv) The county's estimate of the state share of increased AFDC and non-AFDC collections, minus any incentive paid to the county pursuant to Section 15200.8, anticipated to result from the activities identified in clause (ii). The department shall review this estimate and advise the county as to its reasonableness. For purposes of this section, "increased AFDC collections" means revenues above the county's approved estimate of baseline AFDC collections.

(v) A statement by the district attorney that he or she understands that the incentives that would otherwise be paid to the county in the subsequent fiscal year will be reduced to recover any state costs that are not fully offset by increased revenues.

(C) The department shall approve applications with approved baseline AFDC collections and in which the collections-to-cost ratio derived by dividing the amounts estimated under clause (iv) of subparagraph (B) by the amount requested under clause (iii) of subparagraph (B) is equal to, or greater than, two times the statewide average comparable collections-to-cost ratio for the previous five years.

(D) At the end of the first quarter of the state fiscal year, following the state fiscal year in which any county received an allocation pursuant to this section, the department shall estimate the total state share of AFDC collections by each county, minus each incentive paid to the county pursuant to Section 15200.8.

(E) For each of the four quarters following the first quarter of the state fiscal year following the year in which a county receives an allocation pursuant to this section, the department shall reduce the incentive payment by one-fourth of the amount which the allocation to the county pursuant to this section for the previous state fiscal year exceeds the difference, if greater than zero, resulting from subtracting the state share of baseline AFDC collections specified in the county's application from the department's estimate of the state share of total collections.

(d) The Director of Finance may authorize the transfer of amounts from Item 5180-101-001 to Item 5180-001-001 of the Budget Act of 1992 in order to fund the cost of the administrative activities associated with the enhancement of the child support enforcement program authorized by the statute adding this section, and the provisions of AB 568, AB 2621, SB 1423, and SB 1959, if those bills are

enacted by the 1991–92 Regular Session of the Legislature. At least 30 days prior to those transfers, the department shall notify the Department of Finance and the fiscal committees of the Legislature of the planned transfer.

SEC. 31. Section 16525.10 of the Welfare and Institutions Code is amended to read:

16525.10. (a) For counties that do not participate in the partnership demonstration project pursuant to Section 16560, the department shall conduct the demonstration project described in Chapter 1385 of the Statutes of 1989, which shall conform to the requirements set forth in this chapter, and that shall be integrated with the foster care program authorized by Article 5 (commencing with Section 11400) of Chapter 2 of Part 3, and child welfare services programs authorized by Chapter 5 (commencing with Section 16500).

(b) This demonstration project shall be conducted in ten counties, as requested by each participating county, pursuant to procedures established by the department. The demonstration project in these counties shall continue until June 30, 1997, if funds are appropriated for that purpose in the Budget Act of 1996.

(c) Notwithstanding any other provision of law, the "Options for Recovery" services as described in the demonstration project shall be funded with a 30-percent nonfederal county share consistent with the normal sharing ratio for child welfare services. This county share may be provided with county general funds, or other sources of funds which are unrestricted and are eligible for this use as provided by the funding source. The source of the county share shall meet all applicable state and federal requirements and provide counties with maximum flexibility.

SEC. 32. Section 16525.40 of the Welfare and Institutions Code is amended to read:

16525.40. 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 enacted before January 1, 1998, deletes or extends that date.

SEC. 33. Section 17000.6 of the Welfare and Institutions Code, as amended by Section 8 of Chapter 6 of the Statutes of 1996, is amended to read:

17000.6. (a) The board of supervisors of any county may adopt a standard of aid below the level established in Section 17000.5 if the Commission on State Mandates makes a finding that meeting the standards in Section 17000.5 would result in a significant financial distress to the county. When the commission makes a finding of significant financial distress concerning a county, the board of supervisors may establish a level of aid which is not less than 40 percent of the 1991 federal official poverty level, which may be further reduced pursuant to Section 17001.5 for shared housing. The commission shall not make a finding of significant financial distress unless the county has made a compelling case that, absent the

finding, basic county services, including public safety, cannot be maintained.

(b) Upon receipt of a written application from a county board of supervisors, the commission may make a finding of financial distress for a period of up to 36 months pursuant to regulations that are necessary to implement this section, which shall be adopted by the commission. The period of reduction may be renewed by the commission upon reapplication by the county. Any county that filed an application or reapplication that was approved for a period of up to 12 months by the commission on or before December 31, 1996, shall be deemed to have had that application or reapplication approved for a period of 36 months. If the period of financial distress is delayed by court action, the period shall be tolled during that delay.

(c) As part of the decisionmaking process, the commission shall notice and hold a public hearing on the county's application or reapplication in the county of application. The commission shall provide a 30-day notice of the hearing in the county of application or reapplication. The commission shall notify the applicant county of its preliminary decision within 60 days after receiving the application and final decision within 90 days after receiving the application. If a county files an application while another county's application is pending, the commission may extend both the preliminary decision period up to 120 days and the final decision period up to 150 days from the date of the application and any current period of significant financial distress of the applicant county that has been set pursuant to subdivision (b) shall be extended for the same period.

(d) This section shall not be construed to eliminate the requirement that a county provide aid pursuant to Section 17000.

(e) Any standard of aid adopted pursuant to this section shall constitute a sufficient standard of aid.

(f) The commission may adopt emergency regulations for the implementation of this section.

SEC. 34. Section 17001.5 of the Welfare and Institutions Code, as amended by Section 9 of Chapter 6 of the Statutes of 1996, is amended to read:

17001.5. (a) Notwithstanding any other provision of law, including, but not limited to, Section 17000.5, the board of supervisors of each county, or the agency authorized by the county charter, may do any of the following:

(1) (A) Adopt residency requirements for purposes of determining a persons' eligibility for general assistance. Any residence requirement under this paragraph shall not exceed 15 days.

(B) Nothing in this paragraph shall be construed to authorize the adoption of a requirement that an applicant or recipient have an address or to require a homeless person to acquire an address.

(2) (A) Establish a standard of general assistance for applicants and recipients who share housing with one or more unrelated persons or with one or more persons who are not legally responsible

for the applicant or recipient. The standard of general assistance aid established pursuant to Section 17000.5 for a single adult applicant or recipient may be reduced pursuant to this paragraph by not more than the following percentages, as appropriate:

(i) Fifteen percent if the applicant or recipient shares housing with one other person described in this subparagraph.

(ii) Twenty percent if the applicant or recipient shares housing with two other persons described in this subparagraph.

(iii) Twenty-five percent if the applicant or recipient shares housing with three or more other persons described in this paragraph.

(B) Any standard of aid adopted pursuant to this paragraph shall constitute a sufficient standard of aid for any recipient who shares housing.

(C) Counties with shared housing reductions larger than the amounts specified in subparagraph (A) as of August 19, 1992, may continue to apply those adjustments.

(3) Discontinue aid under this part for a period of not more than 180 days with respect to any recipient who is employable and has received aid under this part for three months if the recipient engages in any of the following conduct:

(A) Fails, or refuses, without good cause, to participate in a qualified job training program, participation of which is a condition of receipt of assistance.

(B) After completion of a job training program, fails, or refuses, without good cause, to accept an offer of appropriate employment.

(C) Persistently fails, or refuses, without good cause, to cooperate with the county in its efforts to do any of the following:

(i) Enroll the recipient in a job training program.

(ii) After completion of a job training program, locate and secure appropriate employment for the recipient.

(D) For purposes of this paragraph, lack of good cause may be demonstrated by a showing of any of the following:

(i) The willful failure, or refusal, of the recipient to participate in a job training program, accept appropriate employment, or cooperate in enrolling in a training program or locating employment.

(ii) Not less than three separate acts of negligent failure of the recipient to engage in any of the activities described in clause (i).

(4) Prohibit an employable individual from receiving aid under this part for more than three months in any 12-month period, whether or not the months are consecutive. This paragraph shall apply to aid received on or after the effective date of this paragraph. This paragraph shall apply only to those individuals who have been offered an opportunity to attend job skills or job training sessions.

(5) Notwithstanding paragraph (3), discontinue aid to, or sanction, recipients for failure or refusal without good cause to follow program requirements. For purposes of this subdivision, lack of good cause may be demonstrated by a showing of either (A) willful failure

or refusal of the recipient to follow program requirements, or (B) not less than three separate acts of negligent failure of the recipient to follow program requirements.

(b) (1) The Legislative Analyst shall conduct an evaluation of the impact of this section on general assistance recipients and applicants.

(2) The evaluation required by paragraph (1) shall include, but need not be limited to, all of the following:

(A) The impact on the extent of homelessness among applicants and recipients of general assistance.

(B) The rate at which recipients of general assistance are sanctioned by county welfare departments.

(C) The impact of the 15-day residency requirement on applicants or recipients of general assistance, including how often the requirement is invoked.

(3) The Legislative Analyst shall, in the conduct of the study required by this section, consult with the State Department of Social Services, the County Welfare Directors Association, and organizations that advocate on behalf of recipients of general assistance.

(c) A county may provide aid pursuant to Section 17000.5 either by cash assistance, in-kind aid, a two-party payment, voucher payment, or check drawn to the order of a third-party provider of services to the recipient. Nothing shall restrict a county from providing more than one method of aid to an individual recipient.

SEC. 35. Section 19355.5 of the Welfare and Institutions Code is repealed.

SEC. 36. Section 19355.5 is added to the Welfare and Institutions Code, to read:

19355.5. Notwithstanding any other provision of law, effective July 1, 1996, all rates established for the 1996–97 fiscal year pursuant to Section 19356 under this chapter for work-activity programs shall be reduced proportionately if necessary by the percentage necessary to ensure that projected total General Fund expenditures for the habilitation services and vocational rehabilitation work activity and supported employment programs based on Budget Act caseload projections do not exceed the General Fund appropriations for these programs in the Budget Act of 1996.

SEC. 37. Section 19356 of the Welfare and Institutions Code is amended to read:

19356. (a) The department shall adopt regulations to establish rates for work-activity program services subject to the approval of the Department of Finance. The regulations shall provide for an equitable ratesetting procedure in which each specific allowable service, activity, and provider administrative cost comprising an overall habilitation service, as determined by the department, reflects the reasonable cost of service. Reasonable costs shall be determined biennally by the department, subject to audit at the discretion of the department.

(b) It is the intent of the Legislature that, commencing July 1, 1996, the department establish rates for both habilitation services and vocational rehabilitation work-activity programs pursuant to subdivision (a). Nothing in this subdivision shall preclude the subsequent amendment or adoption of regulations pursuant to subdivision (a).

SEC. 38. Section 19356.6 of the Welfare and Institutions Code is amended to read:

19356.6. (a) The definitions contained in this subdivision shall govern the construction of this section, with respect to services provided through the Habilitation Service Program, and unless the context requires otherwise, shall have the following meanings:

(1) "Supported employment" means paid work that is integrated in the community for persons with developmental disabilities whose vocational handicap is so severe that they would be unable to achieve this employment without specialized services and would not be able to retain this employment without an appropriate level of ongoing postemployment support services.

(2) "Integrated work" means the engagement of an employee with a disability in work in a natural community employment setting, including, but not limited to, groups and individual placements, in which the degree of integration is measured by the extent to which the disabled employee has opportunities to interact with nondisabled individuals other than those providing direct support services to the disabled employee.

(3) "Group placement" means the engagement of a group containing at least three, but not more than eight, persons with developmental disabilities in paid work in an integrated work setting in the community, usually at employer sites, and which represents a minority of the employer's work force.

(4) "Individual placement" means placing a person with a developmental disability with an employer in the community and providing specialized services which are intended to lead to employer-paid and employer-supervised employment, and where services decrease as the individual adjusts to the job; and ongoing postemployment services necessary for the individual to retain the job.

(5) "Allowable supported employment services" means the services approved in the individual habilitation component and provided, to the extent allowed by the Habilitation Services Program, for the purpose of achieving supported employment as an outcome for persons with developmental disabilities, which may include any of the following:

(A) Program staff time spent conducting task analysis on a supported employment opportunity for a specific consumer or group of consumers.

(B) Program staff time spent in the direct supervision or training of a consumer or consumers while they are engaged in integrated

work designed to achieve supported employment unless other arrangements for consumer supervision, such as employer supervision reimbursed by the work-activity program, are approved by the Habilitation Services Program.

(C) Social skills training which is necessary to ensure job adjustment and retention, and which is provided in an integrated setting, unless otherwise approved by the Habilitation Services Program.

(D) Training in certain independent living skills, such as independent travel or money management, which is necessary to ensure job adjustment and retention and which is provided in the community, unless otherwise approved by the Habilitation Services Program.

(E) Counseling with family, care providers, or others to ensure necessary support to consumers' job adjustment or to overcome problems affecting their job performance.

(F) Direct action to advocate on behalf of a consumer to resolve problems affecting the consumer's work adjustment or retention of an integrated job.

(G) Intervention with the employer to review a consumer's job performance, resolve job problems or facilitate the employer's hiring of the consumer as an employee.

(H) In the case of groups which must take equipment or materials to and from the worksite, the time the group members spend preparing for, and ending, the day's work.

(I) In the case of individual placements, job development to the extent authorized by the Habilitation Services Program, and ongoing postemployment support services needed to ensure the consumer's retention of the job.

(J) In the case of groups, the staff time spent obtaining and arranging the jobsite for a specific group of consumers.

(b) (1) Notwithstanding subdivision (c) of Section 19353, the department's habilitation services and vocational rehabilitation programs may mutually serve individuals whose individual written rehabilitation program provides for placement into supported employment, or who are in vocational rehabilitation extended evaluation.

(2) Section 19351 shall not be interpreted to limit the authority provided by this subdivision to mutually serve consumers.

(c) (1) The Habilitation Services Program shall set hourly rates for supported employment services provided in accordance with this section. The Habilitation Services Program shall apply those rates to those work-activity programs or program components of work-activity programs approved by the department to provide community-integrated services under former paragraph (3) of subdivision (d) of Section 19356.5, and to new programs or components approved by the Habilitation Services Program to provide supported employment services following enactment of this

section. Both of these categories of programs or components shall be required to comply with the criteria set forth in subdivision (b) of Section 19356.7 to receive approval from the Habilitation Services Program.

(2) The hourly rate for work crews and enclaves shall be four dollars ($4) per client or, in the case of new components of existing programs, the work-activity program's daily rate converted to an hourly rate according to the formula set forth in subdivision (d), whichever hourly rate is the higher. In addition, the Habilitation Services Program may, at its discretion, negotiate a higher hourly rate for work crews or enclaves, based upon a submitted budget that is approved by the Habilitation Services Program, when there is documentation that demonstrates a need for a higher rate because of the nature and severity of the disabilities of the clients served or unique local needs, as determined by the Habilitation Services Program. All negotiated rate increases based on unique local needs shall be contingent upon review and approval by the Department of Finance.

(3) The hourly rate for individual placement shall be twenty dollars ($20) per consumer for one-to-one services. If more than one client is receiving placement services simultaneously at the same site, the amount to be reimbursed per hour of service provided shall not exceed twenty dollars ($20) regardless of the number of consumers receiving service during the hour.

(4) These hourly rates shall be subject to rate adjustments provided by law commencing with the 1987–88 fiscal year.

(5) (A) Commencing July 1, 1991, the department shall add to each supported employment program rate an amount that is the equivalent of the hourly reimbursement received by the program for administrative services delivered during the period of July 1, 1990, to March 31, 1991, inclusive.

(B) For programs approved after July 1, 1991, pursuant to Section 19356.7, the statewide average for hourly reimbursement for administrative services shall be applied to the rate.

(6) It is the intent of the Legislature that, commencing July 1, 1996, the department establish rates for both habilitation services and vocational rehabilitation supported employment services pursuant to this section.

(d) (1) When a consumer receives traditional work-activity services and supported employment services during the same payment period, the Habilitation Services Program shall convert the daily rate for the traditional work-activity services into an hourly rate for the purpose of paying for those traditional work-activity services received by that consumer. In its conversion of the daily rate into any hourly rate, the Habilitation Services Program shall use the formula in paragraph (2).

(2) The daily rate of the work-activity program shall be divided by the number of hours in the program day of the traditional

work-activity program during the historical period on which its rate is based, or as of the date the Habilitation Services Program approved the work-activity program as a new provider of habilitation services plus 5 percent.

(e) This section shall become inoperative on October 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. 39. The amendment of Section 15200.6 made by this act shall become operative only if Assembly Bill 1058 is enacted during the 1996 portion of the 1995–96 Regular Session, and as enacted, that bill contains Division 14 (commencing with Section 10000) of the Family Code and Article 4 (commencing with Section 4250) of Chapter 2 of Part 2 of Division 9 of the Family Code.

SEC. 40. 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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 41. 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 changes necessary for implementation of the Budget Act of 1996 will be effective for the entire 1996–97 fiscal year, it is necessary that this act go into immediate effect.

CHAPTER 207

An act to add Section 24002.5 to the Government Code, relating to county assessors.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 24002.5 is added to the Government Code, to read:

24002.5. (a) No person shall exercise the powers and duties of the office of assessor unless he or she holds a valid appraiser's certificate issued by the State Board of Equalization pursuant to Article 8 (commencing with Section 670) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

(b) Notwithstanding subdivision (a), a duly elected or appointed person may exercise the powers and duties of assessor, for a period not to exceed one year, if he or she acquires a temporary appraiser's certificate from the State Board of Equalization within 30 days of election or appointment.

(c) This section shall not apply to any person holding the office of assessor on January 1, 1997.

CHAPTER 208

An act to amend Section 56361 of the Education Code, relating to special education.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 56361 of the Education Code is amended to read:

56361. The continuum of program options shall include all of the following:

(a) Regular education programs consistent with subparagraph (B) of paragraph (5) of Section 1412 and clause (iv) of subparagraph (C) of paragraph (1) of subsection (a) of Section 1414 of Title 20 of the United States Code and implementing regulations.

(b) A resource specialist program pursuant to Section 56362.

(c) Designated instruction and services pursuant to Section 56363.

(d) Special classes and centers pursuant to Section 56364.

(e) Nonpublic, nonsectarian school services pursuant to Section 56365.

(f) State special schools pursuant to Section 56367.

(g) Instruction in settings other than classrooms where specially designed instruction may occur.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act implements a federal law or regulation and results only in costs mandated by the federal government, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative

on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 209

An act to amend Section 68083 of the Government Code, relating to courts.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 68083 of the Government Code is amended to read:

68083. (a) Upon the occurrence of a vacancy in a municipal court judgeship, other than the sole remaining municipal court judgeship for the county, if the Governor finds there are sufficient funds for the conversion of a municipal court judgeship into a superior court judgeship and finds that the administration of justice would be advanced by such a conversion, the number of municipal court judges for the county shall then be reduced by one and the number of superior court judges for the county shall be increased by one. Prior to making a determination, the Governor shall consider the following factors:

(1) The geographic separation of the two courts.

(2) The fiscal impact of the conversion.

(3) The existence of a coordination plan approved pursuant to Section 68112 of the Government Code that permits blanket cross-assignment of superior court judges and municipal court judges to assist in the timely processing of cases before all of the courts in the county.

(b) For purposes of this section, a vacancy in a municipal court judgeship shall be deemed to occur only upon the appointment or election of a municipal court judge to another office, or to a court other than a superior court judgeship which was created within three years pursuant to this section, upon the removal or death of the municipal court judge holding that judgeship, or upon the resignation or retirement of a municipal court judge who has reached the age of retirement.

(c) The Governor's finding shall become effective when received by the Secretary of State.

(d) When a finding by the Governor that a position should be reallocated takes effect, the Judicial Council shall reallocate to the

superior court the funding in support of the municipal court salary and the chamber staff positions as well as any other required funding.

CHAPTER 210

An act to add Section 11376 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 11376 is added to the Health and Safety Code, to read:

11376. Upon the diversion or conviction of a person for any offense involving substance abuse, the court may require, in addition to any or all other terms of diversion or imprisonment, fine, or other reasonable conditions of sentencing or probation imposed by the court, that the defendant participate in and complete counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

CHAPTER 211

An act to add Section 96.15 to the Revenue and Taxation Code, relating to local government finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 96.15 is added to the Revenue and Taxation Code, to read:

96.15. (a) Notwithstanding any other provision of this chapter, in the event a qualifying city as defined in subdivision (d) of Section 98 or subdivision (f) of Section 98.02 becomes the successor agency to a special district as a result of a merger described in Section 57087.3 of the Government Code, the auditor shall allocate to that qualifying city, in addition to any other amount of ad valorem property tax revenue required to be allocated to that city pursuant to this chapter,

the amount of ad valorem property tax revenue that otherwise would be allocated to that district pursuant to this article.

(b) It is the intent of the Legislature in enacting this section to confirm and clarify a county auditor's duty and authority, established by subdivision (d) of Section 57087.3 of the Government Code, to allocate to a qualifying city the ad valorem property tax revenue of a subsidiary district that has been merged with the city.

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

In order to timely clarify and confirm the right of cities to avail themselves of the existing funding sources for those public services for which those cities have assumed responsibility pursuant to mergers with local special districts, it is necessary that this act take effect immediately.

CHAPTER 212

An act to amend Section 3042 of the Penal Code, relating to prisoners.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 3042 of the Penal Code is amended to read:

3042. (a) At least 30 days before the Board of Prison Terms meets to review or consider the parole suitability or the setting of a parole date for any prisoner sentenced to a life sentence, the board shall send written notice thereof to each of the following persons: the judge of the superior court before whom the prisoner was tried and convicted, the attorney who represented the defendant at trial, the district attorney of the county in which the offense was committed, the law enforcement agency that investigated the case, and where the prisoner was convicted of the murder of a peace officer, the law enforcement agency which had employed that peace officer at the time of the murder.

(b) The Board of Prison Terms shall record all such hearings and transcribe recordings of those hearings within 30 days of any hearing. Those transcripts, including the transcripts of all prior hearings, shall be filed and maintained in the office of the Board of Prison Terms and shall be made available to the public no later than 30 days from the date of the hearing. No prisoner shall actually be released on parole prior to 60 days from the date of the hearing.

(c) At any hearing, the presiding hearing officer shall state his or her findings and supporting reasons on the record.

(d) Any statements, recommendations, or other materials considered shall be incorporated into the transcript of the hearing, unless the material is confidential in order to preserve institutional security and the security of others who might be endangered by disclosure.

(e) This section shall not apply to any hearing held to consider advancing a prisoner's parole date due to his or her conduct since his or her last hearing.

(f) (1) The written notice to the judge of the superior court before whom the prisoner was tried and convicted shall be sent by certified mail with return receipt requested.

(2) The judge receiving this written notice may forward to the parole board any unprivileged information from the trial or sentencing proceeding regarding the prisoner, witnesses, or victims, or other relevant persons, or any other information, that is pertinent to the question of whether the parole board should grant parole or under what conditions parole should be granted. The judge may also, in his or her discretion, include information given to him or her by victims, witnesses, or other persons that bear on the question of the prisoner's suitability for parole.

(3) The parole board shall review and consider all information received from the judge or any other person and shall consider adjusting the terms or conditions of parole to reflect the comments or concerns raised by this information, as appropriate.

(g) Nothing in this section shall be construed as limiting the type or content of information the judge or any other person may forward to the parole board for consideration under any other provision of law.

CHAPTER 213

An act to add Sections 19326 and 19327 to the Education Code, relating to the State Library.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 19326 is added to the Education Code, to read:

19326. (a) The State Librarian may annually award a gold medal for excellence in the humanities and science to an individual or organization for publication of a work that has enriched the collection of the State Library and enriched the state by significantly

contributing to the intellectual, cultural, and scientific knowledge of the people of the state.

(b) The award shall formally be known as the "California State Library Gold Medal for Excellence in the Humanities and Science."

(c) To assist in making the selection of a recipient of the California State Library Gold Medal for Excellence in the Humanities and Science, the State Librarian shall consult an advisory panel consisting of one representative from each of the following:

(1) The Governor.

(2) The President pro Tempore of the Senate.

(3) The Speaker of the Assembly.

(4) The Chief Justice of the California Supreme Court.

(d) The State Librarian is authorized to seek private contributions to defray the cost of awarding the California State Library Gold Medal for Excellence in the Humanities and Science and related expenses.

SEC. 2. Section 19327 is added to the Education Code, to read:

19327. (a) In order to protect and preserve valuable and irreplaceable treasures of the state, the State Librarian may enter into an operating agreement with a private, nonprofit, tax-exempt organization, currently known as the California State Library Foundation, as follows:

(1) The California State Library Foundation may be designated by the State Librarian as the only authorized provider of copies and reproductions of rare and valuable State Library materials.

(2) The California State Library Foundation may be authorized by the State Librarian to provide copies and reproductions of documents and other information found in the collection of the State Library, as requested by members of the public.

(3) The California State Library Foundation may be authorized by the State Librarian to use State Library facilities and equipment designated by the State Librarian as necessary for the California State Library Foundation to provide services to the State Library efficiently and economically.

(b) The State Librarian may establish an agreement with the California State Library Foundation to collect fees from the public for providing the services specified in subdivision (a). Fees for copying, reproduction, and other services provided by the California State Library Foundation shall be at a level consistent with the cost of providing these services.

CHAPTER 214

An act to add Section 25143.12 to the Health and Safety Code, relating to hazardous waste.

[Approved by Governor July 20, 1996. Filed with
Secretary of State July 22, 1996.]

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

SECTION 1. Section 25143.12 is added to the Health and Safety Code, to read:

25143.12. Notwithstanding any other provision of law, debris that is contaminated only with petroleum or any of its fractions is exempt from regulation under this chapter if all of the following conditions are met:

(a) The debris consists exclusively of wood, paper, textile materials, concrete rubble, metallic objects, or other solid manufactured objects.

(b) The debris is not subject to regulation as a hazardous waste under the federal act.

(c) The debris does not contain any free liquids, as determined by the paint filter test specified in the regulations adopted by the department.

(d) The debris is disposed of in a composite lined portion of a waste management unit which is classified as either a Class I or Class II landfill in accordance with Article 3 (commencing with Section 2530) of Chapter 15 of Division 3 of Title 23 of the California Code of Regulations, the disposal is made in accordance with the applicable requirements of the California regional water quality control board and the California Integrated Waste Management Board, and, if the waste management unit is a Class II landfill, it is sited, designed, constructed, and operated in accordance with the minimum standards applicable on or after October 9, 1993, to new or expanded municipal solid waste landfills, which are contained in Part 258 (commencing with Section 258.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations, as those regulations read on January 1, 1996.

CHAPTER 215

An act to amend Section 740.4 of the Public Utilities Code, relating to public utilities.

[Approved by Governor July 20, 1996. Filed with
Secretary of State July 22, 1996.]

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

SECTION 1. Section 740.4 of the Public Utilities Code is amended to read:

740.4. (a) The commission shall authorize public utilities to engage in programs to encourage economic development.

(b) Reasonable expenses for economic development programs, as specified in this section, shall be allowed, to the extent of ratepayer benefit, when setting rates to be charged by public utilities electing to initiate these programs.

(c) Economic development activities may include, but not be limited to, the following:

(1) Community marketing and development.

(2) Technical assistance to support technology transfer.

(3) Market research.

(4) Site inventories.

(5) Industrial and commercial expansion and relocation assistance.

(6) Business retention and recruitment.

(7) Management assistance.

(d) This section shall not be interpreted to permit the funding of economic development activities that benefit any affiliated companies or parent holding companies beyond that which is authorized by law as of January 1, 1992.

(e) (1) This section shall not authorize the commission to establish discriminatory rates for the purpose of attracting or benefiting specific industries or business entities, except that incentives may be provided for the benefit of industries or business entities whose facilities are located within the boundaries of enterprise zones, economic incentive areas, recycling market development zones, or federal rural enterprise communities in accordance with the provisions of Chapter 12.8 (commencing with Section 7070) and Article 1 (commencing with Section 7080) of Chapter 12.9 of Division 7 of Title 1 of the Government Code, and Article 2 (commencing with Section 42145) of Chapter 3 of Part 3 of the Public Resources Code.

(2) The commission may apply the incentives authorized by this subdivision that benefit industries or business entities whose facilities are located within the boundaries of economic enterprise zones or incentive areas to attract a federal Department of Defense Finance and Accounting Service Center at the existing site of Norton Air Force Base in San Bernardino County. This paragraph shall become inoperative if the federal Department of Defense Finance and Accounting Service Center is not located upon the premises known as Norton Air Force Base in San Bernardino County and shall also become inoperative on February 1, 1994, if that facility has not been awarded to that site before that date.

(f) The commission may provide incentives pursuant to subdivision (e) to industries or business entities whose facilities are located within the boundaries of an enterprise zone that engage in activities in connection with the conversion of Fort Ord to other uses.

(g) The commission may authorize rate discounts to industries or business entities whose facilities are located or will be located within the boundaries of enterprise zones, recycling market development zones, or economic incentive areas pursuant to paragraph (1) of subdivision (e). These discounts may be applied in either of the following ways:

(1) Utilities may apply reduced monthly rates to qualifying customers' monthly utility bills.

(2) Utilities may, at the election of qualifying customers, assign the discounts to a private or public entity that returns consideration of like value to those customers, provided the customers agree to maintain their facilities in an enterprise zone, a recycling market development zone, or an economic incentive area for a minimum of five years from the date of commencement of the discount.

(h) It is the intent of the Legislature that the Public Utilities Commission, in implementing this chapter, shall allow rate recovery of expenses and rate discounts supporting economic development programs within the geographic area served by any public utility to the extent the utility incurring or proposing to incur, those expenses and rate discounts demonstrates that the ratepayers of the public utility will derive a benefit from those programs. Further, it is the intent of the Legislature that expenses for economic development programs incurred prior to the effective date of this chapter, which have not been previously authorized to be recovered in rates, shall not be subject to rate recovery.

CHAPTER 216

An act to add Section 16521.5 to the Welfare and Institutions Code, relating to foster youth.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 16521.5 is added to the Welfare and Institutions Code, to read:

16521.5. (a) A foster care provider, in consultation with the county case manager, shall be responsible for ensuring that adolescents who remain in long-term foster care, as defined by the department, receive age-appropriate pregnancy prevention information to the extent state and county resources are provided.

(b) A foster care provider, in consultation with the county case manager, shall be responsible for ensuring that a foster youth is provided with appropriate referrals to health services when the

foster youth either reaches the age of 18 or is emancipated, and to the extent county and state resources are provided.

(c) As part of the home study process, the prospective foster care provider shall notify the county if he or she objects to participating in adolescent pregnancy prevention training or the dissemination of information pursuant to subdivisions (a) and (b). A licensed foster care provider shall notify the county if he or she objects to participation. If the provider objects, the county case manager shall assume this responsibility.

(d) Subdivisions (a), (b), and (c) shall not take effect until the department, in consultation with the work group, develops guidelines that describe the duties and responsibilities of foster care providers and county case managers in delivering pregnancy prevention services and information.

(e) (1) The department, in consultation with the State Department of Health Services, shall convene a working group for the purpose of developing a pregnancy prevention plan that will effectively address the needs of adolescent male and female foster youth. The work group shall meet not more than three times and thereafter shall provide consultation to the department upon request.

(2) The working group shall include representatives from the California Youth Connection, the Foster Parent's Association, group home provider associations, the County Welfare Director's Association, providers of teen pregnancy prevention programs, a foster care case worker, an expert in pregnancy prevention curricula, a representative of the Independent Living Program, and an adolescent health professional.

(f) The plan required pursuant to subdivision (e) shall include, but not be limited to, all of the following:

(1) Effective strategies and programs for pre-teen and older teen foster youth.

(2) The role of foster care and group home care providers.

(3) The role of the assigned case management worker.

(4) How to involve foster youth peers.

(5) Selecting and providing appropriate materials to educate foster youth in family life education.

(6) The training of foster care and group home care providers and, when necessary, county case managers in adolescent pregnancy prevention.

(g) Counties currently mandating foster care provider training shall be encouraged to include the pregnancy prevention curricula guidelines and educational materials that may be developed by the work group pursuant to subdivision (f).

(h) The department shall adopt regulations to implement this section.

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CHAPTER 217

An act to amend Section 1214.1 of the Penal Code, relating to civil assessments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 1214.1 of the Penal Code is amended to read:

1214.1. (a) In addition to any other penalty in infraction, misdemeanor, or felony cases, the court may impose a civil assessment of up to two hundred fifty dollars ($250) against any defendant who fails, after notice and without good cause, to appear in court for any proceeding authorized by law or who fails to pay all or any portion of a fine ordered by the court.

(b) The assessment shall not become effective until at least 10 calendar days after the court mails a warning notice to the defendant by first-class mail to the address shown on the notice to appear or to the defendant's last known address. If the defendant appears within the time specified in the notice and shows good cause for the failure to appear or for the failure to pay a fine, the court shall vacate the assessment.

(c) If a civil assessment is imposed under this section, no bench warrant or warrant of arrest shall be issued with respect to the failure to appear at the proceeding for which the assessment is imposed or the failure to pay the fine. An outstanding, unserved bench warrant or warrant of arrest for a failure to appear or for a failure to pay a fine shall be recalled prior to the subsequent imposition of a civil assessment.

(d) The assessment imposed under subdivision (a) shall be subject to the due process requirements governing defense and collection of civil money judgments generally.

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

In order to ease the fiscal crises faced by our counties by authorizing them to collect civil assessments in infraction, misdemeanor, and felony cases, it is necessary that this act take effect immediately.

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CHAPTER 218

An act to amend Sections 9083 and 13210 of the Elections Code, relating to elections.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 9083 of the Elections Code is amended to read:

9083. If the ballot contains a question as to the confirmation of a justice of the Supreme Court or a court of appeal, the Secretary of State shall include in the state ballot pamphlet a written explanation of the electoral procedure for justices of the Supreme Court and the courts of appeal. The explanation shall state the following:

"Under the California Constitution, justices of the Supreme Court and the courts of appeal are subject to confirmation by the voters. The public votes "yes" or "no" on whether to retain each justice.

"These judicial offices are nonpartisan.

"Before a person can become an appellate justice, the Governor must submit the candidate's name to the Judicial Nominees Evaluation Commission, which is comprised of public members and lawyers. The commission conducts a thorough review of the candidate's background and qualifications, with community input, and then forwards its evaluation of the candidate to the Governor.

"The Governor then reviews the commission's evaluation and officially nominates the candidate, whose qualifications are subject to public comment before examination and review by the Commission on Judicial Appointments. That commission consists of the Chief Justice of California, the Attorney General of California, and a senior Presiding Justice of the Courts of Appeal. The Commission on Judicial Appointments must then confirm or reject the nomination. Only if confirmed does the nominee become a justice.

"Following confirmation, the justice is sworn into office and is subject to voter approval at the next gubernatorial election, and thereafter at the conclusion of each term. The term prescribed by the California Constitution for justices of the Supreme Court and courts of appeal is 12 years. Justices are confirmed by the Commission on Judicial Appointments only until the next gubernatorial election, at which time they run for retention of the remainder of the term, if any, of their predecessor, which will be either four or eight years."

SEC. 2. Section 13210 of the Elections Code is amended to read:

13210. (a) 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.

(b) 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.

(c) In that section of the ballot designated for judicial offices, next to the heading "judicial" shall appear the instruction: "Vote yes or no for each office."

(d) 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 (title and name of Justice) be elected to the office for the term provided by law ?"

(e) 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. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 219

An act to add and repeal Section 19601.2 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 19601.2 is added to the Business and Professions Code, to read:

19601.2. (a) During calendar periods when the San Mateo County Fair and the Humboldt County Fair both conduct race meetings, the San Mateo County Fair shall be the association authorized to distribute the signal and accept wagers on out-of-zone races if it complies with the conditions specified in subdivision (a) of Section 19601. The amounts deducted from out-of-zone wagering shall be distributed as provided in subdivisions (b) and (d) of Section 19601, except that from license fees to be distributed pursuant to this section, the San Mateo County Fair shall retain an amount equal to three-fourths of 1 percent of the out-of-zone wagering handle and shall distribute that amount to the Humboldt County Fair not less than seven days after the close of the racing meeting.

(b) This section shall remain in effect until January 1, 1999, and as of that date is repealed unless a later enacted statute, which is enacted prior to January 1, 1999, deletes or extends that date.

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

In order for this act to apply to the 1996 racing season, it is necessary that this act take effect immediately.

CHAPTER 220

An act to amend Section 832.7 of the Penal Code, relating to peace officers.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Peace officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of police officers or a police agency conducted by a grand jury, a district attorney's office, or the Attorney General's office.

(b) Notwithstanding subdivision (a), a department or agency shall release to the complaining party a copy of his or her own statements at the time the complaint is filed.

(c) Notwithstanding subdivision (a), a department or agency which employs peace officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(d) Notwithstanding subdivision (a), a department or agency which employs peace officers may release factual information concerning a disciplinary investigation if the peace officer who is the subject of the disciplinary investigation, or the peace officer's agent or representative, publicly makes a statement he or she knows to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the peace officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace officer or his or her agent or representative.

(e) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(f) Nothing in this section shall affect the discovery or disclosure of information contained in a peace officer's personnel file pursuant to Section 1043 of the Evidence Code.

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CHAPTER 221

An act to amend Sections 33492, 33492.3, 33492.10, 33492.11, 33492.15, and 33492.87 of, to amend the heading of Chapter 4.5 (commencing with Section 33492) of Part 1 of Division 24 of, to add Sections 33492.4, 33492.16, 33492.18, and 33492.20 to, to repeal Sections 33492.17, 33492.19, 33492.21, 33492.23, 33492.25, and 33492.27 of, the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. The heading of Chapter 4.5 (commencing with Section 33492) of Part 1 of Division 24 of the Health and Safety Code is amended to read:

CHAPTER 4.5. MILITARY BASE CONVERSION REDEVELOPMENT AGENCIES

SEC. 2. Section 33492 of the Health and Safety Code is amended to read:

33492. With enactment of this chapter, it is the intent of the Legislature to do both of the following:

(a) Provide a means of mitigating the economic and social degradation that is faced by communities the jurisdictions of which include military bases that have been ordered to be closed or realigned by the federal Base Closure Commission.

(b) Enable redevelopment agencies to place in a project area portions of a military base that were previously developed, but that cannot be utilized in their present condition because of, in whole or in part, substandard infrastructure and buildings that do not meet state building standards. It is not the intent of the Legislature to encourage redevelopment agencies to include large areas of undeveloped land within project areas.

SEC. 3. Section 33492.3 of the Health and Safety Code is amended to read:

33492.3. For any project area formed pursuant to this chapter, the project area may include all, or any portion of, property within a military base that the federal Base Closure Commission has voted to close or realign when that action has been sustained by the President and Congress of the United States, regardless of the percentage of urbanized land, as defined in Section 33320.1, within the military base. The project area may include territory outside the military base; however, all territory outside the military base included therein shall be characterized as predominantly urbanized, as that term is

defined in subdivision (b) of Section 33320.1. The procedures authorized by this chapter may be used for the redevelopment of any closed or realigned military base, but shall not constitute the exclusive method by which redevelopment may occur on these bases.

SEC. 4. Section 33492.4 is added to the Health and Safety Code, to read:

33492.4. Chapter 4 (commencing with Section 33300) shall be applicable to any project area formed pursuant to this chapter, except to the extent that Chapter 4 is inconsistent with this chapter.

SEC. 4.5. Section 33492.10 of the Health and Safety Code is amended to read:

33492.10. (a) For purposes of this chapter, a blighted area within the boundaries of a military base is an area in which the combination of two or more conditions set forth in Section 33492.11 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to an extent that constitutes a serious physical and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(b) A project area adopted pursuant to this chapter may include territory outside the boundaries of the military base, as those boundaries exist on January 1, 1996; however, all territory outside the boundaries of the military base included in the project area shall be characterized by blight, as that term is defined in Sections 33030 and 33031. An area outside the boundaries of a military base may be included in the project area only upon a finding by the agency that the area is blighted and that its inclusion in the project area is necessary for effective redevelopment of the base property. The agency shall include evidence supporting this finding in the report submitted to the legislative body pursuant to Section 33352. An area outside the boundaries of a military base shall be deemed not necessary for effective redevelopment if the area is included only for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for its inclusion.

(c) This section, as amended by the act that adds this subdivision, shall only be applicable to a redevelopment plan adopted or amended on or after the effective date of the act that adds this subdivision. A redevelopment plan adopted pursuant to this chapter prior to the effective date of the act that adds this subdivision shall be subject to this section as it was added by Chapter 944 of the Statutes of 1993.

SEC. 5. Section 33492.11 of the Health and Safety Code is amended to read:

33492.11. (a) For purposes of this chapter, this section describes conditions that cause blight:

(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions can be caused by serious building code

violations, dilapidation and deterioration, defective design or physical construction, faulty or inadequate infrastructure, or other similar factors.

(2) Factors that prevent or substantially hinder the economically viable reuse or capacity of buildings or areas. This condition can be caused by conditions including, but not limited to, all of the following: a substandard design; buildings that are too large or too small, given present standards and market conditions; age, obsolescence, deterioration, dilapidation, or other physical conditions, that could prevent the highest and best uses of the property. This condition can also be caused by buildings that will have to be demolished, or buildings or areas that have a lack of adequate parking.

(3) Adjacent or nearby uses that are incompatible with each other and that prevent the economic development of those parcels or other portions of the project area.

(4) Buildings on land that, when subdivided, or when infrastructure is installed, will not comply with community subdivision, zoning, or planning regulations.

(5) Properties currently served by infrastructure that does not meet existing adopted utility or community infrastructure standards.

(6) Buildings that, when built, did not conform to the then effective building, plumbing, mechanical, or electrical codes adopted by the community where the project area is located.

(7) Land that contains materials or facilities, including, but not limited to, materials for aircraft landing pads and runways, that will have to be removed to allow development.

(b) Pursuant to Section 33321, a project area need not be restricted to buildings, improvements, or lands which are detrimental or inimical to the public health, safety, or welfare, but may consist of an area where these conditions predominate and injuriously affect the entire area. A project area may include lands, buildings, or improvements which are not detrimental to the public health, safety, or welfare, but the inclusion of which is found necessary for the effective redevelopment of the area of which they are a part. Each area included under this section shall be necessary for effective redevelopment, and shall not be included for the purpose of obtaining the allocation of tax-increment revenue from the area pursuant to Section 33670 without other substantial justification for its inclusion.

(c) This section, as amended by the act that adds this subdivision, shall only be applicable to a redevelopment plan adopted or amended on or after the effective date of the act that adds this subdivision. A redevelopment plan adopted pursuant to this chapter prior to the effective date of the act that adds this subdivision shall be subject to this section as it was added by Chapter 944 of the Statutes of 1993.

SEC. 6. Section 33492.15 of the Health and Safety Code is amended to read:

33492.15. Notwithstanding any other provision of law, all of the following shall occur:

(a) The agency shall make the payments required by Section 33607.5, except that each of the time periods governing the payments shall be calculated from the date the county auditor makes the certification to the Director of Finance pursuant to Section 33492.9, instead of from the first year that the agency receives tax-increment revenue.

(b) Prior to incurring any bonded indebtedness, any agency administering a project area pursuant to this chapter may subordinate to the bonded debt the amount required to be paid to an affected school district or community college district pursuant to this section upon a finding, based upon substantial evidence, that the agency will have sufficient funds available to pay both the bonded debt payments and the payments required by this section.

SEC. 7. Section 33492.16 is added to the Health and Safety Code, to read:

33492.16. (a) Notwithstanding Section 33334.2 or any other provision of law, an agency established or governed pursuant to this chapter may annually defer the requirement to allocate 20 percent of tax increment revenue to the Low and Moderate Income Housing Fund for a period of up to five years after the date of adoption of the redevelopment plan, based upon an annual finding of the legislative body that the funds are necessary for the effective redevelopment of base property and long-term tax generation, and that the vacancy rate for housing affordable to lower income households within the jurisdiction of the members of the agency is greater than 4 percent. The vacancy rate for housing affordable to lower income households shall be established by using the vacancy rates most recently published in the annual California Department of Finance Population and Housing Estimates (Report E-5, or a successor report).

The authority and procedures for deferral of allocation of tax increment revenue which is governed by this section shall not apply to the tax increment revenues attributable to the property that is located outside the military base which is allocated to the Low- and Moderate-Income Housing Fund.

(b) The amount of the deferral, if any, shall be considered an indebtedness of the agency, and shall be paid into the Low and Moderate Income Housing Fund no later than the end of the 20th fiscal year after the date on which the agency adopts its project. If the indebtedness is not eliminated by the end of the 20th fiscal year, the county auditor or controller, no later than March 15 of the 21st year, shall withhold from the portion of tax increment to which the redevelopment agency is otherwise entitled an amount equal to the indebtedness and deposit those funds into a separate Low and Moderate Income Housing Fund for use by the agency to meet its affordable housing requirements pursuant to this part. Under no

circumstances shall this section be interpreted or applied in a manner that has the effect of reducing the tax increment payable or received by affected taxing entities pursuant to Section 33492.15.

SEC. 8. Section 33492.17 of the Health and Safety Code, as added by Chapter 944 of the Statutes of 1993, is repealed.

SEC. 9. Section 33492.18 is added to the Health and Safety Code, to read:

33492.18. (a) Notwithstanding subdivision (k) of Section 33352, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to the adoption of a redevelopment plan prepared pursuant to this article if the redevelopment agency determines at a public hearing, noticed in accordance with this section, that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

(b) If the redevelopment agency finds, pursuant to subdivision (a), that the application of the California Environmental Quality Act to the redevelopment plan is required to be delayed, the redevelopment agency or the community shall certify an environmental impact report for the redevelopment plan within 18 months after the effective date of the ordinance adopting the redevelopment plan. If, as a result of the preparation of the environmental document prepared pursuant to this subdivision, it is necessary to amend the redevelopment plan to mitigate any impacts, the agency shall amend the redevelopment plan according to the procedures of this part. If the environmental document is determined to be inadequate by a court of competent jurisdiction, the redevelopment agency shall not undertake additional projects that implement the redevelopment plan until an adequate environmental document has been certified. However, this determination shall not affect the validity of the redevelopment plan.

(c) Until the redevelopment agency or the community certifies an environmental impact report for the redevelopment plan, all projects, as defined in the California Environmental Quality Act, that implement the redevelopment plan shall be subject to the California Environmental Quality Act, including, but not limited to, specific plans and rezonings. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts, if any, that otherwise would not be known until an environmental document for the redevelopment plan is certified or approved and shall also include a reporting or monitoring program required pursuant to Section 21081 of the Public Resources Code.

(d) The notice for the public hearing required by subdivision (a) shall comply with, and may be combined with, the notices in Section

33349 or 33361. The notice shall state that the agency intends to consider and act upon a determination that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

SEC. 10. Section 33492.19 of the Health and Safety Code is repealed.

SEC. 11. Section 33492.20 is added to the Health and Safety Code, to read:

33492.20. (a) (1) The redevelopment plan for the base need not include either of the following:

(A) The information required pursuant to subdivision (d) of Section 33324, relative to the contents of the preliminary plan.

(B) The finding required pursuant to paragraph (4) of subdivision (d) of Section 33367, relative to the consistency of the redevelopment plan to the community's general plan.

(2) The agency shall not expend any tax increment funds allocated to it from the project area for expenses related to carrying out the project, unless and until the legislative bodies of all the communities included in the project area have adopted findings that the redevelopment plan is consistent with the general plan of the community, including the housing element, which substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(b) Notwithstanding Section 33328, the report required by that section need only be as complete as the information then available permits.

(c) Notwithstanding Section 33344.5, the preliminary report required by that section need only be as complete as the information then available permits, and need not contain the information required by subdivision (c) of Section 33344.5.

(d) The report submitted by the agency to the legislative body pursuant to Section 33352, need not contain the items listed in subdivisions (h), (j), and (k) of Section 33352, as modified by subdivision (b) of this section.

(e) The ordinance adopted by the legislative body pursuant to Section 33367 need not contain the items listed in paragraphs (4) and (12) of subdivision (d) of Section 33367.

SEC. 12. Section 33492.21 of the Health and Safety Code is repealed.

SEC. 13. Section 33492.23 of the Health and Safety Code is repealed.

SEC. 14. Section 33492.25 of the Health and Safety Code is repealed.

SEC. 15. Section 33492.27 of the Health and Safety Code is repealed.

SEC. 16. Section 33492.87 of the Health and Safety Code is amended to read:

33492.87. (a) (1) Notwithstanding Section 33334.2 or any other provision of law, the agency established or governed pursuant to this article may annually defer the requirement to allocate 20 percent of tax-increment revenue to the Low and Moderate Income Housing Fund for a period of up to 5 years after the date on which the county auditor makes the certification pursuant to Section 33492.9.

(2) The agency shall not defer its allocation in any year unless it first adopts a finding based on substantial evidence that the vacancy rate for rental housing affordable to lower income households within the jurisdiction of the members of the agency is greater than 4 percent.

(3) The amount of the deferral, if any, shall be considered an indebtedness of the agency and shall be paid into the Low and Moderate Income Housing Fund no later than the end of the 10th fiscal year after the date on which the county auditor makes the certification pursuant to Section 33492.9. If the indebtedness is not eliminated by the end of the 10th fiscal year, the county auditor or controller shall, no later than March 15 of the 11th year, withhold an amount equal to the indebtedness and deposit those funds into a separate Low and Moderate Income Housing Fund for use by the redevelopment agency to meet its affordable housing requirements pursuant to this part.

(b) The agency shall not be required to replace barracks or dormitory-style housing or Arnold Heights housing that is adaptively reused, demolished, or removed within the boundaries of March Air Force Base.

SEC. 17. 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 mitigate the very serious economic effects resulting from the closure or realignment of 29 major military bases in the State of California, it is important that the redevelopment of the lands comprising the bases be undertaken at the earliest possible time. It is, therefore, necessary that this act take effect immediately.

CHAPTER 222

An act to add Article 7 (commencing with Section 33493.1) to Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Article 7 (commencing with Section 33493.1) is added to Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code, to read:

Article 7. The Alameda Naval Air Station and the Fleet Industrial Supply Center

33493.1. With the enactment of this article, it is the intent of the Legislature to provide for precise and specific means to mitigate the very serious economic effects of the closure of the Alameda Naval Air Station and the Fleet Industrial Supply Center on the City of Alameda, surrounding cities, and the County of Alameda by facilitating the planning and implementation of the reuse and redevelopment of the lands comprising the Naval Air Station and the Fleet Industrial Supply Center located in the City of Alameda and the surrounding areas in accordance with land use plans and a redevelopment plan that are in effect prior to the disposition of lands by the federal government.

33493.2. A redevelopment plan covering all or part of the lands of the Alameda Naval Air Station and the Fleet Industrial Supply Center Redevelopment Project may be adopted pursuant to Article 1 (commencing with Section 33492), provided that the project area shall not include territory outside the boundaries of the Alameda Naval Air Station and the Fleet Industrial Supply Center.

33493.3. Notwithstanding Section 33492.9 or any other provision of law, the redevelopment agency shall make payments to affected taxing entities required by Section 33607.5.

33493.4. (a) Dwelling units, as defined, in the Alameda Naval Air Station and the Fleet Industrial Supply Center Project Area made available to a member of the Homeless Collaborative pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Part A of Title XXIX of Public Law 101-510; 10 U.S.C. Sec. 2687 note), and in particular Section (7) (C) through (O) thereof, and thereafter substantially rehabilitated, shall be deemed substantially rehabilitated units for purposes of determining the compliance of the Alameda Naval Air Station and the Fleet Industrial Supply Center redevelopment agency with the provisions of subdivision (b) of Section 33413.

(b) For the purposes of this section "dwelling units" means permanent or transitional residential units, and does not mean student dormitory rooms or overnight emergency shelter beds.

(c) For the purposes of this section "substantially rehabilitated" means rehabilitation, the value of which constitutes 25 percent of the after rehabilitation value of the dwelling, inclusive of land value.

SEC. 2. The Legislature finds and declares that because of the unique circumstances applicable to the City of Alameda and the

County of Alameda due to the closure of the Alameda Naval Air Station and the Fleet Industrial Supply Center, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution, and the enactment of this special statute is therefore necessary.

SEC. 3. The Legislature finds and declares that (a) the City of Alameda created a previous redevelopment area over part of the military base property that is to be closed, and (b) no redevelopment has occurred on that property.

The redevelopment agency of the City of Alameda may transfer all or part of the federal military property in the previous redevelopment area to the redevelopment area permitted under this act when forming the redevelopment project area, provided that there are no financial impacts upon the state or local taxing entities because of the transfer.

CHAPTER 223

An act to amend Section 18022 of the Financial Code, relating to industrial loan companies.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 18022 of the Financial Code is amended to read:

18022. No industrial loan company shall invest any of its funds, except as authorized in this division. Industrial loan companies may invest their funds in investments that are legal investments for commercial banks, including the capital stock, obligations, or other securities of one or more corporations, subject to rules and orders prescribed by the commissioner. Companies may also invest their funds in the choses in action issued by any other industrial loan company.

CHAPTER 224

An act to amend Sections 12807, 12808, 40509, and 40509.5 of, and to add Sections 1822 and 13365.2 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 1822 is added to the Vehicle Code, to read:

1822. The Legislature finds that driving under the influence of alcohol or drugs continues to be a primary safety issue on the state's highways, and the major cause of traffic deaths. It is imperative that violators who drive while under the influence of alcohol or drugs be fully prosecuted under the law. The Legislature also finds that too often violators have not had their driving records at the Department of Motor Vehicles appropriately updated. Therefore, it is the intent of the Legislature that the department, working with the courts, establish and maintain a data and monitoring system to track violations of driving under the influence of alcohol or drugs, including, but not limited to, violations of Article 1.3 (commencing with Section 23136), Article 1.5 (commencing with Section 23140), and Article 2 (commencing with Section 23152), of Chapter 12 of Division 11. The system shall match arrests for driving under the influence of alcohol or drug violations with convictions reported to the department.

SEC. 2. Section 12807 of the Vehicle Code is amended to read:

12807. The department shall not issue or renew a driver's license to any person:

(a) When a license previously issued to the person under this code has been suspended until the expiration of the period of the suspension, unless cause for suspension has been removed.

(b) When a license previously issued to the person under this code has been revoked until the expiration of one year after the date of the revocation, except where a different period of revocation is prescribed by this code, or unless the cause for revocation has been removed.

(c) When the department has received a notice pursuant to Section 40509 or 40509.5, unless the department has received a certificate as provided in those sections.

SEC. 3. Section 12808 of the Vehicle Code is amended to read:

12808. (a) The department shall, before issuing or renewing any license, check the record of the applicant for conviction of traffic violations and traffic accidents.

(b) The department shall, before issuing or renewing any license, check the record of the applicant for notices of failure to appear in court filed with it and shall withhold or shall not issue a license to any applicant who has violated his written promise to appear in court unless the department has received a certificate issued by the magistrate or clerk of the court hearing the case in which the promise was given showing that the case has been adjudicated or unless the applicant's record is cleared as provided in Chapter 6 (commencing with Section 41500) of Division 17. In lieu of the certificate of adjudication, a notice from the court stating that the original records

have been lost or destroyed shall permit the department to issue a license.

(c) (1) Any notice received by the department pursuant to Section 40509, 40509.1, or 40509.5 , except subdivision (c) of Section 40509.5, that has been on file five years may be removed from the department records and destroyed at the discretion of the department.

(2) Any notice received by the department under subdivision (c) of Section 40509.5 that has been on file 10 years may be removed from the department records and destroyed at the discretion of the department.

SEC. 4. Section 13365.2 is added to the Vehicle Code, to read:

13365.2. (a) Upon receipt of the notice required under subdivision (c) of Section 40509.5, the department shall suspend the driving privilege of the person upon whom notice was received and shall continue that suspension until receipt of the certificate required under that subdivision.

(b) The suspension required under subdivision (a) shall become effective on the 45th day after the mailing of written notice by the department.

SEC. 5. Section 40509 of the Vehicle Code is amended to read:

40509. (a) Except as required under subdivision (c) of Section 40509.5, if any person has for a period of 15 or more days violated a written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail, or violated an order to appear in court, including, but not limited to, a written notice to appear issued in accordance with Section 40518, the magistrate or clerk of the court may give notice of the failure to appear to the department for any violation of this code, or any violation that can be heard by a juvenile traffic hearing referee pursuant to Section 256 of the Welfare and Institutions Code, or any violation of any other statute relating to the safe operation of a vehicle, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), (7), and (8) of subdivision (b) of Section 1803. The notice shall be given within 60 days of the failure to appear. If thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) If any person has, for a period of 15 or more days, willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department for any violation, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), (7), and (8) of subdivision (b) of Section 1803. If thereafter the fine is fully paid, the

magistrate or clerk of the court shall issue and file with the department a certificate showing that the fine has been paid.

(c) (1) Notwithstanding subdivisions (a) and (b), the court may notify the department of the total amount of bail, fines, assessments, and fees authorized or required by this code, including Section 40508.5, which are unpaid by any person.

(2) Once a court has established the amount of a fine and any assessments, and notified the department, the court shall not further enhance or modify that amount.

(3) This subdivision applies only to violations of this code that do not require a mandatory court appearance, are not contested by the defendant, and do not require proof of correction certified by the court.

(d) Whenever any person has for a period of 15 or more days willfully failed to obey any court order concerning a violation of this code other than failure to appear or pay a fine, the department shall suspend the person's privilege to operate a motor vehicle until compliance with the court order is shown. The magistrate or clerk of the court may give notice of any noncompliance of a court order to the department. The suspension shall not become effective until 45 days after the giving of written notice by the department to the person or until the end of any stay of suspension. However, this subdivision does not apply to court orders concerning violations enumerated in paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803.

(e) With respect to a violation of this code, this section is applicable to any court which has not elected to be subject to the notice requirements of subdivision (b) of Section 40509.5.

(f) Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

SEC. 6. Section 40509.5 of the Vehicle Code is amended to read:

40509.5. (a) Except as required under subdivision (c), if, with respect to an offense described in subdivision (e), any person has, for a period of 15 or more days, violated his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before the person authorized to receive a deposit of bail, or violated an order to appear in court, the magistrate or clerk of the court may give notice of the failure to appear to the department for any violation of this code, any violation that can be heard by a juvenile traffic hearing referee pursuant to Section 256 of the Welfare and Institutions Code, or any violation of any other statute relating to the safe operation of a vehicle, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. The notice shall be given within 60 days of the failure to appear. If thereafter the case in which the promise was given is adjudicated or the person who has violated the court order appears in court and satisfies the order of the court,

the magistrate or clerk of the court hearing the case shall sign and file with the department a certificate to that effect.

(b) If, with respect to an offense described in subdivision (e), any person has, for a period of 15 or more days, willfully failed to pay a lawfully imposed fine within the time authorized by the court or to pay a fine pursuant to subdivision (a) of Section 42003, the magistrate or clerk of the court may give notice of the fact to the department for any violation, except violations not required to be reported pursuant to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803. If thereafter the fine is fully paid, the magistrate or clerk of the court shall issue and file with the department a certificate showing that the fine has been paid.

(c) If any person charged with a violation of Section 23152 or 23153, or Section 191.5 of the Penal Code, or paragraph (3) of subdivision (c) of Section 192 of that code has, for a period of 15 or more days, violated a lawfully granted continuance of his or her promise to appear in court or is released from custody on his or her own recognizance and fails to appear in court or before the person authorized to receive a deposit of bail, or violated an order to appear in court, the magistrate or clerk of the court shall give notice to the department of the failure to appear. The notice shall be given within 60 days of the failure to appear. If thereafter the case in which the notice was given is adjudicated or the person who has violated the court order appears in court or otherwise satisfies the order of the court, the magistrate or clerk of the court hearing the case shall prepare and forward to the department a certificate to that effect.

(d) Except as required under subdivision (c), the court shall mail a courtesy warning notice to the defendant by first-class mail at the address shown on the notice to appear, at least 10 days before sending a notice to the department under this section.

(e) If the court notifies the department of a failure to appear or pay a fine pursuant to subdivision (a) or (b), no arrest warrant shall be issued for an alleged violation of subdivision (a) or (b) of Section 40508 or of a court order issued pursuant to subdivision (a) of Section 42003, unless one of the following criteria is met:

(1) The alleged underlying offense is a misdemeanor or felony.

(2) The alleged underlying offense is a violation of any provision of Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), or Division 15 (commencing with Section 35000), required to be reported pursuant to Section 1803.

(3) The driver's record does not show that the defendant has a valid California driver's license.

(4) The driver's record shows an unresolved charge that the defendant is in violation of his or her written promise to appear for one or more other alleged violations of the law.

(f) Except as required under subdivision (c), in addition to the proceedings described in this section, the court may elect to notify the department pursuant to subdivision (c) of Section 40509.

(g) Whenever any person has for a period of 15 or more days willfully failed to obey any court order concerning a violation of this code other than failure to appear or pay a fine, the department shall suspend the person's privilege to operate a motor vehicle until compliance with the court order is shown. The magistrate or clerk of the court may give notice of any noncompliance of a court order to the department. The suspension shall not become effective until 45 days after the giving of written notice by the department to the person or until the end of any stay of suspension. However, this subdivision does not apply to court orders concerning violations enumerated in paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section 1803.

(h) This section is applicable to courts which have elected to provide notice pursuant to subdivision (b). The method of commencing or terminating an election to proceed under this section shall be prescribed by the department.

(i) Any violation subject to Section 40001, which is the responsibility of the owner of the vehicle, shall not be reported under this section.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 225

An act to amend Section 18455 of the Financial Code, relating to financial institutions.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 18455 of the Financial Code is amended to read:

18455. An industrial loan company shall not, directly or indirectly, make any loan to, or purchase a contract, loan, or chose in action from, hold a lease obligation of, or purchase a lease contract from:

(a) A person who is an officer or director of the industrial loan company or of its holding or affiliated company.

(b) A person who is a holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated company. This restriction shall not apply to persons holding less than 10 percent of the shares of a holding company or affiliate company which is exempt from the qualification requirements of the Corporate Securities Law of 1968 contained in Section 25130 of the Corporations Code, pursuant to subdivision (a) or (b) of Section 25101 of the Corporations Code.

(c) A person in which an officer or director of the industrial loan company or of any holding or affiliated company directly or indirectly is financially interested, directly or indirectly.

(d) A person in which the holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated company directly or indirectly is financially interested, directly or indirectly. This restriction shall not apply to persons holding less than 10 percent of the shares of a holding company or affiliate company that is exempt from the qualification requirements of the Corporate Securities Law of 1968 contained in Section 25130 of the Corporations Code, pursuant to subdivision (a) or (b) of Section 25101 of the Corporations Code.

(e) A person who acquired those contracts directly or indirectly or through intervening assignments from a person described in subdivision (a), (b), (c), or (d).

Any officer, director or shareholder of an industrial loan company who directly or indirectly makes or procures or participates in making or procuring a loan or contract in violation of this section or knowingly approves the same is personally liable for any loss resulting to an industrial loan company from the loan or contract, in addition to any other penalties provided by law.

(f) The prohibition contained in this section shall not apply to the purchase by an industrial loan company of a contract, loan, or chose in action from a finance lender, as described in Section 22009, a mortgage broker, a mortgage banker, a real estate broker or other licensed lender, provided written authorization for the purchase is obtained from the commissioner.

(g) The prohibition contained in this section shall not apply to the purchase of life insurance by an industrial loan company on behalf of an officer or director as part of the officer's or director's employee benefit plan package.

CHAPTER 226

An act to amend Section 25205.14 of the Health and Safety Code, and to amend Section 43152.15 of the Revenue and Taxation Code,

relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 25205.14 of the Health and Safety Code is amended to read:

25205.14. (a) Except as provided in Section 25404.5, the owner or operator of a facility or transportable treatment unit operating pursuant to a permit-by-rule shall pay a fee to the board per facility or transportable treatment unit for each reporting period, or portion thereof. The fee for the 1996 reporting period shall be one thousand two hundred thirty-six dollars ($1,236). Thereafter, the fee shall be adjusted annually by the board to reflect increases and decreases in the cost of living, as measured by the Consumer Price Index issued by the Department of Industrial Relations or a successor agency. The owner or operator of a facility or transportable treatment unit operating pursuant to a permit-by-rule shall also pay a fee in the amount of 50 percent of the fee specified in this subdivision for each modification of the notification required by Sections 67450.2 and 67450.3 of Title 22 of the California Code of Regulations, as those sections read on January 1, 1995, or as those sections may subsequently be amended. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known owners or operators operating pursuant to a permit-by-rule who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any owner or operator authorized to operate pursuant to a permit-by-rule, who is not exempted from this fee pursuant to Section 25404.5, within 60 days after the owner or operator is authorized.

(b) Except as provided in Section 25404.5, a generator operating under a grant of conditional authorization pursuant to Section 25200.3 shall pay a fee to the board per facility for each reporting period, or portion thereof, unless the generator is subject to a fee under a permit-by-rule. The fee for the 1996 reporting period shall be one thousand two hundred thirty-six dollars ($1,236). Thereafter, the fee shall be adjusted annually by the board to reflect increases and decreases in the cost of living, during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or a successor agency. A generator shall also pay a fee in the amount of 50 percent of the fee specified in this subdivision for each notification amendment required by subdivision (k) of Section 25200.3. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year,

the department shall notify the board of all known generators operating pursuant to a grant of conditional authorization under Section 25200.3 who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any generator authorized to operate under a grant of conditional authorization, who is not exempted from this fee pursuant to Section 25404.5, within 60 days of the receipt of notification.

(c) Except as provided in Section 25404.5, a generator performing treatment conditionally exempted pursuant to Section 25144.6 or subdivision (a) or (c) of Section 25201.5 shall pay one hundred dollars ($100) to the board per facility for the initial operating period, or portion thereof, and fifty dollars ($50) every reporting period thereafter, unless that generator is subject to a fee under a permit-by-rule or a conditional authorization pursuant to Section 25200.3. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known facilities performing treatment conditionally exempted by Section 25144.6 or subdivision (a) or (c) of Section 25201.5 who are not exempted from this fee pursuant to Section 25404.5. The department shall also notify the board of any generator who notifies the department that the generator is conducting a conditionally exempt treatment operation, and who is not exempted from this fee pursuant to Section 25404.5, within 60 days of the receipt of the notification.

(d) The fees 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.

SEC. 2. Section 43152.15 of the Revenue and Taxation Code is amended to read:

43152.15. (a) In addition to the requirements imposed pursuant to Sections 43152.7 and 43152.11, every generator subject to the fees specified in Sections 25205.5 and 25205.9 of the Health and Safety Code shall make a prepayment of the fee by site to the board which is due and payable on or before the last day of August of each calendar year. The prepayment shall be accompanied by a prepayment return in a form prescribed by the board.

(b) For purposes of subdivision (a), the amount of the prepayment shall be not less than either of the following:

(1) One hundred percent of the applicable fee imposed on the generator, based on the generator's fee category as specified in Section 25205.5 of the Health and Safety Code for the total volume of hazardous waste generated by site during the period January 1 to June 30, inclusive, of the current calendar year in which the prepayment is due. The prepayment may be offset by fees paid by the generator for a local hazardous waste management program conducted by a local agency pursuant to a memorandum of understanding with the department which includes the following:

(A) The local fees are paid for the current calendar year for which the prepayment is due or the local fees are paid for the preceding calendar year, if fees have not been paid for the current year.

(B) The offset is subject to the limitations and requirements specified in subdivision (c) of Section 43152.7.

(2) Fifty percent of the generator fee liability paid to the board by site for the preceding calendar year provided the generator paid a generator fee liability to the board for the preceding calendar year for that site.

(c) The board shall credit the amount of the prepayment against the amount of the fee due and payable for the calendar year in which the prepayment is due.

(d) Notwithstanding any other provision in this section, the prepayment of a generator fee shall not be required for any amount due that is less than five hundred dollars ($500), or for any other amount due if the board determines that prepayment is not in the best economic interest of the program.

(e) Any person required to make a prepayment pursuant to this section who fails to make a prepayment by the due date specified in subdivision (a) shall also pay penalties and interest in accordance with Sections 43155 and 43156.

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

In order to avoid the incurring of unnecessary administrative costs by the State Board of Equalization in 1996 in connection with the processing of returns covering prepayment of generator fee liability, and to prevent operators from paying an increased fee, it is necessary that this act take effect immediately.

CHAPTER 227

An act to amend Section 18266 of the Financial Code, relating to industrial loan companies.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 18266 of the Financial Code is amended to read:

18266. (a) Except as set forth in subdivisions (b) and (c), any loan or obligation made or acquired by an industrial loan company that has investment certificates outstanding that is secured primarily by real property and has an outstanding principal balance of ten

thousand dollars ($10,000) or more shall be secured by real property having a fair market value, or real property and personal property combined having a fair market value, at the time the loan or other obligation is made or acquired, of at least 110 percent of the principal amount owing on the loan or obligation and on prior encumbrances, except nondelinquent tax liens, secured by the same real property with regard to loans secured solely by real property, or by both real property and personal property. Fair market value of the real property for purposes of this section shall be determined by a real property appraiser who meets the qualifications established pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101-73, and any applicable regulations, guidelines, or policies thereunder.

(b) Subdivision (a) does not apply to:

(1) Any loan guaranteed in whole or in part by the Administrator of Veterans Affairs pursuant to the Servicemen's Readjustment Act of 1944 or any act of Congress supplementary or amendatory thereof.

(2) Any loan insured by the Federal Housing Administration pursuant to the National Housing Act or any act of Congress supplementary or amendatory thereof.

(c) Subject to all other provisions of subdivision (a) and any requirements the commissioner may impose by rule or order, the following loans may be secured by real property having a fair market value of less than 110 percent of the principal amount of the loan and prior encumbrances:

(1) Any loan made by an industrial loan company to facilitate the sale of real property owned by the industrial loan company resulting from foreclosure or receipt of a deed in lieu of foreclosure.

(2) Any loan renewed or modified by an industrial loan company pursuant to a clearly defined and well-documented program adopted by the board of directors of the industrial loan company to achieve orderly repayment of the loan or to maximize recovery of the loan.

(3) Any loan or obligation saleable in the secondary market. For purposes of this paragraph, "saleable in the secondary market" means saleable to a qualified institutional buyer, as evidenced by irrevocable commitments to buy by those qualified institutional buyers.

(4) Any loan or obligation owned for less than 90 days.

(d) In complying with the requirement of subdivision (a), an industrial loan company may include the principal amount of private mortgage insurance.

(e) Any loan or obligation made or acquired by an industrial loan company that has investment certificates outstanding that is secured solely by motor vehicles or other personal property shall be secured by that property having a fair market value at the time the loan or other obligation is made or acquired of at least 100 percent of the principal amount owing on the loan or obligation. The personal

property held as security shall be of a class or kind that has been declared eligible by regulation of the commissioner.

CHAPTER 228

An act to amend, repeal, and add Section 10753 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 10753 of the Revenue and Taxation Code is amended to read:

10753. (a) Upon the first sale of a new vehicle to a consumer and upon each sale of a used vehicle to a consumer, the department shall determine the market value of the vehicle on the basis of the cost price to the purchaser as evidenced by a certificate of cost, but not including California sales or use tax or any local sales, transactions, use, or other local tax. "Cost price" shall include the value of any modifications made by the seller.

(b) Notwithstanding subdivision (a), the department shall not redetermine the market value of used vehicles or modify the vehicle license fee classification of used vehicles determined pursuant to Section 10753.1 or 10753.2, when the seller is the parent, grandparent, child, grandchild, or spouse of the purchaser, and the seller is not engaged in the business of selling vehicles subject to registration under the Vehicle Code, or when a lessor, as defined in Section 372 of the Vehicle Code, transfers title and registration of a vehicle to the lessee at the expiration or termination of a lease.

(c) (1) In the event any commercial vehicle is modified or additions are made to the chassis or body at a cost of two thousand dollars ($2,000) or more, but not including any change of engine of the same type or any cost of repairs to a commercial vehicle, the owner of the commercial vehicle shall report any modification or additions to the department and the department shall classify or reclassify the commercial vehicle in its proper class as provided in Section 10753.1 or 10753.2, taking into consideration the increase in the market value of the commercial vehicle due to those modifications or additions, and any reclassification resulting in increase in market value shall be based on the cost to the consumer of those modifications or additions. In the event any vehicle is modified or altered resulting in a decrease in the market value thereof of two hundred dollars ($200) or more as reported to and determined by the department, the department shall classify or

reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2.

(2) Paragraph (1) shall not apply to any of the following:

(A) When the cost of any modification or additions to the chassis or body of a commercial vehicle is less than two thousand dollars ($2,000).

(B) When the cost is for modifications or additions necessary to incorporate a system approved by the State Air Resources Board as meeting the emission standards set forth in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975.

(C) When the cost is for modifications that are necessary to enable a disabled person to use or operate the vehicle.

(3) For purposes of this subdivision, "commercial vehicle" means a vehicle as defined in Section 260 of the Vehicle Code that is regulated by the Department of the Highway Patrol pursuant to Sections 2813 and 34500 of the Vehicle Code.

(d) This section is also applicable to a system specified in subdivision (c) approved by the State Air Resources Board as meeting the emission standards specified in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975, for vehicles 6,001 pounds or less, manufacturer's gross vehicle weight, controlled to meet exhaust emission standards when sold new, when such a system is used in any vehicle over 6,001 pounds or any vehicle 6,001 pounds or less not controlled to meet exhaust emission standards.

(e) The temporary attachment of any camper, as defined in Section 243 of the Vehicle Code, to a vehicle is not a modification or addition for the purposes of subdivision (c).

(f) The attachment to a vehicle of radiotelephone equipment furnished by a telephone corporation, as defined in Section 234 of the Public Utilities Code, is not a modification or addition for the purpose of subdivision (c), when that equipment is not owned by the owner of the vehicle.

(g) This section shall remain in effect only until January 1, 2000, and as of that date is repealed.

SEC. 2. Section 10753 is added to the Revenue and Taxation Code, to read:

10753. (a) Upon the first sale of a new vehicle to a consumer and upon each sale of a used vehicle to a consumer, the department shall determine the market value of the vehicle on the basis of the cost price to the purchaser as evidenced by a certificate of cost, but not including California sales or use tax or any local sales, transactions, use, or other local tax. "Cost price" shall include the value of any modifications made by the seller.

(b) Notwithstanding subdivision (a), the department shall not redetermine the market value of used vehicles or modify the vehicle license fee classification of used vehicles determined pursuant to

Section 10753.1 or 10753.2, when the seller is the parent, grandparent, child, grandchild, or spouse of the purchaser, and the seller is not engaged in the business of selling vehicles subject to registration under the Vehicle Code, or when a lessor, as defined in Section 372 of the Vehicle Code, transfers title and registration of a vehicle to the lessee at the expiration or termination of a lease.

(c) (1) In the event any vehicle is modified or additions are made to the chassis or body at a cost of two hundred dollars ($200) or more, but not including any change of engine of the same type or any cost of repairs to a vehicle, the owner of the vehicle shall report any modification or additions to the department and the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2, taking into consideration the increase in the market value of the vehicle due to those modifications or additions, and any reclassification resulting in increase in market value shall be based on the cost to the consumer of those modifications or additions. In the event any vehicle is modified or altered resulting in a decrease in the market value thereof of two hundred dollars ($200) or more as reported to and determined by the department, the department shall classify or reclassify the vehicle in its proper class as provided in Section 10753.1 or 10753.2.

(2) Paragraph (1) shall not apply to any of the following:

(A) When the cost of any modification or additions to the chassis or body of a vehicle is less than two hundred dollars ($200).

(B) When the cost is for modifications or additions necessary to incorporate a system approved by the State Air Resources Board as meeting the emission standards set forth in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975.

(C) When the cost is for modifications that are necessary to enable a disabled person to use or operate the vehicle.

(d) This section is also applicable to a system specified in subdivision (c) approved by the State Air Resources Board as meeting the emission standards specified in subdivisions (a) and (b) of former Section 39102 and former Section 39102.5 of the Health and Safety Code as they read on December 31, 1975, for vehicles 6,001 pounds or less, manufacturer's gross vehicle weight, controlled to meet exhaust emission standards when sold new, when such a system is used in any vehicle over 6,001 pounds or any vehicle 6,001 pounds or less not controlled to meet exhaust emission standards.

(e) The temporary attachment of any camper, as defined in Section 243 of the Vehicle Code, to a vehicle is not a modification or addition for the purposes of subdivision (c).

(f) The attachment to a vehicle of radiotelephone equipment furnished by a telephone corporation, as defined in Section 234 of the Public Utilities Code, is not a modification or addition for the purpose of subdivision (c), when that equipment is not owned by the owner of the vehicle.

(g) This section shall become operative on January 1, 2000.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 229

An act to amend and repeal Section 114350 of the Health and Safety Code, relating to agriculture.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 114350 of the Health and Safety Code is amended to read:

114350. Certified farmers' markets shall meet the provisions of Article 6 (commencing with Section 113975) and, in addition, shall meet all of the following requirements:

(a) All food shall be stored at least 15 centimeters (6 inches) off the floor or ground or under any other conditions that are approved.

(b) Food preparation is prohibited at certified farmers' markets with the exception of the food samples. Distribution of food samples is allowed provided that the following sanitary conditions exist:

(1) Samples shall be kept in approved, clean, covered containers.

(2) All food samples shall be distributed by the producer in a sanitary manner.

(3) Clean, disposable plastic gloves shall be used when cutting food samples.

(4) Food intended for sampling shall be washed, or cleaned in another manner, of any soil or other material by potable water in order that it is wholesome and safe for consumption.

(5) Potable water shall be available for hand washing and sanitizing as approved by the local enforcement agency.

(6) Potentially hazardous food samples shall be maintained at or below 45 degrees fahrenheit. All other food samples shall be disposed of within two hours after cutting.

(7) Utensil and hand washing water shall be disposed of in a facility connected to the public sewer system or in a manner approved by the local enforcement agency.

(8) Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleaned or disposed of as approved by the local environmental health agency.

(c) Approved toilet and hand washing facilities shall be available within 60 meters (200 feet) of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) No live animals, birds, or fowl shall be kept or allowed within 6 meters (20 feet) of any area where food is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

(e) All garbage and rubbish shall be stored, and disposed of, in a manner approved by the enforcement officer.

(f) Notwithstanding Article 11 (commencing with Section 114250), vendors selling food adjacent to and under the jurisdiction and management of a certified farmers' market may store, display, and sell from a table or display fixture apart from the vehicle, in a manner approved by the local enforcement agency.

SEC. 2. Section 114350 of the Health and Safety Code is repealed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 230

An act to amend Section 2941 of the Civil Code, relating to mortgages.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 2941 of the Civil Code is amended to read:

2941. (a) Within 30 days after any mortgage has been satisfied, the mortgagee or the assignee of the mortgagee shall execute a

certificate of the discharge thereof, as provided in Section 2939, and shall record or cause to be recorded, except as provided in subdivision (c), in the office of the county recorder in which the mortgage is recorded. The mortgagee shall then deliver, upon the written request of the mortgagor or the mortgagor's heirs, successors, or assignees, as the case may be, the original note and mortgage to the person making the request.

(b) (1) When the obligation secured by any deed of trust has been satisfied, the beneficiary or the assignee of the beneficiary shall execute and deliver to the trustee the original note, deed of trust, request for a full reconveyance, and other documents as may be necessary to reconvey, or cause to be reconveyed, the deed of trust.

(A) The trustee shall execute the full reconveyance and shall record or cause it to be recorded, except as provided in subdivision (c), in the office of the county recorder in which the deed of trust is recorded within 21 calendar days after receipt by the trustee of the original note, deed of trust, request for a full reconveyance, the fee that may be charged pursuant to subdivision (e), recorder's fees, and other documents as may be necessary to reconvey, or cause to be reconveyed, the deed of trust.

(B) The trustee shall deliver a copy of the reconveyance to the beneficiary, its successor in interest, or its servicing agent, if known.

(C) Following execution and recordation of the full reconveyance, upon receipt of a written request by the trustor or the trustor's heirs, successors, or assignees, the trustee shall then deliver the original note and deed of trust to the person making that request.

(2) If the trustee has failed to execute and record, or cause to be recorded, the full reconveyance within 60 calendar days of satisfaction of the obligation, the beneficiary, upon receipt of a written request by the trustor or trustor's heirs, successor in interest, agent, or assignee, shall execute and acknowledge a document pursuant to Section 2934a substituting itself or another as trustee and issue a full reconveyance.

(3) If a full reconveyance has not been executed and recorded pursuant to either paragraph (1) or paragraph (2) within 75 calendar days of satisfaction of the obligation, then a title insurance company may prepare and record a release of the obligation. However, at least 10 days prior to the issuance and recording of a full release pursuant to this paragraph, the title insurance company shall mail by first-class mail with postage prepaid, the intention to release the obligation to the trustee, trustor, and beneficiary of record, or their successor in interest of record, at the last known address.

(A) The release shall set forth:

(i) The name of the beneficiary.

(ii) The name of the trustor.

(iii) The recording reference to the deed of trust.

(iv) A recital that the obligation secured by the deed of trust has been paid in full.

(v) The date and amount of payment.

(B) The release issued pursuant to this subdivision shall be entitled to recordation and, when recorded, shall be deemed to be the equivalent of a reconveyance of a deed of trust.

(4) Where an obligation secured by a deed of trust was paid in full prior to July 1, 1989, and no reconveyance has been issued and recorded by October 1, 1989, then a release of obligation as provided for in paragraph (3) may be issued.

(5) Paragraphs (2) and (3) do not excuse the beneficiary or the trustee from compliance with paragraph (1). Paragraph (3) does not excuse the beneficiary from compliance with paragraph (2).

(6) In addition to any other remedy provided by law, a title insurance company preparing or recording the release of the obligation shall be liable to any party for damages, including attorneys' fees, which any person may sustain by reason of the issuance and recording of the release, pursuant to paragraphs (3) and (4).

(c) The mortgagee or trustee shall not record or cause the certificate of discharge or full reconveyance to be recorded when any of the following circumstances exists:

(1) The mortgagee or trustee has received written instructions to the contrary from the mortgagor or trustor, or the owner of the land, as the case may be, or from the owner of the obligation secured by the deed of trust or his or her agent, or escrow.

(2) The certificate of discharge or full reconveyance is to be delivered to the mortgagor or trustor, or the owner of the land, as the case may be, through an escrow to which the mortgagor, trustor, or owner is a party.

(3) When the personal delivery is not for the purpose of causing recordation and when the certificate of discharge or full reconveyance is to be personally delivered with receipt acknowledged by the mortgagor or trustor or owner of the land, as the case may be, or their agent if authorized by mortgagor or trustor or owner of the land.

(d) The violation of this section shall make the violator liable to the person affected by the violation for all damages which that person may sustain by reason of the violation, and shall require that the violator forfeit to that person the sum of three hundred dollars ($300).

(e) (1) The trustee, beneficiary, or mortgagee may charge a reasonable fee to the trustor or mortgagor, or the owner of the land, as the case may be, for all services involved in the preparation, execution, and recordation of the full reconveyance, including, but not limited to, document preparation and forwarding services rendered to effect the full reconveyance, and, in addition, may collect official fees. This fee may be made payable no earlier than the opening of a bona fide escrow or no more than 60 days prior to the

full satisfaction of the obligation secured by the deed of trust or mortgage.

(2) If the fee charged pursuant to this subdivision does not exceed sixty-five dollars ($65), the fee is conclusively presumed to be reasonable.

(f) For purposes of this section, "original" may include an optically imaged reproduction when the following requirements are met:

(1) The trustee receiving the request for reconveyance and executing the reconveyance as provided in subdivision (b) is an affiliate or subsidiary of the beneficiary or an affiliate or subsidiary of the assignee of the beneficiary, respectively.

(2) The optical image storage media used to store the document shall be nonerasable write once, read many (WORM) optical image media that does not allow changes to the stored document.

(3) The optical image reproduction shall be made consistent with the minimum standards of quality approved by either the National Institute of Standards and Technology or the Association for Information and Image Management.

(4) Written authentication identifying the optical image reproduction as an unaltered copy of the note, deed of trust, or mortgage shall be stamped or printed on the optical image reproduction.

CHAPTER 231

An act to amend Section 21101.4 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 21101.4 of the Vehicle Code is amended to read:

21101.4. (a) A local authority may, by ordinance or resolution, adopt rules and regulations for temporarily closing to through traffic a highway under its jurisdiction when all of the following conditions are, after a public hearing, found to exist:

(1) The local authority finds and determines that there is serious and continual criminal activity in the portion of the highway recommended for temporary closure. This finding and determination shall be based upon the recommendation of the police department or, in the case of a highway in an unincorporated area, on the joint recommendation of the sheriff's department and the Department of the California Highway Patrol.

(2) The highway has not been designated as a through highway or arterial street.

(3) Vehicular or pedestrian traffic on the highway contributes to the criminal activity.

(4) The closure will not substantially adversely affect traffic flow, safety on the adjacent streets or in the surrounding neighborhoods, the operation of emergency vehicles, the performance of municipal or public utility services, or the delivery of freight by commercial vehicles in the area of the highway proposed to be temporarily closed.

(b) A highway may be temporarily closed pursuant to subdivision (a) for not more than 18 months, except that this period may be extended for not more than five additional consecutive periods of not more than 18 months each if, prior to each of those extensions, the local authority holds a public hearing and finds, by ordinance or resolution, that all of the following conditions exist:

(1) Continuation of the temporary closure will assist in preventing the occurrence or reoccurrence of the serious and continual criminal activity found to exist when the immediately preceding temporary closure was authorized. This finding and determination shall be based upon the recommendation of the police department or, in the case of a highway in an unincorporated area, on the joint recommendation of the sheriff's department and the Department of the California Highway Patrol.

(2) The highway has not been designated as a through highway or arterial street.

(3) Vehicular or pedestrian traffic on the highway contributes to the criminal activity.

(4) The immediately preceding closure has not substantially adversely affected traffic flow, safety on the adjacent streets or in the surrounding neighborhoods, the operation of emergency vehicles, the performance of municipal or public utility services, or the delivery of freight by commercial vehicles in the area of the highway that was temporarily closed.

(c) The local authority shall mail written notice of the public hearing required under subdivision (a) or (b) to all residents and owners, as shown on the last equalized assessment roll, of property adjacent to the portion of highway where a temporary closure or extension of temporary closure is proposed.

CHAPTER 232

An act relating to coastal resources.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Notwithstanding any other provision of law, the State Coastal Conservancy may, consistent with Division 21 (commencing with Section 31000) of the Public Resources Code, request the Department of General Services to retain, reserve, transfer, or convey to a public entity, nonprofit organization, or other eligible third party, any portion of, or interest in, the real property known as Cascade Ranch in San Mateo County, owned by the state and under the control and possession of the State Coastal Conservancy, if the conservancy determines that the action is appropriate to protect the natural or recreational resources of the property or of adjoining state-owned property, and that the action will not significantly interfere with the production of crops on the remaining portion of the property.

CHAPTER 233

An act to amend Section 56366.7 of the Education Code, relating to special education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 56366.7 of the Education Code is amended to read:

56366.7. (a) As a condition of certification, a nonpublic, nonsectarian school or agency shall submit, on forms developed by the superintendent in consultation with statewide organizations representing providers of special education and designated instruction and services, a list of uniform tuition fees for providing special education and designated instruction and services to individuals with exceptional needs who are served through contracts with local education agencies. The superintendent shall not certify, or shall decertify, any nonpublic nonsectarian school or agency that has not complied with this section by June 30, 1998. The superintendent shall ensure that tuition fee information is uniformly collected from nonpublic, nonsectarian schools and agencies that seek certification each year.

(b) (1) Uniform tuition fees are based on the per-day costs of providing special education and designated instruction and services to individuals with exceptional needs served in a nonpublic, nonsectarian school or agency, which costs are contained in the school or agency total operating budget that is submitted with an

application for certification and are uniformly charged by the school or agency to all contracting local education agencies.

(2) The total operating budget for purposes of providing special education services includes all costs incurred or projected to be incurred for the administration and operation of the school, including, but not limited to:

(A) Rents and leases.

(B) Principal and interest on debt service.

(C) Wages, salaries, and benefits.

(D) Supplies.

(E) Materials.

(F) Accounting, legal, medical, and psychological benefits, and other professional services.

(G) Equipment.

(H) Depreciation taken in accordance with generally accepted accounting principles.

(I) Amortization taken in accordance with generally accepted accounting principles.

(J) Insurance, or if self-insured, contributions to self-insured funds.

(K) Contributions to reserve funds maintained in accordance with generally accepted accounting principles.

(L) Licensing and regulatory fees.

(M) Advertising.

(N) Books and publications.

(O) Travel.

(P) Professional association dues.

(Q) Contractual services (for example, maintenance, gardening, and transportation).

(R) Utilities.

(S) Taxes.

(T) Training and staff development.

(U) A percentage rate of return equal to the rate of return earned in the preceding fiscal year.

(3) A uniform tuition fee is a daily fee that is comprised of the costs contained in the total operating budget divided by the total schooldays of attendance of individuals with exceptional needs.

(4) There shall be deducted from the total operating budget all expenses associated with any service that is charged as a separate service fee and not included in the uniform tuition fee. A separate service fee is a daily rate charged for a service that is not included in the uniform tuition fee and for which the school or agency charges separately, for example designated instruction and services as defined in Section 56363 or transportation. The unit of measurement for a separate service fee varies from service to service and from school to school unless otherwise required by a contract with a local education agency under subdivision (c) of Section 56366.

(c) This section shall become inoperative on June 30, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

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 extension of the requirement that the superintendent not certify or decertify a nonpublic, nonsectarian school or agency that does not submit the list of uniform tuition fees for services be implemented at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 234

An act to add Section 56111.12 to the Government Code, and to amend Section 99231 of the Public Utilities Code, relating to annexation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 56111.12 is added to the Government Code, to read:

56111.12. (a) Notwithstanding Section 56110, upon approval of the commission, the City of Chowchilla may annex noncontiguous territory of not more than 1,280 acres in size located in the County of Madera and which constitutes state correctional facilities. If, after completion of the annexation, the State of California sells that territory or any part thereof, all of the territory that is no longer owned by the state shall cease to be part of the City of Chowchilla.

(b) If territory is annexed pursuant to this section, the city may not annex any territory not owned by the State of California and not contiguous to the city although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of the city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4 of Division 3.

(d) If territory annexed to the City of Chowchilla pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

SEC. 2. Section 99231 of the Public Utilities Code is amended to read:

99231. All operators and city or county governments with responsibility for providing municipal services to a given area collectively may file claims for only those moneys that represent that area's apportionment.

The term "apportionment" has reference to that proportion of the total annual revenue anticipated to be received in the fund that the population of the area bears to the total population of the county.

The term "area" means:

(a) With reference to a transit district, the entire area stated in its enabling legislation or franchise, excluding cities therein which have retained the right to join the district at a later time.

(b) With reference to a transit development board, the entire area stated in its enabling legislation, including the municipalities therein which operated bus systems prior to the creation of the board and subsequently conveyed those systems to the board.

(c) With reference to a county government, the unincorporated area of the county.

(d) With reference to a city government, the corporate area of the city.

(e) With reference to the City and County of San Francisco and the Counties of Alameda and Contra Costa, the unincorporated area thereof (and with reference to a city in those counties, the corporate area of the city) which is outside the area of the Alameda-Contra Costa Transit District and which is not receiving adequate local public transportation services, as determined by the Metropolitan Transportation Commission pursuant to subdivision (b) of Section 99207.

(f) Where a transit district, a transit development board, or a county or city, provides public transportation services beyond its boundaries, its area, for purposes of this section, shall also include:

(1) All of that area within one-half mile of any route which extends beyond its boundaries.

(2) All of the corporate area of a city to which it provides those services pursuant to contract or prior express authority of the secretary.

The transportation planning agency may rely, in its determination of populations, on estimates which are used by the Controller for distributing money to cities under Section 2107 of the Streets and Highways Code and to counties under Section 11005 of the Revenue and Taxation Code, and may contract with the Department of Finance or other appropriate state agency for an annual determination of those population estimates as may be necessary.

(g) With reference to the County of Riverside, the area within the jurisdiction of the transit operator established by the joint exercise of powers of one or more cities and the County of Riverside. The area within the jurisdiction of the transit operator shall be as it existed on January 1, 1981, as determined by the Riverside County Transportation Commission.

(h) With reference to the County of San Bernardino, the area within the jurisdiction of the transit operator established by the joint exercise of powers of one or more cities, including the most populous city, and the County of San Bernardino. The area within the jurisdiction of the transit operator shall be as it existed on January 1, 1985, as determined by the San Bernardino County Transportation Commission.

(i) With reference to the County of Monterey, the area including the Correctional Training Facility-Soledad even if annexed by the City of Soledad.

(j) With reference to the County of Del Norte, the area including the Pelican Bay State Prison, even if annexed by the City of Crescent City.

(k) With reference to the County of Imperial, the area including the Calipatria State Prison, even if annexed by the City of Calipatria.

(*l*) With reference to the County of Lassen, the area including the California Correctional Center, even if annexed by the City of Susanville.

(m) With reference to the County of Riverside, the area including the Chuckawalla Valley State Prison, even if annexed by the City of Blythe.

(n) With reference to the County of Imperial, the area including the California State Prison-Imperial County (South), even if annexed by either the City of El Centro or the City of Imperial.

(o) With reference to the County of Madera, the area including the Central California Women's Facility and the Valley State Prison for Women, even if annexed by the City of Chowchilla.

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

In order that the annexation application for the subject state-owned prison property may be timely heard and decided and the benefits thereof be realized as soon as possible by the City of Chowchilla and the County of Madera, which benefits will help to offset the serious financial impact on those agencies caused by, among other things, the increased demand for social and other services made necessary by the location of the prison facilities in the County of Madera, it is necessary that this act take effect immediately.

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CHAPTER 235

An act to amend Section 1596.871 of the Health and Safety Code, relating to child day care facilities.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation, or arrested for any crime specified in Section 290 of the Penal Code or arrested for violating Section 245, 273.5, subdivision (b) of Section 273a, or prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the Department of Justice shall notify the State Department of Social Services of that fact and the application shall be denied, unless the director grants an exemption pursuant to subdivision (f). If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a child, residing in the facility.

(3) Any person who provides care and supervision to the children.

(4) Any staff person or employee who has frequent and routine contact with the children. In determining who has frequent contact,

any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility, as designated by the applicant agency.

(6) If the applicant is a local educational agency, the president of the governing board, the school district superintendent, or a person designated to administer the operation of the facility, as designated by the local educational agency.

(7) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(8) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant supervision by adults who meet the requirements of this section.

(9) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission, including employees of child care and development programs that serve both children subsidized under, and children not subsidized under, a State Department of Education contract. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(10) This section does not apply to employees of a child care and development program operated by a school district, county office of education, or community college district under contract with the State Department of Education who have completed a criminal records clearance as a condition of employment. The school district, county office of education, or community college district upon receiving information that the status of an employee's criminal record clearance has changed shall submit that information to the department.

(c) (1) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a

condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the Department of Justice not later than four calendar days following employment, residence, or initial presence in the child day care facility.

(2) These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints. Fingerprints not submitted to the Department of Justice, as required in this section, shall result in the citation of a deficiency and the fingerprints shall then be submitted to the State Department of Social Services for processing. Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(4) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to

establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(e) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a child day care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character so as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a, or subdivision (a) of Section 290, or prior to January 1, 1994,

paragraph (1) of Section 273a or 273d, or Section 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1596.8897.

(g) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(h) (1) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

(2) The State Department of Social Services shall hold criminal records clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal records clearances to be transferred.

CHAPTER 236

An act to add Section 20527.11 to the Water Code, relating to water.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 20527.11 is added to the Water Code, to read:

20527.11. The Board of Directors of the Richvale Irrigation District may adopt a resolution that authorizes persons holding title to real property within the district, or their legal representative, to vote. Holders of title need not be residents of the district in order to qualify as voters. Each eligible voter shall be entitled to cast only one vote.

(b) The last equalized county assessment roll is conclusive evidence of ownership of the real property.

(c) (1) If land is owned in joint tenancy, tenancy in common, community property, or any other multiple ownership, the owners of the land shall designate, in writing, which one of the owners is deemed the owner of the land for purposes of qualifying as a voter.

(2) The designation shall be made upon a form provided by the district, and shall be filed with the district at least 40 days prior to the

election and shall remain in effect until amended or revoked. No amendment or revocation may occur within the period of 39 days prior to any election.

(d) The district shall provide to the elections clerk a list of eligible voters pursuant to Section 10525 of the Elections Code at least 35 days prior to an election.

(e) The legal representative of a corporation or estate owning real property may vote on behalf of the corporation or estate.

(f) (1) Every voter, or his or her legal representative, may vote at any district election either in person or by a person appointed as his or her proxy.

(2) Voting by legal representatives and the appointment of a proxy shall be allowed in accordance with Sections 35005 and 35006 of the Water Code.

(g) Notwithstanding Section 21100 , any eligible voter, as specified in this section, may be a member of the Board of Directors of the Richvale Irrigation District.

(h) (1) As used in this section, "legal representative" means an official of a corporation owning real property or a guardian, conservator, executor, or administrator of the estate of the holder of title to real property who is all of the following:

(A) Appointed under the laws of this state.

(B) Entitled to the possession of the estate's real property.

(C) Authorized by the appointing court to exercise the particular right, privilege, or immunity which the legal representative seeks to exercise.

(2) As used in this section, "eligible voter" means a person who meets the requirements of Section 20527 or a person who is a holder of title to real property within the district.

(3) The Board of Directors of the Richvale Irrigation District may, not less than 120 days before the next general district election, abolish the divisions of the district for that election. The abolishment of the divisions shall be effective only for that general election, unless the question of abolishing the divisions is presented to the voters at that election and a majority of the votes cast on that question are in favor of abolishing the divisions for future elections.

(i) (1) This section shall be operative as long as the district does not provide water, drainage services, electricity, flood control services, or sewage disposal services for domestic purposes for residents of the district.

(2) (A) This section shall become inoperative if the district commences to provide any of the services described in paragraph (1).

(B) The district shall notify the Secretary of State 30 days prior to commencing to provide any of the services described in paragraph (1). The notice required by this subparagraph shall state that it is being made pursuant to this subdivision.

SEC. 2. The Legislature finds and declares that this act, which is applicable only to the Richvale Irrigation District, is necessary because the district serves only irrigation water, there are few landowners residing within the district, and it is difficult to encourage eligible persons to serve from the several divisions on the district's board. Many landowners residing outside the boundaries of the district desire to vote and to serve as board members. It is, therefore, hereby declared that a general law cannot be made applicable to the district in accordance with Section 16 of Article IV of the California Constitution, and that the enactment of this special law is necessary for the solution of problems existing within the district.

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 that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 237

An act to add Section 769.55 to the Insurance Code, relating to insurance.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 769.55 is added to the Insurance Code, to read:

769.55. Notwithstanding any other provision of this code, for the purposes of Chapter 6 (commencing with Section 520) through Chapter 11 (commencing with Section 675), inclusive of Part 1 of Division 1, the obligation of an insurer to furnish any notice to its insured required by law may be carried out by an insurer's general agent, provided, however, that an insurer's delegation of a notice obligation to a general agent shall not limit or negate the insurer's responsibility or liability if the general agent fails to provide the required notice.

As used in this section, "general agent" means a licensed fire and casualty broker-agent who, pursuant to a written contract with an admitted insurer manages the transaction of one or more classes of

insurance written by the insurer and has the power to (1) appoint, supervise, and terminate local agents, (2) accept or decline risks, and (3) collect premium moneys from producing broker-agents.

Nothing in this section shall provide an exemption from Article 5.4 (commencing with Section 769.80) to any fire and casualty broker-agent who is otherwise subject to that article.

CHAPTER 238

An act to amend Sections 861 and 862 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 861 of the Food and Agricultural Code is amended to read:

861. For lots of over 200 pounds of any fruits, nuts, or vegetables that are the food product of any tree, vine, or plant, or for lots of over 200 pounds of any burl wood from a walnut tree, living or dead, and that are marketed for commercial purposes, all of the following apply:

(a) Every person who sells the commodity shall provide the buyer or transporter with a record of proof of ownership for each lot of the commodity.

(b) Every person who buys the commodity for resale shall obtain from the previous buyer or from the transporter a record of proof of ownership for each lot of the commodity.

(c) Every person who transports for commercial purposes shall possess a record showing proof of ownership for each lot of the commodity during transportation.

SEC. 2. Section 862 of the Food and Agricultural Code is amended to read:

862. Upon probable cause to believe any fruits, nuts, vegetables, or walnut burl regulated pursuant to this chapter is in unlawful possession, proof of ownership shall be made available for inspection upon request of the secretary, the commissioner, or by any peace officer. If the secretary or the commissioner has probable cause to believe that any fruits, nuts, vegetables, or walnut burl regulated pursuant to this chapter is in unlawful possession, he or she may request a peace officer to stop the vehicle pursuant to Section 881 for inspection. The record shall contain the following information:

(a) Name, address, telephone number, and signatures of the seller or the seller's authorized representative.

(b) Name, address, and telephone number of the buyer or consignee if not sold.

(c) Common or generic name and quantity of the commodity involved.

(d) Date of transaction and date of commencement of transportation.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 239

An act to add Section 19264 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 19264 is added to the Revenue and Taxation Code, to read:

19264. (a) Notwithstanding Sections 706.071 and 706.080 of the Code of Civil Procedure, the Franchise Tax Board shall establish a pilot program to issue earnings withholding orders for taxes and any other notice or document required to be served or provided in connection with an earnings withholding order, pursuant to Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, to government and private employers by magnetic media, electronic transmission, or other electronic technology. The purpose of the pilot program is to study the feasibility and cost effectiveness of the Franchise Tax Board issuing earnings withholding orders to employers using magnetic media, electronic transmission, or other electronic technology.

(b) The pilot program shall apply to any earnings withholding order for taxes and any other notice or document required to be served or provided in accordance with subdivision (a) on or after

January 1, 1997, and before January 1, 1999, to an employer who agrees to participate in the pilot program.

(c) For purposes of the pilot program, the Franchise Tax Board shall identify and work with employers who agree to be served as authorized by subdivision (a).

(d) The pilot program shall be successful if the Franchise Tax Board can demonstrate all of the following:

(1) The Franchise Tax Board's time to prepare and serve earnings withholding orders by magnetic media, electronic transmission, or other electronic technology, as authorized by subdivision (a), will be reduced by at least two days when compared to orders that would otherwise be prepared and served under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(2) The Franchise Tax Board's administrative cost to prepare and serve earnings withholding orders by magnetic media, electronic transmission, or other electronic technology, as authorized by subdivision (a), will be less than the cost to prepare and serve orders as specified under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(3) The employer's time and administrative costs to receive and comply with orders served in accordance with subdivision (a) do not exceed the time and administrative costs when compared to receiving and complying with orders served in accordance with Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(e) The Franchise Tax Board shall report to the Legislature on or before January 1, 1999, as to the results of the pilot program. The report shall include a cost comparison and the administrative advantages and disadvantages of preparing and serving earnings withholding orders by traditional methods and by magnetic media, electronic transmission, or other electronic technology.

(f) If the Franchise Tax Board determines that the pilot program is successful based on the criteria stated in subdivision (d), the Franchise Tax Board may continue to issue earnings withholding orders for taxes and any other notice or document required to be served or provided in connection with an earnings withholding order, pursuant to Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, to government and private employers who agree to accept service by magnetic media, electronic transmission, or other electronic technology.

(g) This section shall apply in the same manner and with the same force and effect and to the full extent as if this section had been incorporated in full into Article 4 (commencing with Section

706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

CHAPTER 240

An act to amend Sections 1102.1, 1102.6, 1102.9, and 2079.16 of the Civil Code, relating to real property.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 1102.1 of the Civil Code is amended to read:

1102.1. In enacting Chapter 817 of the Statutes of 1994, it was the intent of the Legislature to clarify and facilitate the use of the real estate disclosure statement, as specified in Section 1102.6. The Legislature intended the statement to be used by transferors making disclosures required under this article and by agents making disclosures required by Section 2079 on the agent's portion of the real estate disclosure statement, in transfers subject to this article. In transfers not subject to this article, agents may make required disclosures in a separate writing. The Legislature did not intend to affect the existing obligations of the parties to a real estate contract, or their agents, to disclose any fact materially affecting the value and desirability of the property, including, but not limited to, the physical conditions of the property and previously received reports of physical inspections noted on the disclosure form set forth in Section 1102.6 or 1102.6a, and that nothing in this article shall be construed to change the duty of a real estate broker or salesperson pursuant to Section 2079.

It is also the intent of the Legislature that the delivery of a real estate transfer disclosure statement may not be waived in an "as is" sale, as held in Loughrin v. Superior Court, 15 Cal. App. 4th 1188.

SEC. 2. Section 1102.6 of the Civil Code is amended to read:

1102.6. The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____, STATE OF CALIFORNIA, DESCRIBED AS _____. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF _____, 19___. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example: special study zone and purchase-money liens on residential property).

Substituted Disclosures: The following disclosures have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same:

☐ Inspection reports completed pursuant to the contract of sale or receipt for deposit.

☐ Additional inspection reports or disclosures:

_____

_____

_____

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

Seller __is __is not occupying the property.

A. The subject property has the items checked below (read across):

__Range	__Oven	__Microwave
__Dishwasher	__Trash Compactor	__Garbage Disposal
__Washer/Dryer Hookups	__Window Screens	__Rain Gutters
__Burglar Alarms	__Smoke Detector(s)	__Fire Alarm
__TV Antenna	__Satellite Dish	__Intercom
__Central Heating	__Central Air Cndtng.	__Evaporator Cooler(s)
__Wall/Window Air Cndtng.	__Sprinklers	__Public Sewer System
__Septic Tank	__Sump Pump	__Water Softener
__Patio/Decking	__Built-in Barbecue	__Gazebo
__Sauna	__Pool	__Spa __Hot Tub
__Security Gate(s)	__Automatic Garage Door Opener(s) *	__Number Remote Controls
Garage: __Attached	__Not Attached	__Carport
Pool/Spa Heater: __Gas	__Solar	__Electric
Water Heater: __Gas		__Private Utility or Other_____
Water Supply: __City	__Well	
Gas Supply: __Utility	__Bottled	

Exhaust Fan(s) in _____ 220 Volt Wiring in _____ Fireplace(s) in_____
Gas Starter _____ Roof(s): Type: _____ Age: _____ (approx.)
Other:_____

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? __Yes __No. If yes, then describe.

(Attach additional sheets if necessary):_____
_____
_____
_____

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following? __Yes __No. If yes, check appropriate space(s) below.

__Interior Walls __Ceilings __Floors __Exterior Walls __Insulation __Roof(s) __Windows __Doors __Foundation __Slab(s) __Driveways __Sidewalks __Walls/Fences __Electrical Systems __Plumbing/Sewers/Septics __Other Structural Components (Describe:_____
_____)
If any of the above is checked, explain. (Attach additional sheets if necessary):_
_____
_____
_____

* This garage door opener may not be in compliance with the safety standards relating to automatic reversing devices as set forth in Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of the Health and Safety Code.

C. Are you (Seller) aware of any of the following:

1. Substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, and contaminated soil or water on the subject property ..... __Yes __No
2. Features of the property shared in common with adjoining landowners, such as walls, fences, and driveways, whose use or responsibility for maintenance may have an effect on the subject property ..... __Yes __No
3. Any encroachments, easements or similar matters that may affect your interest in the subject property ..... __Yes __No
4. Room additions, structural modifications, or other alterations or repairs made without necessary permits ..... __Yes __No
5. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes ..... __Yes __No
6. Fill (compacted or otherwise) on the property or any portion thereof ..... __Yes __No
7. Any settling from any cause, or slippage, sliding, or other soil problems ..... __Yes __No
8. Flooding, drainage or grading problems ..... __Yes __No
9. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides ..... __Yes __No
10. Any zoning violations, nonconforming uses, violations of "setback" requirements ..... __Yes __No
11. Neighborhood noise problems or other nuisances ..... __Yes __No
12. CC&R's or other deed restrictions or obligations ..... __Yes __No
13. Homeowners' Association which has any authority over the subject property ..... __Yes __No
14. Any "common area" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others) ..... __Yes __No
15. Any notices of abatement or citations against the property ..... __Yes __No
16. Any lawsuits by or against the seller threatening to or affecting this real property, including any lawsuits alleging a defect or deficiency in this real property or "common areas" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others) ..... __Yes __No

If the answer to any of these is yes, explain. (Attach additional sheets if necessary.): _____

_____

_____

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller_____ Date_____

Seller_____ Date_____

III

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the Seller is represented by an agent in this transaction.)

THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING:

☐ Agent notes no items for disclosure.

☐ Agent notes the following items:

_____

_____

_____

_____

Agent (Broker Representing Seller)_____ By_____ Date_____
(Please Print) (Associate Licensee or Broker-Signature)

IV

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the agent who has obtained the offer is other than the agent above.)

THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY, STATES THE FOLLOWING:

☐ Agent notes no items for disclosure.

☐ Agent notes the following items:

_____

_____

_____

_____

Agent (Broker obtaining the Offer)_____ By_____ Date_____
(Please Print) (Associate Licensee or Broker-Signature)

V

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/ DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller_____ Date_____ Buyer_____ Date_____
Seller_____ Date_____ Buyer_____ Date_____

Agent (Broker
Representing Seller)_____ By_____ Date_____
(Associate Licensee
or Broker-Signature)

Agent (Broker
obtaining the Offer)_____ By_____ Date_____
(Associate Licensee
or Broker-Signature)

SECTION 1102.3 OF THE CIVIL CODE PROVIDES A BUYER WITH THE RIGHT TO RESCIND A PURCHASE CONTRACT FOR AT LEAST THREE DAYS AFTER THE DELIVERY OF THIS DISCLOSURE IF DELIVERY OCCURS AFTER THE SIGNING OF AN OFFER TO PURCHASE. IF YOU WISH TO RESCIND THE CONTRACT, YOU MUST ACT WITHIN THE PRESCRIBED PERIOD.

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

SEC. 3. Section 1102.9 of the Civil Code is amended to read:

1102.9. Any disclosure made pursuant to this article may be amended in writing by the transferor or his or her agent, but the amendment shall be subject to Section 1102.3.

SEC. 4. Section 2079.16 of the Civil Code is amended to read:

2079.16. The disclosure form required by Section 2079.14 shall have Sections 2079.13 to 2079.24, inclusive, excluding this section, printed on the back, and on the front of the disclosure form the following shall appear:

DISCLOSURE REGARDING
REAL ESTATE AGENCY RELATIONSHIP

(As required by the Civil Code)

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller:

A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer:

A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

(a) Diligent exercise of reasonable skill and care in performance of the agent's duties.

(b) A duty of honest and fair dealing and good faith.

(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties. An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

(a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.

(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse hereof. Read it carefully.

Agent (date)	Buyer/Seller (date) (Signature)
Associate Licensee (date) (Signature)	Buyer/Seller (date) (Signature)

CHAPTER 241

An act to amend Sections 42803, 42804, 42807, 42809, and 42815 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 42803 of the Food and Agricultural Code is amended to read:

42803. (a) Commencing on January 1, 1997, and until March 31, 1997, producers of commodities subject to this article may file a petition with the secretary requesting that the commodity be exempted from this article.

(b) Upon a finding by the secretary that the petition represents not less than 51 percent of the producers of the commodity who produce not less than 51 percent of the total quantity of the commodity marketed in the preceding marketing season, the secretary shall do all of the following:

(1) Declare the commodity exempt from this article.

(2) Immediately repeal all regulations pertaining to the commodity adopted by the secretary pursuant to this division.

(3) Make a determination concerning a refund of any assessments collected pursuant to this article.

(c) Commodity exemptions granted pursuant to this section shall be effective immediately on the date of the finding specified in subdivision (b).

SEC. 2. Section 42804 of the Food and Agricultural Code is amended to read:

42804. (a) On and after March 31, 1997, the secretary shall exempt any commodity subject to this article and repeal all regulations pertaining to the commodity adopted by the secretary pursuant to this division if:

(1) A written petition requesting exemption is filed with the secretary during the period commencing July 1 and ending December 31 of any year.

(2) The secretary finds that the petition represents not less than 51 percent of the producers directly affected who have produced not less than 51 percent of the total quantity of the commodity marketed in the preceding marketing season.

(3) The petition, prior to being submitted to the secretary, was circulated among the producers directly affected for a period not exceeding 90 days and was on a form approved by the secretary.

(b) Exemptions granted under this section shall be effective on July 1 following the year in which the petition is filed with the secretary.

(c) Any costs incurred by the department in processing any petition for exemption filed pursuant to this section shall be borne by the producers representing the commodity for which the petition is filed.

(d) This section also applies to producers of any commodity who request the secretary to rescind a previously granted exemption.

(e) All producers directly affected by this section shall provide the following information to the secretary upon filing of the written petition requesting exemption:

(1) The correct name and address of each producer or handler.

(2) The quantity of each commodity produced by the producer during the previous marketing season.

(f) The secretary also may require handlers of commodities subject to this article to report quantities received from each producer in the previous season.

(g) Any determination of compliance with this section may be based upon information provided by producers or handlers of commodities subject to this article. Failure or refusal to provide that information within the specified time does not invalidate the secretary's findings.

SEC. 3. Section 42807 of the Food and Agricultural Code is amended to read:

42807. Notwithstanding Section 42806, on January 1, 1997, and thereafter until altered, rescinded, or eliminated, the assessment rate for those commodities that are not otherwise subject to a mandatory inspection fee shall be three mills ($0.003) per container and the assessment rate for those commodities that are otherwise subject to a mandatory inspection fee shall be one mill ($0.001) per container.

SEC. 4. Section 42809 of the Food and Agricultural Code is amended to read:

42809. (a) The secretary shall appoint a committee pursuant to subdivision (b) to provide recommendations and advice on all matters pertaining to the implementation and enforcement of this division.

(b) The committee shall be composed of 13 voting members who have a financial interest, either personal or through their employment, in a commodity represented. The secretary shall

appoint the members of the committee from a list of nominees provided by the commodity groups subject to this article, as follows:

(1) Four members shall be appointed from the fresh fruit commodity group consisting of oranges, other citrus fruits, strawberries, and table grapes.

(2) Two members shall be appointed to represent other fresh fruit commodities.

(3) Four members shall be appointed from the fresh vegetable commodity group consisting of broccoli, tomatoes, and lettuce.

(4) Two members shall be appointed to represent other vegetable commodity groups.

(5) One member shall be appointed from other commodity groups subject to this article.

(6) A county agricultural commissioner may be appointed by the secretary as a nonvoting member.

(c) The committee shall meet at the request of the secretary, the committee chairperson, or upon the request of four committee members.

(d) Any committee member who represents a commodity that has been exempted from the application of this article shall be replaced with a member chosen to maintain the balance between the commodity groups.

(e) The committee shall appoint its own officers, including a chairperson, one or more vice chairpersons, and any other officers it deems necessary.

(f) Committee members may participate in meetings of the committee by means of telephone conference calls.

SEC. 5. Section 42815 of the Food and Agricultural Code is amended to read:

42815. This article shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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CHAPTER 242

An act to add Section 6301.1 to the Business and Professions Code, relating to law libraries.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 6301.1 is added to the Business and Professions Code, to read:

6301.1. Notwithstanding Section 6301, in San Diego County the board of law library trustees shall be constituted, as follows:

(a) Two judges of the superior court, to be elected by and from judges in the San Diego County Judicial District. Each superior court judge so elected shall serve a three-year term.

(b) Two judges from the municipal courts of the county. The courts may, by joint agreement, determine the pattern of representation on the board. Each municipal court judge so elected shall serve a three-year term.

(c) The board of supervisors shall appoint three attorneys resident in the county to the board of law library trustees, to serve overlapping three-year terms. In order to stagger the three appointments, the board of supervisors shall, in January of 1997, appoint one attorney to a one-year term, one attorney to a two-year term, and one attorney to a three-year term; and as each term expires, the new appointee shall thereafter serve three-year terms. At least one attorney appointed pursuant to this subdivision shall be a member of the San Diego Bar Association.

(d) In the event a trustee cannot serve a full term, the appointing authority for that individual shall appoint another qualified person to complete that term. Interim appointments may be made by the board of law library trustees in accordance with Section 6305.

CHAPTER 243

An act to amend Sections 36621, 36622, 36631, and 36634 of the Streets and Highways Code, relating to improvement assessment districts.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 36621 of the Streets and Highways Code is amended to read:

36621. (a) Upon the submission of a written petition, signed by the property owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property owned by the same property owner which is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property owners who will pay more than 50 percent of the total amount of assessments proposed to be levied.

(b) The petition of property owners required under subdivision (a) shall include a summary of the management district plan. That summary shall include all of the following:

(1) A map showing the boundaries of the district.

(2) Information specifying where the complete management district plan can be obtained.

(3) Information specifying that the complete management district plan shall be furnished upon request.

(c) The resolution of intention described in subdivision (a) shall contain all of the following:

(1) The management district plan.

(2) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall not be held more than 60 days after the adoption of the resolution of intention.

SEC. 2. Section 36622 of the Streets and Highways Code is amended to read:

36622. The management district plan shall contain all of the following:

(a) A map of the district in sufficient detail to locate each parcel of property within the district.

(b) The name of the proposed district.

(c) A description of the boundaries of the district, including the boundaries of any benefit zones, proposed for establishment or extension in a manner sufficient to identify the lands included. Under no circumstances shall the boundaries of a proposed district overlap with the boundaries of another existing district created pursuant to this part. Nothing in this part prohibits the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law including, but not limited to, the Parking and Business Improvement Area Law of 1989.

(d) The improvements and activities proposed for each year of operation of the district and the maximum cost thereof.

(e) The total annual amount proposed to be expended for improvements, maintenance and operations in each year of operation of the district.

(f) The proposed source or sources of financing including the proposed method and basis of levying the assessment in sufficient detail to allow each property owner to calculate the amount of the assessment to be levied against his of her property.

(g) The time and manner of collecting the assessments.

(h) The specific number of years, to a maximum of five, in which assessments will be levied. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) A list of the properties to be assessed, including the assessor's parcel numbers, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property, in proportion to the benefit received by the property, to defray the cost thereof, including operation and maintenance. The plan may provide that all or any class or category of real property which is exempt by law from real property taxation may nevertheless be included within the boundaries of the district but shall not be subject to the assessment.

(*l*) Any other item or matter required to be incorporated therein by the city council.

SEC. 3. Section 36631 of the Streets and Highways Code is amended to read:

36631. (a) Before adopting a resolution establishing the district, the city council shall appoint an advisory board which shall make a recommendation to the city council on the expenditure of revenues derived from the levy of assessments pursuant to this part, on the classification of properties, as applicable, and on the method and basis of levying the assessments. The city council may designate existing advisory boards or commissions to serve as the advisory board for the district or may create a new advisory board for that purpose. At least one member of the advisory board shall be a business licensee within the district who is not also a property owner within the district.

(b) Any advisory board appointed by the city council pursuant to subdivision (a) shall comply with the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 4. Section 36634 of the Streets and Highways Code is amended to read:

36634. (a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Properties zoned solely for residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

CHAPTER 244

An act to amend Section 20221 of the Public Contract Code, relating to public transit.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 20221 of the Public Contract Code is amended to read:

20221. (a) The purchase of all supplies, equipment, and materials when the expenditure required exceeds twenty-five thousand dollars ($25,000), and the construction of facilities and works when the expenditure required exceeds ten thousand dollars ($10,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation. This publication shall be made at least 10 days before the bids are received. The board may reject any and all bids and readvertise in its discretion.

(b) Whenever the expected procurement required exceeds two thousand five hundred dollars ($2,500) and, in the case of the construction of facilities and works does not exceed ten thousand dollars ($10,000) or in the case of the purchase of supplies, equipment, or materials does not exceed twenty-five thousand dollars ($25,000), the district shall obtain a minimum of three quotations, either written or oral, that permit prices and terms to be compared.

(c) Where the expenditure required by the bid price is less than one hundred thousand dollars ($100,000), the general manager may act for the board. When acting pursuant to this subdivision, the general manager shall, in each instance, promptly notify the board of the action taken.

CHAPTER 245

An act to amend Section 1250.2 of the Health and Safety Code, and to amend Sections 4080 and 6003.1 of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 1250.2 of the Health and Safety Code is amended to read:

1250.2. (a) As defined in Section 1250, "health facility" includes the following type: "psychiatric health facility" means a health facility, licensed by the State Department of Mental Health, which provides 24-hour inpatient care for mentally disordered, incompetent, or other persons described in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code. This care shall include, but not be limited to, the following basic services: psychiatry, clinical psychology, psychiatric nursing, social work, rehabilitation, drug administration, and appropriate food services for those persons whose physical health needs can be met in an affiliated hospital or in outpatient settings.

It is the intent of the Legislature that the psychiatric health facility shall provide a distinct type of service to psychiatric patients in a 24-hour acute inpatient setting. The State Department of Mental Health shall require regular utilization reviews of admission and discharge criteria and lengths of stays in order to assure that these patients are moved to less restrictive levels of care as soon as appropriate.

(b) The State Department of Mental Health may issue a special permit to a psychiatric health facility for it to provide structured outpatient services (commonly referred to as SOPS) consisting of morning, afternoon, or full daytime organized programs, not exceeding 10 hours, for acute daytime care for patients admitted to the facility. This subdivision shall not be construed as requiring a psychiatric health facility to apply for a special permit to provide these alternative levels of care.

The Legislature recognizes that with access to structured outpatient services, as an alternative to 24-hour inpatient care, certain patients would be provided with effective intervention and less restrictive levels of care. The Legislature further recognizes that certain patients, the less restrictive levels of care eliminate the need for inpatient care, enable earlier discharge from inpatient care by providing a continuum of care with effective aftercare services, or

reduce or prevent the need for a subsequent readmission to inpatient care.

(c) Any reference in any statute to Section 1250 shall be deemed and construed to also be a reference to this section.

(d) Notwithstanding any other provision of law, and to the extent consistent with federal law, a psychiatric health facility shall be eligible to participate in the medicare program under Title XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.), and the medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), if all of the following conditions are met:

(1) The facility is a licensed facility.

(2) The facility is in compliance with all related statutes and regulations enforced by the State Department of Mental Health, including regulations contained in Chapter 9 (commencing with Section 77001) of Division 5 of Title 22 of the California Code of Regulations.

(3) The facility meets the definitions and requirements contained in subdivisions (e) and (f) of Sections 1861 of the federal Social Security Act (42 U.S.C. Sec. 1395x (e) and (f)) including the approval process specified in Section 1861(e)(7)(B) of the Social Security Act (42 U.S.C. 1395x(e)(7)(B)), which requires that the state agency responsible for licensing hospitals has assured that the facility meets licensing requirements.

(4) The facility meets the conditions of participation for hospitals pursuant to Part 482 of Title 42 of the Code of Federal Regulations.

SEC. 2. Section 4080 of the Welfare and Institutions Code is amended to read:

4080. (a) Psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, shall only be licensed by the State Department of Mental Health subsequent to application by counties, county contract providers, or other organizations pursuant to this part.

(b) (1) For counties or county contract providers that choose to apply, the local mental health director shall first present to the local mental health advisory board, for its review an explanation, of the need for the facility and a description of the services to be provided. The local mental health director shall then submit to the governing body the explanation and description. The governing body may submit the application to the State Department of Mental Health.

(2) Other organizations that will be applying for licensure and do not intend to use any Bronzan-McCorquodale funds pursuant to Section 5707 shall submit to the local mental health director and the governing body in the county in which the facility is to be located a written and dated proposal of the services to be provided. The local mental health director and the governing body shall have 30 days during which to provide any advice and recommendations regarding licensure, as they deem appropriate. At any time after the 30-day period, the organizations may then submit their applications, along

with the mental health director's and governing body's advice and recommendations, if any, to the State Department of Mental Health.

(c) The State Fire Marshal and other appropriate state agencies, to the extent required by law, shall cooperate fully with the State Department of Mental Health to ensure that the State Department of Mental Health approves or disapproves the licensure applications not later than 90 days after the application submission by a county, county contract provider, or other organization.

(d) Every psychiatric health facility and program for which a license has been issued shall be periodically inspected by a multidisciplinary team appointed or designated by the State Department of Mental Health. The inspection shall be conducted no less than once every two years and as often as necessary to ensure the quality of care provided. During the inspections the review team shall offer such advice and assistance to the psychiatric health facility as it deems appropriate.

(e) (1) The program aspects of a psychiatric health facility that shall be reviewed and may be approved by the State Department of Mental Health shall include, but not be limited to:

(A) Activities programs.
(B) Administrative policies and procedures.
(C) Admissions, including provisions for a mental evaluation.
(D) Discharge planning.
(E) Health records content.
(F) Health records services.
(G) Interdisciplinary treatment teams.
(H) Nursing services.
(I) Patient rights.
(J) Pharmaceutical services.
(K) Program space requirements.
(L) Psychiatrist and clinical psychological services.
(M) Rehabilitation services.
(N) Restraint and seclusion.
(O) Social work services.
(P) Space, supplies, and equipment.
(Q) Staffing standards.
(R) Unusual occurrences.
(S) Use of outside resources, including agreements with general acute care hospitals.
(T) Linguistic access and cultural competence.
(U) Structured outpatient services to be provided under special permit.

(2) The State Department of Mental Health has the sole authority to grant program flexibility.

(f) The State Department of Mental Health shall adopt regulations that shall include, but not be limited to, all of the following:

(1) Procedures by which the State Department of Mental Health shall review and may approve the program and facility requesting licensure as a psychiatric health facility as being in compliance with program standards established by the department.

(2) Procedures by which the Director of Mental Health shall approve, or deny approval of, the program and facility licensed as a psychiatric health facility pursuant to this section.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program and facility standards.

(4) Provisions for the State Department of Mental Health for any administrative proceeding regarding denial, suspension, or revocation of a psychiatric health facility license.

(g) Regulations shall be adopted by the State Department of Mental Health, which shall establish standards for pharmaceutical services in psychiatric health facilities. Licensed psychiatric health facilities shall be exempt from requirements to obtain a separate pharmacy license or permit.

(h) (1) It is the intent of the Legislature that the State Department of Mental Health shall license the facility in order to establish innovative and more competitive and specialized acute care services.

(2) The State Department of Mental Health shall review and may approve the program aspects of public or private facilities, with the exception of those facilities that are federally certified or accredited by a nationally recognized commission that accredits health care facilities, only if the average per diem charges or costs of service provided in the facility is approximately 60 percent of the average per diem charges or costs of similar psychiatric services provided in a general hospital.

(3) (A) When a private facility is accredited by a nationally recognized commission that accredits health care facilities, the department shall review and may approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(B) When a private facility serves county patients, the department shall review and may approve the program aspects only if the facility is federally certified by the Health Care Financing Administration and serves a population mix that includes a proportion of Medi-Cal patients sufficient to project an overall cost savings to the county, and the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(4) When a public facility is federally certified by the Health Care Financing Administration and serves a population mix that includes

a proportion of Medi-Cal patients sufficient to project an overall program cost savings with certification, the department shall approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(5) (A) The State Department of Mental Health may set a lower rate for private or public facilities than that required by paragraph (3) or paragraph (4), respectively, if so required by the federal Health Care Financing Administration as a condition for the receipt of federal matching funds.

(B) This section shall not impose any obligation on any private facility to contract with a county for the provision of services to Medi-Cal beneficiaries, and any contract for that purpose shall be subject to the agreement of the participating facility.

(6) (A) In using the guidelines specified in this subdivision, the department shall take into account local conditions affecting the costs or charges.

(B) In those psychiatric health facilities authorized by special permit to offer structured outpatient services not exceeding 10 daytime hours, the following limits on per diem rates shall apply:

(i) The per diem charge for patients in both a morning and an afternoon program on the same day shall not exceed 60 percent of the facility's authorized per diem charge for inpatient services.

(ii) The per diem charge for patients in either a morning or afternoon program shall not exceed 30 percent of the facility's authorized per diem charge for inpatient services.

(i) The licensing fees charged for these facilities shall be credited to the State Department of Mental Health for its costs incurred in the review of psychiatric health facility programs, in connection with the licensing of these facilities.

(j) Proposed changes in the standards or regulations affecting health facilities that serve the mentally disordered shall be effected only with the review and coordination of the Health and Welfare Agency.

(k) In psychiatric health facilities where the clinical director is not a physician or a psychiatrist, or if one is temporarily not available, a physician shall be designated who shall direct those medical treatments and services that can only be provided by, or under the direction of, a physician.

SEC. 3. Section 6003.1 of the Welfare and Institutions Code is amended to read:

6003.1. As used in this article, county psychiatric health facility means a 24-hour acute care facility provided by the county pursuant to the provisions in Sections 5404 and 7100.

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 preserve the federal financial participation in the Medi-Cal and medicare services provided by federally certified psychiatric health facilities in Humboldt, Shasta, and Santa Barbara Counties and to enable federal certification and financial participation in Medi-Cal and medicare services at psychiatric health facilities in Los Angeles, Solano, and Riverside Counties, as well as other counties, it is necessary that this act take effect immediately.

CHAPTER 246

An act to add Section 5080.36.1 to the Public Resources Code, relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 5080.36.1 is added to the Public Resources Code, to read:

5080.36.1. (a) The Legislature hereby finds and declares that the department and the City of Malibu are in the process of entering into an operating agreement for the purpose of negotiating a concession contract that would require the City of Malibu to repair and refurbish, and operate, the Malibu Pier, and that the standard 20-year term is insufficient to enable the City of Malibu to amortize the type and scale of repairs and improvements that the department will require the City of Malibu to make.

(b) The department and the City of Malibu may enter into an operating agreement for the repair, refurbishment, and operation of the Malibu Pier for a period not to exceed 30 years if the operating agreement also requires the rent to be reviewed and adjusted at least every five years to reflect economic conditions in the area in which the pier is located.

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

In order to make repairs necessary to eliminate a threat to public safety, as soon as possible, thereby preventing the closure of, and ensuring the continued operation of, the Malibu Pier, it is necessary that this act take effect immediately.

CHAPTER 247

An act to add Section 1531.1 to the Health and Safety Code, relating to community care facilities.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 1531.1 is added to the Health and Safety Code, to read:

1531.1. (a) A residential facility licensed as an adult residential facility, group home, small family home, foster family home, or a family home certified by a foster family agency may install and utilize delayed egress devices of the time delay type.

(b) As used in this section, "delayed egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.

(c) Within the 30 seconds of delay, facility staff may attempt to redirect a resident who attempts to leave the facility.

(d) Any person accepted by a residential facility or family home certified by a foster family agency utilizing delayed egress devices shall meet all of the following conditions:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code.

(3) An interdisciplinary team, through the Individual Program Plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with delayed egress devices, and that but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive state hospital or state developmental center placement.

(e) The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress devices.

(f) The facility shall provide staff training regarding the use and operation of the egress control devices utilized by the facility,

protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143 of the Health and Safety Code.

(h) The plan shall include, but shall not be limited to, all of the following:

(1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.

(2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

(3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.

(4) A description of the facility's emergency evacuation procedures.

(i) Delayed egress devices shall not substitute for adequate staff. The capacity of the facility shall not exceed six residents.

(j) Emergency fire and earthquake drills shall be conducted at least once every three months on each shift, and shall include all facility staff providing resident care and supervision on each shift.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 248

An act to repeal Section 12414 of the Government Code and to amend Section 38905.1 of the Revenue and Taxation Code, relating to the Controller.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 12414 of the Government Code is repealed.

SEC. 2. Section 38905.1 of the Revenue and Taxation Code is amended to read:

38905.1. (a) Commencing with the 1983–84 fiscal year, the Controller shall, pursuant to subdivision (c) of Section 38904, on November 30 and May 31 of each fiscal year, transmit to county treasurers the balance that existed in the Timber Tax Fund on the preceding November 10 or May 10, respectively, in accordance with the following allocation schedule:

(1) For the 1983–84 fiscal year, 50 percent of the balance in Timber Tax Fund shall be transmitted to county treasurers based on the annual yield tax revenue guarantee certified for each county pursuant to subdivision (c) or (e) of Section 27423 of the Government Code. The remaining 50 percent of the balance in the fund shall be transmitted to county treasurers in the same proportion that the balance to be transmitted was generated from each county, as certified by the State Board of Equalization.

(2) For the 1984–85 fiscal year and each fiscal year thereafter, 100 percent of the balance in the fund shall be transmitted to county treasurers in the same proportion that the balance to be transmitted was generated from each county, as certified by the State Board of Equalization.

(b) Upon receipt of funds pursuant to subdivision (a), the county auditor shall within 10 days distribute the funds among the jurisdictions (as defined in Section 95) within the county in the same proportion that each jurisdiction's minimum revenue guarantee, determined pursuant to Section 27423 of the Government Code, bears to the total of all those amounts for all jurisdictions within the county.

(c) It is the intent of the Legislature that the provisions of subdivision (a) shall provide a final and conclusive disposition of the problem of allocating yield tax revenues among counties entitled to those revenues.

SEC. 3. On or before March 15, 1997, the Controller shall transfer any remaining funds in the Computer Software Refund Fund, created by Section 60.1 of Chapter 268 of the Statutes of 1984, to the

General Fund, and following that transfer the Computer Software Refund Fund is abolished.

CHAPTER 249

An act to amend Sections 33349 and 33350 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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 in nontechnical language and in a clear and coherent manner using words with common and everyday meaning.

(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 33350 of the Health and Safety Code is amended to read:

33350. Each assessee whose property would be subject to acquisition by purchase or condemnation under the plan shall be sent a statement in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, to that effect attached to his notice of the hearing. Alternatively, a list or map of all properties which would be subject to acquisition by purchase or condemnation under the plan may be mailed to assessees with the notices of hearing.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 250

An act to amend Section 7863 of the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 7863 of the Fish and Game Code is amended to read:

7863. This article shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends that date.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 251

An act to add Section 13231 to the Fish and Game Code, relating to the Fish and Wildlife Pollution Account.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 13231 is added to the Fish and Game Code, to read:

13231. Consistent with Section 13203, the department shall maintain a cost accounting system that accounts for the costs of each activity or program engaged in pursuant to Section 13230 using funds from the subaccounts listed in that section.

CHAPTER 252

An act to amend Section 1063 of the Insurance Code, relating to insurance.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 1063 of the Insurance Code is amended to read:

1063. (a) Within 60 days after the original effective date of this article, all insurers, including reciprocal insurers, admitted to transact insurance in this state of any or all of the following classes

only in accordance with the provisions of Chapter 1 (commencing with Section 100) of Part 1 of this division: fire (see Section 102), marine (see Section 103), plate glass (see Section 107), liability (see Section 108), workers' compensation (see Section 109), common carrier liability (see Section 110), boiler and machinery (see Section 111), burglary (see Section 112), sprinkler (see Section 114), team and vehicle (see Section 115), automobile (see Section 116), aircraft (see Section 118), and miscellaneous (see Section 120), shall establish the California Insurance Guarantee Association (the association); provided, however, this article shall not apply to the following classes or kinds of insurance: life and annuity (see Section 101), title (see Section 104), fidelity or surety including fidelity or surety bonds, or any other bonding obligations (see Section 105), disability or health (see Section 106), credit (see Section 113), mortgage (see Section 117), mortgage guaranty, insolvency or legal (see Section 119), financial guaranty or other forms of insurance offering protection against investment risks (see Section 124), the ocean marine portion of any marine insurance or ocean marine coverage under any insurance policy including the following: the Jones Act (46 U.S.C. Sec. 688), the Longshore and Harbor Workers' Compensation Act (33 U.S.C. Sec. 901 et seq.), or any other similar federal statutory enactment, or any endorsement or policy affording protection and indemnity coverage, or reinsurance as defined in Section 620, or fraternal fire insurance written by associations organized and operating under Sections 9080 to 9103, inclusive. Any insurer admitted to transact only those classes or kinds of insurance excluded from this article shall not be a member insurer of the association. Each such insurer, including the State Compensation Insurance Fund, as a condition of its authority to transact insurance in this state, shall participate in the association whether established voluntarily or by order of the commissioner after the elapse of 60 days following the original effective date of this article in accordance with rules to be established as provided in this article. It shall be the purpose of such association to provide for each member insurer insolvency insurance as defined in Section 119.5.

(b) The association shall be managed by a board of governors, composed of nine member insurers, each of which shall be appointed by the commissioner to serve initially for terms of one, two, or three years and thereafter for three-year terms so that three terms shall expire each year on December 31, and shall continue in office until his or her successor shall be appointed and qualified. At least five members of the board shall be domestic insurers. At least three such members shall be stock insurers, and at least three shall be nonstock insurers. The nine members shall be representative, as nearly as possible, of the classes of insurance and of the kinds of insurers covered by this article. In case of a vacancy for any reason on the board, the commissioner shall appoint a member insurer to fill the unexpired term.

(c) The association shall adopt a plan of operations, and any amendments thereto, not inconsistent with the provisions of this article, necessary to assure the fair, reasonable, and equitable manner of administering the association, and to provide for such other matters as are necessary or advisable to implement the provisions of this article. The plan of operations and any amendments thereto shall be subject to prior written approval by the commissioner. All members of the association shall adhere to the plan of operation.

(d) If for any reason the association fails to adopt a suitable plan of operation within 90 days following the original effective date of this article, or if at any time thereafter the association fails to adopt suitable amendments to the plan of operation, the commissioner shall after hearing adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this chapter. Such rules shall continue in force until modified by the commissioner after hearing or superseded by a plan of operation, adopted by the association and approved by the commissioner.

(e) In accordance with its plan of operation, the association may designate one or more of its members as a servicing facility, but a member may decline such designation. Each servicing facility shall be reimbursed by the association for all reasonable expenses it incurs and for all payments it makes on behalf of the association. Each servicing facility shall have authority to perform any functions of the association that the board of governors lawfully may delegate to it and to do so on behalf of and in the name of the association. The designation of servicing facilities shall be subject to the approval of the commissioner.

(f) The association shall have authority to borrow funds when necessary to effectuate the provisions of this article.

(g) The association, either in its own name or through servicing facilities, may be sued and may use the courts to assert or defend any rights the association may have by virtue of this article as reasonably necessary to fully effectuate the provisions thereof.

(h) The association shall have the right to intervene as a party in any proceeding instituted pursuant to Section 1016 wherein liquidation of a member insurer as defined in Section 1063.1 is sought.

CHAPTER 253

An act to repeal Section 19821 of the Government Code, relating to state employees.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 19821 of the Government Code is repealed.

CHAPTER 254

An act to add Section 23824.1 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 23824.1 is added to the Business and Professions Code, to read:

23824.1. (a) The provisions of Section 23824 shall apply to convention centers and event centers which are operated by municipal, independent nonprofit agencies for the purpose of providing meeting rooms, exhibit space, or event and theatrical seating, or all of these.

(b) Any license issued pursuant to this section shall be issued only upon condition that all revenues generated from the license shall be segregated and allocated for the operations and capital requirements of the convention center or event center only.

(c) For purposes of this section, "event center" means a community center, activity center, auditorium, convention center, arena, or other building, collection of buildings, or facility which is used exclusively or primarily for the holding of exhibitions, conventions, meetings, spectacles, concerts, or shows.

CHAPTER 255

An act to add Section 1118 to the Unemployment Insurance Code, relating to unemployment compensation.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. This act shall be known as the "Make it Easy on the Family and Small Business Act." It is the intent of the Legislature that the employer reporting system provided by this act eventually be expanded and modified to authorize small businesses to meet their

reporting requirements to the Department of Employment Development in a similar manner.

SEC. 2. Section 1118 is added to the Unemployment Insurance Code, to read:

1118. (a) This section applies only to employers who employ individuals to perform domestic service, as described in Sections 682 and 684.

(b) Effective July 1, 1997, notwithstanding Section 1088, a domestic service employer shall be authorized to file the report of wages required by Section 1088 by telephone. This does not apply to the filing of Internal Revenue Service Form W-2.

(c) The department shall notify all domestic service employers of the availability of the telephone reporting system. A domestic service employer shall be required to make an election to report by telephone or by mail. After a domestic service employer elects to report by telephone, the employer is required to report in that mode for the remainder of the calendar year. If a domestic service employer makes this election in the second or subsequent quarter of a calendar year, the employer shall be required to report by telephone for the remainder of the calendar year and for all four quarters of the subsequent calendar year. A domestic service employer who has elected to report by telephone and who is eligible under this subdivision to change the reporting mode shall provide 30 days' notice to the department in order to begin reporting by mail.

(d) A domestic service employer reporting by telephone shall be required to provide the department with the employer's account number, the social security numbers of all employees, and the wages paid to each employee for the reporting period. The department may request additional information in order to determine the amount of wages that are taxable.

(e) The department shall compute the contributions owed based upon the wage information reported by the domestic service employer.

(f) A domestic service employer reporting by telephone shall be permitted to pay the contributions owed by credit card or charge card. The payment shall be subject to the State Payment Card Act (Ch. 2.6 (commencing with Section 6160) of Div. 7, Title 1, Gov. C.).

(g) If a domestic service employer reporting by telephone does not pay by credit card or charge card, the department shall advise the employer of the due date for the payment and of any penalties and interest that will be charged if a payment is late.

CHAPTER 256

An act to amend Section 66516 of, and to add Section 66516.5 to, the Government Code, and to amend Sections 29142.4 and 99314.7 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 66516 of the Government Code is amended to read:

66516. The commission, in coordination with the regional transit coordinating council established by the commission pursuant to Section 29142.4 of the Public Utilities Code, shall adopt rules and regulations to promote the coordination of fares and schedules for all public transit systems within its jurisdiction. The commission shall require every system to enter into a joint fare revenue sharing agreement with connecting systems consistent with the commission's rules and regulations.

SEC. 2. Section 66516.5 is added to the Government Code, to read:

66516.5. The commission may do the following:

(a) In consultation with the regional transit coordinating council, identify those functions performed by individual public transit systems that could be consolidated to improve the efficiency of regional transit service, and recommend that those functions be consolidated and performed through inter-operator agreements or as services contracted to a single entity.

(b) Improve service coordination and effectiveness in those transit corridors identified as transit corridors of regional significance by the commission in consultation with the regional transit coordinating council by recommending improvements in those corridors, including, but not limited to, reduction of duplicative service and institution of coordinated service across public transit system boundaries.

SEC. 3. Section 29142.4 of the Public Utilities Code is amended to read:

29142.4. No funds shall be allocated to an entity pursuant to Section 29142.2, after January 1, 1978, unless, as determined by the Metropolitan Transportation Commission, the transit operator:

(a) Is a participating member of a regional transit coordinating council which the commission shall establish to better coordinate routes, schedules, fares, and transfers among the San Francisco Bay area transit operators and to explore potential advantages of joint ventures in areas such as marketing, maintenance, and purchasing. The commission shall be a member of the council.

(b) Establishes, for the period for which the funds are allocated, fare levels such that fare revenues equal at least 33 percent of its operating cost, which shall be all of its costs in the expense object classes, exclusive of the costs of the depreciation and amortization expense object classes, of the uniform system of accounts and records adopted by the State Controller pursuant to Section 99243. The allocation period shall not be less than one calendar quarter nor longer than one fiscal year, as determined by the commission. For purposes of this subdivision, the two special transit service districts of the Alameda-Contra Costa Transit District shall be considered separate transit districts. On and after July 1, 1981, the commission may grant, any operator which was in compliance with the 33 percent requirement prior to that date, a credit not to exceed 5 percent to meet that requirement on the basis of special operating characteristics of its transit system, including, but not limited to, its transfer and special fare policies. In no event shall the combined fare revenues of the three operators, excluding any credit granted by the commission, be less than 33 percent of their combined operating cost.

(c) Has complied with standards established by the commission pursuant to Section 66517.5 of the Government Code.

SEC. 4. Section 99314.7 of the Public Utilities Code is amended to read:

99314.7. (a) In allocating funds for operating purposes pursuant to Sections 99313 and 99314, the Metropolitan Transportation Commission shall apply the following eligibility standards to the operators within the region subject to its jurisdiction:

(1) An operator is not eligible for its full allocation under this section unless the operator has been found to have made reasonable effort in implementing productivity improvements pursuant to Section 99244. In determining whether a reasonable effort has been made, the Metropolitan Transportation Commission shall give consideration to whether the operator would qualify for funding under Section 99314.6. The amount of funds allocated shall be reduced in an amount that the Metropolitan Transportation Commission deems proportionate to the failure of the operator to implement the recommended improvements. The Metropolitan Transportation Commission shall adopt rules and regulations, in cooperation with the affected operators, governing the allocation of any funds withheld under this paragraph, subject to paragraphs (2) and (3).

(2) Notwithstanding paragraph (1), an operator shall not receive any funds pursuant to Section 99313 or 99314 unless it has complied with the applicable rules , regulations, and recommendations adopted by the Metropolitan Transportation Commission pursuant to Sections 66516 and 66516.5 of the Government Code.

(3) Funds withheld from allocation to an operator pursuant to paragraph (1) shall be retained by the Metropolitan Transportation Commission for reallocation to that operator for two years following

the year of ineligibility. With respect to the funds withheld from an operator pursuant to paragraph (1), the Metropolitan Transportation Commission shall reallocate those funds to the operator if the operator complies with that paragraph within two years. Funds not reallocated to the operator, and funds withheld pursuant to paragraph (2), shall be allocated to any eligible operator within the region subject to the jurisdiction of the Metropolitan Transportation Commission for the purpose of improving coordination among the operators, or to any operator whose increase in total operating cost per revenue vehicle hour is less than the increase in the Consumer Price Index. Funds allocated for these purposes are exempt from subdivision (a).

(b) For purposes of this section, "operating cost," "revenue vehicle hour," and "Consumer Price Index" have the same meaning as defined in Section 99314.6.

CHAPTER 257

An act to amend Sections 1695.5, 1697, and 1698 of the Business and Professions Code, relating to dentistry.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 1695.5 of the Business and Professions Code is amended to read:

1695.5. (a) The board shall establish criteria for the acceptance, denial, or termination of licentiates in a diversion program. Unless ordered by the board as a condition of licentiate disciplinary probation, only those licentiates who have voluntarily requested diversion treatment and supervision by a committee shall participate in a diversion program.

(b) A licentiate who is not the subject of a current investigation may self-refer to the diversion program on a confidential basis, except as provided in subdivision (f).

(c) A licentiate under current investigation by the board may also request entry into the diversion program by contacting the board's Diversion Program Manager. The Diversion Program Manager may refer the licentiate requesting participation in the program to a diversion evaluation committee for evaluation of eligibility. Prior to authorizing a licentiate to enter into the diversion program, the Diversion Program Manager may require the licentiate, while under current investigation for any violations of the Dental Practice Act or other violations, to execute a statement of understanding that states that the licentiate understands that his or her violations of the Dental

Practice Act or other statutes that would otherwise be the basis for discipline, may still be investigated and the subject of disciplinary action.

(d) If the reasons for a current investigation of a licentiate are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 1681 of the Business and Professions Code, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drugs for self-administration that does not involve actual, direct harm to the public, the board shall close the investigation without further action if the licentiate is accepted into the board's diversion program and successfully completes the requirements of the program. If the licentiate withdraws or is terminated from the program by a diversion evaluation committee, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the board.

(e) Neither acceptance nor participation in the diversion program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any licentiate for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) All licentiates shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when a diversion evaluation committee determines the licentiate presents a threat to the public's health and safety shall result in the utilization by the board of diversion treatment records in disciplinary or criminal proceedings.

(g) Any licentiate terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the diversion program. A licentiate who has been under investigation by the board and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the board.

SEC. 2. Section 1697 of the Business and Professions Code is amended to read:

1697. Each licentiate who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a committee and to bear all costs related to the program, unless the cost is waived by the board. Any failure to comply with the provisions of a treatment program may result in termination of the licentiate's participation in a program.

SEC. 3. Section 1698 of the Business and Professions Code is amended to read:

1698. (a) After a committee in its discretion has determined that a licentiate has been rehabilitated and the diversion program is

completed, the committee shall purge and destroy all records pertaining to the licentiate's participation in a diversion program.

(b) Except as authorized by subdivision (f) of Section 1695.5, all board and committee records and records of proceedings pertaining to the treatment of a licentiate in a program shall be kept confidential and are not subject to discovery or subpoena.

CHAPTER 258

An act to amend Section 168 of, and to add Section 14201.6 to, the Penal Code, relating to the Department of Justice.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 168 of the Penal Code is amended to read:

168. (a) Every district attorney, clerk, judge, or peace officer who, except by issuing or in executing a search warrant or warrant of arrest for a felony, willfully discloses the fact of the warrant prior to execution for the purpose of preventing the search or seizure of property or the arrest of any person shall be punished by imprisonment in the state prison or in a county jail for not exceeding one year.

(b) This section shall not prohibit the following:

(1) A disclosure made by a district attorney or the Attorney General for the sole purpose of securing voluntary compliance with the warrant.

(2) Upon the return of an indictment and the issuance of an arrest warrant, a disclosure of the existence of the indictment and arrest warrant by a district attorney or the Attorney General to assist in the apprehension of a defendant.

(3) The disclosure of an arrest warrant pursuant to paragraph (1) of subdivision (a) of Section 14201.6.

SEC. 2. Section 14201.6 is added to the Penal Code, to read:

14201.6. (a) The Department of Justice shall establish and maintain a publicly accessible computer internet directory of information relating to the following:

(1) Persons for whom an arrest warrant has been issued pursuant to an alleged violation of any offense defined as a violent felony in subdivision (c) of Section 667.5.

(2) Critical missing children.

(3) Unsolved homicides.

(b) The Attorney General may determine the extent of information and the priority of cases to be included in the directory.

(c) The department shall keep confidential, and not enter into the directory, either of the following:

(1) Information regarding any case for which the Attorney General has determined that disclosure pursuant to this section would endanger the safety of a person involved in an investigation or the successful completion of the investigation or a related investigation.

(2) Information regarding an arrest warrant for which the issuing magistrate has determined that disclosure pursuant to this section would endanger the safety of a person involved in an investigation or the successful completion of the investigation or a related investigation.

(d) For purposes of this section, "critical missing child" includes, but is not limited to, any case of a missing child for which there is evidence or indications that the child is at risk, as specified in subdivision (b) of Section 14213.

CHAPTER 259

An act to amend Sections 25205.2 and 25205.5 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. 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 who is issued a permit or grant of interim status within 30 days from the date that a permit or grant of interim status is issued to the operator. The fee specified in this section does not apply to facilities exempted pursuant to 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 ceased 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 State 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 or grant of interim status, as specified in Section 25201.6, shall receive a credit for 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 September 21, 1993, 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.

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 (c), 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 or received a credit, as specified in Section 25205.2, for each specific site, for the calendar year for which the generator fee is due.

(b) The base fee rate for the fee imposed pursuant to subdivision (a) is three thousand three hundred seventy-one dollars ($3,371).

(c) (1) Each generator who generates an amount equal to, or more than, five tons, but less than 25 tons, of hazardous waste during the prior calendar year shall pay 5 percent of the base rate.

(2) Each generator who generates an amount equal to, or more than, 25 tons, but less than 50 tons, of hazardous waste during the prior calendar year shall pay 40 percent of the base rate.

(3) Each generator who generates an amount equal to, or more than, 50 tons, but less than 250 tons, of hazardous waste during the prior calendar year shall pay the base rate.

(4) Each generator who generates an amount equal to, or more than, 250 tons, but less than 500 tons, of hazardous waste during the prior calendar year shall pay five times the base rate.

(5) Each generator who generates an amount equal to, or more than, 500 tons, but less than 1,000 tons, of hazardous waste during the prior calendar year shall pay 10 times the base rate.

(6) Each generator who generates an amount equal to, or more than, 1,000 tons, but less than 2,000 tons, of hazardous waste during the prior calendar year shall pay 15 times the base rate.

(7) Each generator who generates an amount equal to, or more than, 2,000 tons of hazardous waste during the prior calendar year shall pay 20 times the base rate.

(d) The base rate established pursuant to subdivision (b) is the base rate for the 1996 calendar year and the board shall adjust the base rate annually to reflect increases or decreases in the cost of living, during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(e) 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.

(f) 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.

(g) 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.

(h) (1) 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.

(2) The amendment of subdivision (a) of this section, effective January 1, 1997, does not constitute a change in, but is declaratory of, existing law.

CHAPTER 260

An act to amend Section 2056 of the Business and Professions Code, relating to medicine.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 2056 of the Business and Professions Code is amended to read:

2056. (a) The purpose of this section is to provide protection against retaliation for physicians who advocate for medically appropriate health care for their patients pursuant to Wickline v. State of California 192 Cal. App. 3d 1630.

(b) It is the public policy of the State of California that a physician and surgeon be encouraged to advocate for medically appropriate health care for his or her patients. For purposes of this section, "to advocate for medically appropriate health care" means to appeal a payor's decision to deny payment for a service pursuant to the reasonable grievance or appeal procedure established by a medical group, independent practice association, preferred provider organization, foundation, hospital medical staff and governing body, or payer, or to protest a decision, policy, or practice that the physician, consistent with that degree of learning and skill ordinarily possessed by reputable physicians practicing according to the applicable legal standard of care, reasonably believes impairs the physician's ability to provide medically appropriate health care to his or her patients.

(c) The application and rendering by any person of a decision to terminate an employment or other contractual relationship with, or otherwise penalize, a physician and surgeon principally for advocating for medically appropriate health care consistent with that degree of learning and skill ordinarily possessed by reputable physicians practicing according to the applicable legal standard of care violates the public policy of this state. No person shall terminate, retaliate against, or otherwise penalize a physician and surgeon for that advocacy, nor shall any person prohibit, restrict, or in any way discourage a physician and surgeon from communicating to a patient information in furtherance of medically appropriate health care.

(d) This section shall not be construed to prohibit a payer from making a determination not to pay for a particular medical treatment or service, or to prohibit a medical group, independent practice association, preferred provider organization, foundation, hospital medical staff, hospital governing body acting pursuant to Section 809.05, or payer from enforcing reasonable peer review or utilization review protocols or determining whether a physician has complied with those protocols.

(e) Medically appropriate health care in a hospital licensed pursuant to Section 1250 of the Health and Safety Code shall be defined by the hospital medical staff and approved by the governing body, consistent with that degree of learning and skill ordinarily possessed by reputable physicians practicing according to the applicable legal standard of care.

(f) Nothing in this section shall be construed to prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon as authorized by Sections 809.05, 809.4, and 809.5.

(g) Nothing in this section shall be construed to prohibit the Medical Board of California from taking disciplinary actions against a physician and surgeon under Article 12 (commencing with Section 2220).

(h) For purposes of this section, "person" has the same meaning as set forth in Section 2032.

CHAPTER 261

An act to amend Section 1101 of, and to add Section 1109 to, the Evidence Code, relating to evidence.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

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

SECTION 1. Section 1101 of the Evidence Code is amended to read:

1101. (a) Except as provided in this section and in Sections 1102, 1103, 1108, and 1109, evidence of a person's character or a trait of his or her character (whether in the form of an opinion, evidence of reputation, or evidence of specific instances of his or her conduct) is inadmissible when offered to prove his or her conduct on a specified occasion.

(b) Nothing in this section prohibits the admission of evidence that a person committed a crime, civil wrong, or other act when relevant to prove some fact (such as motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or whether a defendant in a prosecution for an unlawful sexual act or attempted unlawful sexual act did not reasonably and in good faith believe that the victim consented) other than his or her disposition to commit such an act.

(c) Nothing in this section affects the admissibility of evidence offered to support or attack the credibility of a witness.

SEC. 2. Section 1109 is added to the Evidence Code, to read:

1109. (a) Except as provided in subdivision (e), in a criminal action in which the defendant is accused of an offense involving domestic violence, evidence of the defendant's commission of other domestic violence is not made inadmissible by Section 1101, if the evidence is not inadmissible pursuant to Section 352.

(b) In an action in which evidence is to be offered under this section, the people shall disclose the evidence to the defendant,

including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 30 days before the scheduled date of trial or at a later time as the court may allow for good cause.

(c) This section shall not be construed to limit or preclude the admission or consideration of evidence under any other statute or case law.

(d) As used in this section, "domestic violence" has the meaning set forth in Section 13700 of the Penal Code.

(e) Evidence of acts occurring more than 10 years before the charged offense is inadmissible under this section, unless the court determines that the admission of this evidence is in the interest of justice.

CHAPTER 262

An act to amend Sections 69102, 69104, 69581, 69582, 69584.5, 69591, 69592, 69593, 69594, 69598, 69601, 69602, 69604, 69609, 72602.9, 73075, 73431, 73731, and 74641 of the Government Code, relating to courts.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. Section 69102 of the Government Code is amended to read:

69102. The Court of Appeal for the Second Appellate District consists of seven divisions having four judges each. One division shall hold its regular sessions in Ventura County, Santa Barbara County, or San Luis Obispo County, at the discretion of the judges of that division, and the other divisions shall hold their regular sessions at Los Angeles.

SEC. 2. Section 69104 of the Government Code is amended to read:

69104. The Court of Appeal for the Fourth Appellate District consists of three divisions. One division shall hold its regular sessions at San Diego and shall have nine judges. One division shall hold its regular sessions in the San Bernardino/Riverside area and shall have six judges. One division shall hold its regular sessions in Orange County and shall have six judges.

SEC. 3. Section 69581 of the Government Code is amended to read:

69581. In the County of Butte there shall be five judges of the superior court.

SEC. 4. Section 69582 of the Government Code is amended to read:

69582. In the County of Contra Costa there are 18 judges of the superior court.

SEC. 5. Section 69584.5 of the Government Code is amended to read:

69584.5. In the County of Imperial there shall be four judges of the superior court.

SEC. 6. Section 69591 of the Government Code is amended to read:

69591. In the County of Orange there are 61 judges of the superior court.

SEC. 7. Section 69592 of the Government Code is amended to read:

69592. In the County of Riverside there are 26 judges of the superior court.

SEC. 8. Section 69593 of the Government Code is amended to read:

69593. In the County of Sacramento there are 33 judges of the superior court.

SEC. 9. Section 69594 of the Government Code is amended to read:

69594. In the County of San Bernardino there are 30 judges of the superior court.

SEC. 10. Section 69598 of the Government Code is amended to read:

69598. In the County of San Joaquin there are 13 judges of the superior court.

SEC. 11. Section 69601 of the Government Code is amended to read:

69601. In the County of Shasta there shall be four judges of the superior court; provided, that at such time as the Shasta County Board of Supervisors finds that there are sufficient funds for an additional judge and adopts a resolution to that effect, there shall be five judges of the superior court.

SEC. 12. Section 69602 of the Government Code is amended to read:

69602. In the County of Solano there shall be nine judges of the superior court.

SEC. 13. Section 69604 of the Government Code is amended to read:

69604. In the County of Stanislaus there shall be nine judges of the superior court.

SEC. 14. Section 69609 of the Government Code is amended to read:

69609. In the County of Placer there shall be five judges of the superior court.

SEC. 15. Section 72602.9 of the Government Code is amended to read:

72602.9. Notwithstanding any other provision of law, there shall be seven judges in the Citrus Judicial District; provided that at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for one additional judge for that district and adopts a resolution to that effect, there shall be eight judges in the Citrus Judicial District; and further provided that, following the appointment of an eighth judge, there shall be no more than one court commissioner in the Citrus Judicial District unless and until the Los Angeles County Board of Supervisors finds that there are sufficient funds for a second court commissioner for that district and adopts a resolution to that effect, at which time there shall be two court commissioners in the Citrus Judicial District.

SEC. 16. Section 73075 of the Government Code is amended to read:

73075. Each of the municipal court districts established in Alameda County shall have the number of judges set out below opposite the name of the judicial district over which such court has jurisdiction:

Alameda Judicial District	1
Berkeley–Albany Judicial District	4
Oakland–Piedmont–Emeryville Judicial District	14
San Leandro–Hayward Judicial District	8
Fremont–Newark–Union City Judicial District	4
Livermore–Pleasanton–Dublin Judicial District	3

SEC. 17. Section 73431 of the Government Code is amended to read:

73431. Each municipal court district established in Kern County shall have the number of judges set forth opposite the name of the judicial district over which such court has jurisdiction.

Bakersfield Judicial District	9
East Kern Judicial District	2
North Kern Judicial District	3
South Kern Judicial District	3

SEC. 18. Section 73731 of the Government Code is amended to read:

73731. (a) There shall be five judges.

(b) The persons appointed to or succeeding to the three judgeships created January 1, 1976, and the one judgeship created January 10, 1977, shall serve until their successors are elected at the November, 1978 general election and qualify to take office for full terms in January, 1979.

SEC. 19. Section 74641 of the Government Code is amended to read:

74641. Each of the municipal court districts in the County of Santa Barbara shall have the following number of judges and commissioners:

(a) Santa Barbara	4 judges and two commissioners
(b) Northern Santa Barbara:	
(1) Santa Maria Division	3 judges and 1 commissioner
(2) Lompoc Division	1 judge
(3) Solvang Division	1 judge

SEC. 20. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 263

An act to add Article 5 (commencing with Section 14070), Article 5.2 (commencing with Section 14072), Article 5.4 (commencing with Section 14074), and Article 5.6 (commencing with Section 14076) to Chapter 1 of Part 5 of Division 3 of Title 2 of, and to repeal and add Section 14031.8 of, and to repeal Sections 14031.9 and 14031.10 of, the Government Code, relating to transportation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. This act shall be known and may be cited as the Intercity Passenger Rail Act of 1996.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) An intercity rail passenger system, linking major urban centers and complemented by feeder bus services that provide access to outlying areas and destinations, is an important element of the state's transportation system, and shall remain a state-funded program.

(2) The state has a continuing interest in the provision of cost-effective intercity rail passenger services and has a responsibility to coordinate intercity rail passenger services statewide.

(3) Since 1976, the state has invested over one billion dollars ($1,000,000,000) in capital improvements and operating support for intercity rail passenger service and must ensure the protection of that investment. Recently, state costs to support operation of this service have increased greatly due to congressional reductions in Amtrak's federal operating support.

(b) The Legislature, through the enactment of this act, intends all of the following:

(1) The Secretary of Business, Transportation and Housing shall be responsible for the overall planning, coordination, and budgeting of the intercity passenger rail service.

(2) If the secretary determines that transferring responsibility for intercity rail service in a particular corridor or corridors to a statutorily created joint powers agency would result in administrative or operating cost reductions, the secretary may authorize the Department of Transportation to enter into an interagency agreement to effect a transfer of those administrative functions.

(3) Any intercity rail corridor for which administrative responsibility has been transferred to a joint powers board through an interagency agreement shall remain as a component of the statewide system of intercity rail corridors.

(4) The public interest requires expansion of the state intercity rail program in order to keep pace with the needs of an expanding population.

(5) For not less than a three-year period, the level of state funding for intercity rail service in each corridor shall be maintained at a level equal to at least the current level of service in the corridor, thus providing fiscal stability that will allow appropriate planning and operation of these services.

SEC. 3. Section 14031.8 of the Government Code is repealed.

SEC. 4. Section 14031.8 is added to the Government Code, to read:

14031.8. (a) The Secretary of Business, Transportation and Housing shall establish, through an annual budget process, the level of state funding available for the operation of intercity passenger rail service in each corridor.

(b) Where applicable, operating funds shall be allocated by the secretary to the joint powers board in accordance with an interagency agreement which includes mutually agreed-upon rail

services. Funds for the administration and marketing of services, as appropriate, shall also be transferred by the secretary to the joint powers board, subject to the terms of the interagency agreement.

(c) The joint powers board or local or regional entities may augment state-provided resources to expand intercity passenger rail services, or to address funding shortfalls in achieving agreed-upon performance standards.

(d) The department may provide any support services as may be mutually agreed upon by the board and the department.

(e) Operating costs shall be controlled by dealing with, at a minimum, the current Amtrak cost allocation formula and the ability to contract out to Amtrak or other rail operators as a part of federal legislation dealing with Amtrak reauthorization.

(f) Not later than December 31, 1997, the secretary shall establish a set of uniform performance standards for all corridors and operators to control cost and improve efficiency.

SEC. 5. Section 14031.9 of the Government Code is repealed.

SEC. 6. Section 14031.10 of the Government Code is repealed.

SEC. 7. Article 5 (commencing with Section 14070) is added to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, to read:

Article 5. Intercity Rail Agreements

14070. As used in this article, the following terms have the following meanings:

(a) "Board" or "joint powers board" means the governing board of a joint exercise of powers agency established pursuant to Article 5.2 (commencing with Section 14072), Article 5.4 (commencing with Section 14074), or Article 5.6 (commencing with Section 14076) for the purpose of assuming administrative responsibility for intercity passenger rail service within the respective corridor.

(b) "Secretary" means the Secretary of the Business, Transportation and Housing Agency.

14070.2. (a) If authorized by the secretary, the department may, through an interagency agreement, transfer to a joint powers board, and the board may assume, all responsibility for administering passenger rail service in the corridor. Upon the date specified in the agreement, the board shall succeed to the department's powers and duties relative to that service, except that the department shall retain responsibility for developing budget requests for the service through the state budget process, which shall be developed in consultation with the board, and for coordinating service in the corridor with other passenger rail services in the state.

(b) The interagency agreement shall be executed on or before December 31, 1996. If an interagency agreement is not entered into on or before December 31, 1996, the secretary shall provide a report to the Governor and the Legislature on or before January 30, 1997,

explaining why an acceptable agreement has not been developed, with specific recommendations for developing an acceptable interagency agreement.

(c) The secretary shall require the board to demonstrate the ability to meet the performance standards established by the secretary pursuant to subdivision (f) of Section 14031.8.

14070.4. (a) An interagency transfer agreement between the department and a joint powers board, when approved by the secretary, shall do all of the following:

(1) Specify the date and conditions for the transfer of responsibilities and identify the annual level of funding for the initial five years of the transfer and ensure that the level of funding is consistent with and sufficient for the planned service improvements within the corridor.

(2) Identify, for the initial year and subsequent years, the funds to be transferred to the board including state operating subsidies made available for intercity rail services in the corridor, and funds currently used by the department for administration and marketing of the corridor, with the amounts adjusted annually for inflation and in accordance with the business plan.

(3) Specify the level of service to be provided, the respective responsibilities of the board and the department, the methods that the department will use to assure the coordination of services with other rail passenger services in the state, and the methods that the department will use for the annual review of the business plan and annual proposals on funding and appropriations.

(4) Describe the terms for transferring to the joint exercise of powers agency car and locomotive train sets, and other equipment and property owned by the department and required for the intercity service in the corridor including, but not limited to, the number of units to be provided, liability coverage, maintenance and warranty responsibilities, and indemnification issues.

(5) Describe auditing responsibilities and process requirements, reimbursement and billing procedures, the responsibility for funding shortfalls, if any, during the course of each fiscal year, an operating contract oversight review process, performance standards and reporting procedures, the level of rail infrastructure maintenance, and other relevant monitoring procedures. The description shall contain an evaluation of the impact of any transfer of equipment on other intercity corridors. The agreement shall endeavor to minimize the impact and maximize the efficient use of the equipment, including continued joint use of equipment that is currently shared by one or more corridors.

(b) Use of the annual state funding allocation, as set forth in the interagency transfer agreement for the initial five years, shall be described in an annual business plan submitted by the board to the secretary for review and recommendation by April 1 of each year. The business plan, when approved by the secretary, shall be deemed

accepted by the state. The budget proposal developed by the department for the subsequent year shall be based upon the business plan approved by the secretary. The business plan shall be consistent with the interagency agreement and shall include a report on the recent as well as historical performance of the corridor service, an overall operating plan including proposed service enhancement to increase ridership and provide for increased traveler demands in the corridor for the upcoming year, short-term and long-term capitol improvement programs, funding requirements for the upcoming fiscal year, and an action plan with specific performance goals and objectives. The business plan shall document service improvements to provide the planned level of service, inclusion of operating plans to serve peak period work trips, and consideration of other service expansions and enhancements. The plan shall clearly delineate how funding and accounting for state-sponsored rail passenger services shall be separate from locally sponsored services in the corridor. Proposals to expand or modify passenger services shall be accompanied by the identification of all associated costs and ridership projections. The business plan shall establish, among other things: fares, operating strategies, capital improvements needed, and marketing and operational strategies designed to meet performance standards established in the interagency agreement.

(c) Based on the annual business plan and the subsequent appropriation by the Legislature, the secretary shall allocate state funds on an annual basis to the board. As provided in the interagency agreement, any additional funds that are required to operate the passenger rail service during the fiscal year shall be provided by the board from jurisdictions that receive service. In addition, the board may use any cost savings or farebox revenues to provide service improvements related to intercity service. In any event, the board shall report the fiscal results of the previous year's operations as part of the annual business plan.

(d) The term of the agreement shall not exceed three years.

(e) The level of service funded by the state shall in no case be less than the current number of intercity roundtrips operated in a corridor and serving the end points currently served by the intercity rail corridor. The level of service funded by the state shall also include feeder bus service with substantially the same number of route miles as the current feeder system, to be operated in conjunction with the trains.

(f) Nothing in this article shall be construed to preclude expansion of state-approved intercity rail service.

14070.6. The department and any entity that assumes administrative responsibility for passenger rail services through an interagency transfer agreement, may, through a competitive bid process, contract with the National Railroad Passenger Corporation (Amtrak) or with other organizations authorized under state or federal law to provide passenger rail services, and may contract with

rail corporations and other rail operators for the use of tracks and other facilities and for the provision of passenger services on terms and conditions as the parties may agree. The department is deemed to be a third-party beneficiary of the contract, and the contract shall not contain any provision or condition that would negatively impact on or conflict with any other contracts the department has regarding intercity rail services. Any entity that succeeds the department as sponsor of state-supported passenger rail services through an interagency transfer agreement, is deemed an agency of the state for all purposes related to passenger rail services, including Section 1614 of Title 49 of the United States Code.

SEC. 8. Article 5.2 (commencing with Section 14072) is added to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, to read:

14072. The Southern California Regional Rail Authority is an existing joint powers authority formed pursuant to Section 130255 of the Public Utilities Code, made up of the county transportation commissions of the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura, and set up to operate the commuter rail network known as Metrolink in those counties.

14072.2. The joint powers authority, known as the Southern California Regional Rail Authority, may, if the authority elects to be a party to an interagency agreement pursuant to Article 5 (commencing with Section 14070), be expanded to form an authority for the administration of intercity passenger rail services in the Counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura. The expanded authority may include, but is not limited to, the following agencies: the Imperial Valley Association of Governments, the Los Angeles County Metropolitan Transportation Commission, the Orange County Transportation Authority, the Riverside County Transportation Commission, the San Bernardino Association of Governments, the San Diego Association of Governments, the San Luis Obispo Council of Governments, the Santa Barbara County Association of Governments, and the Ventura County Transportation Commission. For the purposes of this section, "authority" means the expanded board of the Southern California Regional Rail Authority. Only the expanded board or authority, not the Southern California Regional Rail Authority board existing on July 1, 1996, may exercise jurisdiction over intercity rail matters for the service area of the authority. For purposes of taking action on intercity rail issues, including, but not limited to, equipment, funding, legislation, marketing, and operations, the member agency from each county shall be allowed one vote. Representation shall be limited to one agency per county.

14072.4. Membership in the expanded Southern California Regional Rail Authority shall be one voting representative from each

of the designated member agencies. Members shall be appointed from each of the member agencies annually.

14074.6. This article shall be applicable only if the entities to be represented on the authority enter into a joint exercise of powers agreement to expand the authority, and elect to become a party to an interagency transfer agreement pursuant to Article 5 (commencing with Section 14070).

SEC. 9. Article 5.4 (commencing with Section 14074) is added to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, to read:

Article 5.4. San Joaquin Corridor

14074. As used in this article, the following terms have the following meanings:

(a) "Board" means the governing board of the San Joaquin Corridor Joint Powers Agency established pursuant to Section 14074.2.

(b) "San Joaquin Corridor" or "corridor" means the Los Angeles-Bakersfield-Fresno-Stockton-Sacramento- Oakland rail corridor.

14074.2. (a) The San Joaquin Corridor Joint Powers Agency may be established by agreement of the represented agencies for the purpose of assuming responsibility for intercity passenger rail services in the San Joaquin Corridor.

(b) The board shall be composed of the following 19 members:

(1) One member from the Capitol Corridor Joint Powers Board, if that board is in existence.

(2) One member from the County of Sacramento, appointed by the board of supervisors of that county.

(3) One member from the County of Los Angeles, appointed by the board of supervisors of that county.

(4) Two members each from the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare, appointed by the board of supervisors of the respective county. Each county shall appoint one member who is an elected official and one who is a private citizen.

14074.6. This article shall be applicable only if the entities that would be represented on the board enter into a joint exercise of powers agreement to form the agency, and elect to become a party to an interagency transfer agreement pursuant to Article 5 (commencing with Section 14070).

SEC. 10. Article 5.6 (commencing with Section 14076) is added to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, to read:

Article 5.6. Capitol Corridor

14076. As used in this article, the following terms have the following meanings:

(a) "Board" means the Capitol Corridor Joint Powers Board created by Section 14076.2.

(b) "Capitol Corridor" or "corridor" means the Colfax-Sacramento-Suisun City-Oakland-San Jose rail corridor.

14076.2. (a) There is hereby created the Capitol Corridor Joint Powers Board, subject to being organized pursuant to subdivision (b). The board shall be composed of not more than the following 16 members:

(1) Six members of the San Francisco Bay Area Rapid Transit District Board of Directors, appointed by the board of directors of that district, as follows:

(A) Two who are residents of Alameda County.

(B) Two who are residents of Contra Costa County.

(C) Two who are residents of the City and County of San Francisco.

(2) Two members of the Board of Directors of the Sacramento Regional Transit District, appointed by the board of directors of that district.

(3) Two members of the Board of Directors of the Santa Clara County Transit District, appointed by the board of directors of that district.

(4) Two members of the county congestion management agency for that County of Yolo, appointed by that agency.

(5) Two members of the county congestion management agency for the County of Solano, appointed by that agency.

(6) Two members of the Placer County Transportation Planning Agency, appointed by that agency.

(b) The board shall be organized when at least two of the jurisdictions described in paragraphs (1) to (6), inclusive, of subdivision (a) elect to appoint members to serve on the board. Only those jurisdictions that appoint members to serve on the board prior to December 31, 1996, shall be member-agencies of the board.

14076.4. If the board and the department enter into an interagency transfer agreement pursuant to Article 5 (commencing with Section 14070), for an initial period, that begins with the transfer of responsibilities from the department to the board and continues for a three-year period subsequent to the completion of the track and signal improvements between Sacramento and Emeryville, the San Francisco Bay Area Rapid Transit District General Manager and the district's administrative staff shall, if that district has appointed members to the board in accordance with Section 14076.2, provide all necessary administrative support to the board to perform its duties and responsibilities, and may perform for the board any and all activities that they are authorized to perform for the district. At the

conclusion of the initial period, the board may, through procedures that it determines, select the San Francisco Bay Area Rapid Transit District or another existing public rail transit agency for a three-year term to provide all necessary administrative support staff to the board to perform its duties and responsibilities.

14076.6. The board shall make its decisions in accordance with the votes of its members, requiring a majority vote for all matters with the exception of the approval of the business plan, and revisions, which shall require a vote of two-thirds of the members.

14076.8. For the purpose of carrying out its responsibilities pursuant to this article, the board may seek funds from any jurisdiction served by the Capitols passenger rail service for enhanced service.

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 improved and expanded passenger rail services may be realized at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 264

An act to amend Section 339 of the Streets and Highways Code, relating to highways.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. It is the intent of the Legislature to continue State Highway Route 39 as a state highway within the Angeles National Forest because of its unique character and regional importance for access to the Angeles National Forest.

It is the further intent of the Legislature, if a portion of State Highway Route 39 is relinquished to the City of Azusa pursuant to subdivision (d) of Section 339 of the Streets and Highways Code, that the city not incur additional costs in connection with the city assuming responsibility for maintenance and operation of the relinquished portion.

SEC. 2. Section 339 of the Streets and Highways Code is amended to read:

339. Route 39 is from:

(a) Route 1 near Huntington Beach to Route 72 in La Habra via Beach Boulevard.

(b) Beach Boulevard to Harbor Boulevard in La Habra via Whittier Boulevard.

(c) Whittier Boulevard in La Habra to Route 2 via Harbor Boulevard to the vicinity of Fullerton Road, then to Azusa Avenue, Azusa Avenue to San Gabriel Canyon Road, San Gabriel Avenue southbound between Azusa Avenue and San Gabriel Canyon Road, and San Gabriel Canyon Road.

The department shall not assume maintenance of any portion of Route 39 until that portion has been constructed or reconstructed to the minimum state highway standards established pursuant to Sections 81 and 2109.

(d) Notwithstanding subdivision (c), the portion of Route 39 that is within the city limits of the City of Azusa, except that portion that is north of post mile 17, shall cease to be a state highway when the department and the City of Azusa reach agreement on the terms of the relinquishment of that portion of Route 39 to that city. The terms of the relinquishment agreement shall require that any lump-sum payment from the department to the City of Azusa be deposited by that city in a special account and used solely for improvements on Azusa Avenue and San Gabriel Avenue in the City of Azusa.

CHAPTER 265

An act to add Section 11521 to the Vehicle Code, relating to vehicles.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. Section 11521 is added to the Vehicle Code, to read:

11521. No person required to be licensed as an automobile dismantler under this code shall advertise the services of an automobile dismantler without indicating in the advertisement the occupational license or permit number of the automobile dismantler as issued by the department.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative

on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 266

An act to add Section 102122 to the Public Utilities Code, relating to transportation.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. Section 102122 is added to the Public Utilities Code, to read:

102122. (a) The board of directors may adopt ordinances that do any of the following:

(1) Prohibit persons from knowingly giving false identification to a district employee engaged in the enforcement of district ordinances or state laws, or otherwise obstructing the issuance of a citation for violation of district ordinances or state law.

(2) Prohibit unauthorized operation of, interference with, entry into, climbing upon, attaching to, or loitering on or in transit facilities or other transit property.

(3) Prohibit the removal, displacement, injury, destruction, or obstruction of any part of any track, switch, turnout, bridge, culvert, or any other district structure or fixture.

(4) Specifying conditions under which a passenger may board a district vehicle with a bicycle and where the bicycle may be stowed.

(b) The board may provide that a violation of any ordinance adopted pursuant to subdivision (a) is an infraction punishable by a fine not exceeding seventy-five dollars ($75), and that a violation by a person after the second conviction is punishable by a fine not to exceed two hundred fifty dollars ($250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days which do not conflict with the violator's hours of school attendance or employment.

(c) The board may designate persons regularly employed by a district as inspectors or supervisors whose duties shall include enforcement of district ordinances adopted under subdivision (a), Sections 640 and 640.5 of the Penal Code, and Section 22656 of the Vehicle Code. The designated persons shall have the authority set forth in Section 836.5 of the Penal Code.

(d) This section does not prohibit any person from engaging in activities that are protected under the laws of the United States or of

California, including, but not limited to, picketing, demonstrating, or distributing handbills.

CHAPTER 267

An act to amend Section 3068.1 of the Civil Code, relating to vehicles.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. Section 3068.1 of the Civil Code is amended to read:

3068.1. (a) Every person has a lien dependent upon possession for the compensation to which the person is legally entitled for towing, storage, or labor associated with recovery or load salvage of any vehicle subject to registration that has been authorized to be removed by a public agency, a private property owner pursuant to Section 22658 of the Vehicle Code, or a lessee, operator, or registered owner of the vehicle. The lien is deemed to arise on the date of possession of the vehicle. Possession is deemed to arise when the vehicle is removed and is in transit, or when vehicle recovery operations or load salvage operations have begun. A person seeking to enforce a lien for the storage and safekeeping of a vehicle shall impose no charge exceeding that for one day of storage if, 24 hours or less after the vehicle is placed in storage, the vehicle is released. If the release is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full, calendar-day basis for each day, or part thereof, that the vehicle is in storage. If a request to release the vehicle is made and the appropriate fees are tendered and documentation establishing that the person requesting release is entitled to possession of the vehicle, or is the owner's insurance representative, is presented within the initial 24 hours of storage, and the storage facility fails to comply with the request to release the vehicle or is not open for business during normal business hours, then only one day's charge may be required to be paid until after the first business day. A "business day" is any day in which the lienholder is open for business to the public for at least eight hours. If the request is made more than 24 hours after the vehicle is placed in storage, charges may be imposed on a full-calendar day basis for each day, or part thereof, that the vehicle is in storage.

(b) If the vehicle has been determined to have a value not exceeding two thousand five hundred dollars ($2,500), the lien shall be satisfied pursuant to Section 3072. Lien-sale proceedings pursuant to Section 3072 shall commence within 15 days of the date the lien arises. No storage shall accrue beyond the 15-day period unless

lien-sale proceedings pursuant to Section 3072 have commenced. The storage lien may be for a period not exceeding 60 days if a completed notice of a pending lien sale form has been filed pursuant to Section 3072 within 15 days after the lien arises. Notwithstanding this 60-day limitation, the storage lien may be for a period not exceeding 120 days if any one of the following occurs:

(1) A Declaration of Opposition is filed with the department pursuant to Section 3072.

(2) The vehicle has an out-of-state registration.

(3) The vehicle identification number was altered or removed.

(4) A person who has an interest in the vehicle becomes known to the lienholder after the lienholder has complied with subdivision (b) of Section 3072.

(c) If the vehicle has been determined to have a value exceeding two thousand five hundred dollars ($2,500) pursuant to Section 22670 of the Vehicle Code, the lien shall be satisfied pursuant to Section 3071. The storage lien may be for a period not exceeding 120 days if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3071.

(d) Any lien under this section shall be extinguished, and no lien sale shall be conducted, if any one of the following occurs:

(1) The lienholder, after written demand to inspect the vehicle made by either personal service or certified mail with return receipt requested by the legal owner or the lessor, fails to permit the inspection by the legal owner or lessor, or his or her agent, within a period of time of at least 24 hours, but not to exceed 72 hours, after the receipt of that written demand, during the normal business hours of the lienholder. The legal owner or lessor shall comply with inspection and vehicle release policies of the impounding public agency.

(2) The amount claimed for storage exceeds the posted rates.

CHAPTER 268

An act to amend Sections 25100 and 25608 of the Corporations Code, relating to corporations.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of that province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal savings bank or federal land bank or joint land bank or national farm loan association or by any savings association, as defined in subdivision (a) of Section 5102 of the Financial Code, which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any person engaged in the business of selling, distributing, or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any mutual capital certificates or savings accounts, as defined in the Savings Association Law, issued by a savings association, as defined by subdivision (a) of Section 5102 of the Financial Code, and holding a license or certificate of authority then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities

and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of that company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by that authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of that nonprofit organization or from remuneration received from that nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to that issuer and providing for the payment to the donor or persons designated by him or her of income or specified periodic payments from the donated property or other property for the life of the donor or those other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of that paper which is likewise limited, or any guarantee of that paper or of any such renewal, provided that the paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of those securities when the commissioner finds that the qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit-sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit-sharing, stock bonus or similar benefit plan meets those requirements shall be conclusive evidence that the plan is an employees' pension, profit-sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date the determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not the revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange or designated or approved for designation upon notice of issuance as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., if the exchange or interdealer quotation system has been certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to the security. The exemption afforded by this subdivision does not apply to securities listed or designated, or approved for listing or designation upon notice of issuance, in a rollup transaction unless the rollup transaction is an eligible rollup transaction as defined in Section 25014.7.

That certification of any exchange or system shall be made by the commissioner upon the written request of the exchange or system if the commissioner finds that the exchange or system: (i) in acting on applications for listing of common stock substantially applies the minimum standards set forth in either alternative (A) or (B) of paragraph (1), and (ii) in considering suspension or removal from listing or designation, substantially applies each of the criteria set forth in paragraph (2).

(1) Listing standards:

(A) (i) Shareholders' equity of at least four million dollars ($4,000,000).

(ii) Pretax income of at least seven hundred fifty thousand dollars ($750,000) in the issuer's last fiscal year or in two of its last three fiscal years.

(iii) Minimum public distribution of 500,000 shares (exclusive of the holdings of officers, directors, controlling shareholders, and other concentrated or family holdings), together with a minimum of 800 public holders or minimum public distribution of 1,000,000 shares together with a minimum of 400 public holders. The exchange or system may also consider the listing or designation of a company's securities if the company has a minimum of 500,000 shares publicly

held, a minimum of 400 shareholders and daily trading volume in the issue has been approximately 2,000 shares or more for the six months preceding the date of application. In evaluating the suitability of an issue for listing or designation under this trading provision, the exchange or system shall review the nature and frequency of that activity and any other factors as it may determine to be relevant in ascertaining whether the issue is suitable for trading. A security which trades infrequently shall not be considered for listing or designation under this paragraph even though average daily volume amounts to 2,000 shares per day or more.

Companies whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, normally may not be considered eligible for listing or designation unless the public distribution appreciably exceeds 500,000 shares.

(iv) Minimum price of three dollars ($3) per share for a reasonable period of time prior to the filing of a listing or designation application; provided, however, in certain instances an exchange or system may favorably consider listing an issue selling for less than three dollars ($3) per share after considering all pertinent factors, including market conditions in general, whether historically the issue has sold above three dollars ($3) per share, the applicant's capitalization, and the number of outstanding and publicly held shares of the issue.

(v) An aggregate market value for publicly held shares of at least three million dollars ($3,000,000).

(B) (i) Shareholders' equity of at least four million dollars ($4,000,000).

(ii) Minimum public distribution set forth in clause (iii) of subparagraph (A) of paragraph (1).

(iii) Operating history of at least three years.

(iv) An aggregate market value for publicly held shares of at least fifteen million dollars ($15,000,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has shareholders' equity of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders is less than 400 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than three dollars ($3) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of the shares within a reasonable period of time after being requested by the exchange to take that action.

A national securities exchange or interdealer quotation system of the National Association of Securities Dealers, Inc. certified by rule or order of the commissioner under this subdivision shall file annual reports when requested to do so by the commissioner. The annual reports shall contain, by issuer: the variances granted to an exchange's listing standards or interdealer quotation system's designation criteria, including variances from corporate governance and voting rights' standards, for any security of that issuer; the reasons for the variances; a discussion of the review procedure instituted by the exchange or interdealer quotation system to determine the effect of the variances on investors and whether the variances should be continued; and any other information that the commissioner deems relevant. The purpose of these reports is to assist the commissioner in determining whether the quantitative and qualitative requirements of this subdivision are substantially being met by the exchange or system in general or with regard to any particular security.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may, in his or her discretion, by rule or order, decertify any exchange or interdealer quotation system previously certified which ceases substantially to apply the minimum standards or criteria as set forth in paragraphs (1) and (2).

A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange, or designated or approved for designation upon issuance as a national market system security on any interdealer quotation system, named in a rule or order of certification, and any warrant or right to purchase or subscribe to any such security, is exempt under this subdivision until the adoption by the commissioner of any rule or order decertifying the exchange or interdealer quotation system.

(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in

California, which contracts indemnify solely in respect to medical malpractice claims against the members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, the commissioner may in the commissioner's discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(2) The commissioner may, in the commissioner's discretion, (A) make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of Section 1280.7, and (B) publish information concerning the violation of Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce

evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(6) The cost of any review, examination, audit, or investigation made by the commissioner under Section 1280.7 of the Insurance Code shall be paid to the commissioner by the person subject to the review, examination, audit, or investigation, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost, the commissioner may use the actual amount of the salary or other compensation paid to the persons making the review, examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

The recoverable cost of each review, examination, audit, or investigation made by the commissioner under Section 1280.7 of the Insurance Code shall not exceed twenty-five thousand dollars ($25,000), except that costs exceeding twenty-five thousand dollars ($25,000) shall be recoverable if the costs are necessary to prevent a violation of any provision of Section 1280.7 of the Insurance Code.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed three hundred dollars ($300). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of the corporation or from remuneration, other than reasonable salary, received from the corporation. This exemption does not apply to nonvoting shares or memberships of any such corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting power (Section 12253) in the corporation. This exemption also does not apply to shares or memberships issued by a nonprofit cooperative corporation organized to facilitate the creation of an unincorporated interindemnity arrangement that provides indemnification for medical malpractice to its physician and surgeon members as set forth in subdivision (q).

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of whole mortgage loans or participation interests in those loans, which loans were originated or acquired in the ordinary course of business by a national bank or federal savings and loan association or federal savings bank having its principal office in this state, by a bank incorporated under the laws of this state or by a savings association as defined in subdivision (a) of Section 5102 of the Financial Code and which is subject to the supervision and

regulation of the Savings and Loan Commissioner, which at the time of transfer to the pool is an authorized investment for such originating or acquiring institution.

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise.

(3) The loans are serviced by a financial institution specified in paragraph (1).

(4) The security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser.

(5) The security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under that act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

(t) Any security issued by an issuer registered as an open-end management company or unit investment trust under the Investment Company Act of 1940, provided that all the following requirements are met:

(1) The registration statement for the securities is currently effective under the Securities Act of 1933.

(2) Prior to any offer or sale in this state of securities claimed to be exempt under this subdivision, there is filed with or paid to the commissioner each of the following:

(A) A notice of intention to sell that has been executed by the issuer and that includes the name and address of the issuer and the name of the securities to be offered and sold under this subdivision.

(B) A copy of the current prospectus to be used in the offer and sale of the security.

(C) The fee provided in subdivision (f) of Section 25608.

If any offer or sale is made pursuant to this exemption more than 12 months after the date the notice was filed under this subdivision, the issuer shall file another notice of intention to sell, a copy of the prospectus the issuer is currently utilizing for the purpose of making that offer, and the fee specified in subparagraph (C) of paragraph (2).

SEC. 2. Section 25608 of the Corporations Code is amended to read:

25608. (a) The commissioner shall charge and collect the fees fixed in this section. All fees charged and collected under this section shall be transmitted to the Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the State Corporations Fund.

(b) The fee for filing an application for a negotiating permit under subdivision (c) of Section 25102 is fifty dollars ($50).

(c) The fee for filing a notice pursuant to paragraph (5) of subdivision (h) of Section 25102 and the fee for filing a notice pursuant to paragraph (4) of subdivision (f) of Section 25102, in addition to the fee prescribed in those paragraphs, if applicable, shall

be determined based on the value of the securities proposed to be sold in the transaction for which the notice is filed and in accordance with subdivision (g), and shall be as follows:

Value of Securities Proposed to be Sold	Filing Fee
$25,000 or less	$ 25
$25,001 to $100,000	$ 35
$100,001 to $500,000	$ 50
$500,001 to $1,000,000	$150
Over $1,000,000	$300

(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under paragraph (1) of subdivision (b) of Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (k)) is two hundred dollars ($200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars ($2,500).

The fee for filing a small company application for qualification of the sale of securities by permit under paragraph (2) of subdivision (b) of Section 25113 is two thousand five hundred dollars ($2,500). In the case where the costs of processing a small company application exceed the filing fee, an additional fee shall be charged, not to exceed one thousand dollars ($1,000), over and above the filing fee based on the costs of the salary or other compensation paid to persons processing the application plus overhead costs reasonably incurred in the performance of the work. In determining the costs, the commissioner may use the estimated average hourly cost for all persons processing applications for the fiscal year.

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 or a notice of intention to sell under subdivision (t) of Section 25100 is two hundred dollars ($200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars ($2,500).

(g) For the purpose of determining the fees fixed in subdivisions (e) and (f):

(1) The value of the securities shall be the price at which the company proposes to sell the securities, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in

exchange therefor, or of the securities when sold, whichever is greater.

(2) Interim or voting trust certificates shall have a value equal to the aggregate value of the securities to be represented by the interim or voting trust certificates.

(3) The value of a warrant or right to purchase or subscribe to another security of the same or another issuer shall be an amount equal to the consideration to be paid for that warrant or right plus an amount equal to the consideration to be paid upon purchase of the additional securities, provided that if the latter amount is not determinable at the time of qualification, that amount shall then be the value of the additional securities as determined by the commissioner.

(4) In the case of a share dividend where the shareholders are given an option to accept either cash or additional shares of common stock, the value of the securities to be sold shall be the maximum amount of cash that would be payable in the event that all shareholders elected to accept cash.

(h) The fee for filing an application for qualification of the sale of securities by permit under Section 25121 is:

(1) Two hundred dollars ($200) in connection with any change (including any stock split or reverse stock split or stock dividend, except a stock dividend where the shareholders are given an option to accept either cash or additional shares of common stock) in the rights, preferences, privileges, or restrictions of or on outstanding securities.

(2) Two hundred dollars ($200) plus one-fifth of 1 percent of the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration to be received in exchange therefor, up to a maximum aggregate fee of two thousand five hundred dollars ($2,500), in any exchange of securities by the issuer with its existing security holders exclusively, or in any exchange in connection with any merger or consolidation or purchase of corporate assets in consideration of the issuance of securities.

(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be one hundred dollars ($100).

(j) The fee for an application for the removal of any condition under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(*l*) The fee for acting as escrow holder for securities under Section 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting to the transfer in escrow of securities or (2) consenting to the transfer

of securities subject to any condition imposed by the commissioner requiring the commissioner's consent to the transfer is twenty dollars ($20) for each transfer.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee that would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the amendment had been included in the original application.

(o) (1) The fee for filing an application for a broker-dealer certificate under Section 25211 is three hundred dollars ($300).

(2) Each broker-dealer shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of the broker-dealer program under this division, as estimated by the commissioner for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion that the broker-dealer and the number of its agents in this state bears to the aggregate number of broker-dealers and agents in this state as shown by records maintained by or on behalf of the commissioner. The pro rata share may include the costs of any examinations, audit, or investigation provided for in subdivision (r).

(3) On or before the 30th day of May in each year, the commissioner shall notify each broker-dealer by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(4) In the levying and collection of the assessment, a broker-dealer shall not be assessed for, nor be permitted to pay, less than seventy-five dollars ($75) per year.

(5) In determining the amount assessed, the commissioner shall consider all appropriations from the State Corporations Fund for the support of the broker-dealer program under this division and all reimbursements applicable to the administration of the broker-dealer program under this division.

(6) If a broker-dealer fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the broker-dealer. If, after that order is made, a request for hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a broker-dealer shall not conduct business pursuant to this division except as may be permitted by order of the commissioner; provided, however, that the revocation, suspension, or surrender of a certificate

shall not affect the powers of the commissioner as provided under this division.

(p) The commissioner shall charge a fee of twenty-five dollars ($25) for the filing of a notice or report required by rule adopted pursuant to subdivision (b) of Section 25210.

(q) The fee for filing an application for an investment adviser under Section 25231 is one hundred twenty-five dollars ($125), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep the certificate in effect for an additional period, pay a renewal fee of one hundred twenty-five dollars ($125) on or before the 15th day of December preceding the additional period.

(r) The fee for any examination, audit, or investigation is the amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the amount of expenses including overhead reasonably incurred in the performance of the work. In determining the costs associated with an examination, audit, or investigation, the commissioner may use the estimated average hourly cost for all persons performing examinations, audits, or investigations for the fiscal year.

(s) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding the hearing.

(t) The commissioner may fix by rule a reasonable charge for any publications issued under his or her authority. The charges shall not apply to reports of the commissioner in the ordinary course of distribution.

(u) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h), or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(v) The fee for filing an application for exemption pursuant to subdivision (*l*) of Section 25100 is two hundred fifty dollars ($250).

(w) The commissioner may by rule require payment of a fee for filing a notice or report required by a rule adopted pursuant to Section 25105. The fee required in connection with a transaction as defined by that rule shall not exceed the fees specified in subdivision (c) based on the value of the securities sold, but the commissioner may permit a single notice for more than one transaction.

(x) The fee for filing the first notice of transaction under subdivision (n) of Section 25102 is six hundred dollars ($600).

(y) The fee for filing a notice of transaction under subdivision (o) of Section 25102 shall be the fee for filing an application for qualification of the sale of securities by permit under paragraph (1)

of subdivision (b) of Section 25113 as set forth in subdivision (e) of this section.

(z) The fee for filing a notice of transaction under subdivision (h) of Section 25103 shall be six hundred dollars ($600).

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 269

An act to amend Section 40709.6 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. Section 40709.6 of the Health and Safety Code is amended to read:

40709.6. (a) Increases in emissions of air pollutants at a stationary source located in a district may be offset by emission reductions credited to a stationary source located in another district if both stationary sources are located in the same air basin or, if not located in the same air basin, if all of the following requirements are met:

(1) The stationary source to which the emission reductions are credited is located in an upwind district that is classified as being in a worse nonattainment status than the downwind district pursuant to Chapter 10 (commencing with Section 40910).

(2) The stationary source at which there are emission increases to be offset is located in a downwind district that is overwhelmingly impacted by emissions transported from the upwind district, as determined by the state board pursuant to Section 39610.

(3) Any offset credited shall be approved by a resolution adopted by the governing board of the upwind district and the governing board of the downwind district. In adopting a resolution pursuant to this subdivision, each governing board shall consider the impact of the offset on air quality, public health, and the regional economy.

(b) The district, in which the stationary source to which emission reductions are credited is located, shall determine the type and quantity of the emission reductions to be credited.

(c) The district, in which the stationary source at which there are emission increases to be offset is located, shall do both of the following:

(1) Determine the impact of those emission reductions in mitigation of the emission increases in the same manner and to the same extent as the district would do so for fully credited emission reductions from sources located within its boundaries.

(2) Adopt a rule or regulation to discount the emission reductions credited to the stationary source in the other district. The discount shall not be less than the emission reduction for offsets from comparable sources located within the district boundaries.

CHAPTER 270

An act to amend Section 5023 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. Section 5023 of the Vehicle Code is amended to read:

5023. (a) Any person described in Section 5101 may also apply for a set of commemorative Olympic reflectorized license plates and the department shall issue those special license plates in lieu of regular license plates. The commemorative Olympic reflectorized license plates shall be of a distinctive design and shall be available in a special series of letters or numbers, or both, as determined by the department after consultation with the United States Olympic Committee.

(b) In addition to the regular fees for an original registration or renewal of registration, the following special fees shall be paid:

(1) Fifty dollars ($50), inclusive of any administrative fees, for the initial issuance of the special plates.

(2) Fifteen dollars ($15) for the transfer of the special plates to another vehicle.

(3) Thirty-five dollars ($35) for duplicate, replacement commemorative Olympic reflectorized license plates of the same number in the series.

(4) Thirty dollars ($30) for the annual renewal of the special plates.

(c) When payment of renewal fees is not required as specified in Section 4000, or when the person determines to retain the plates upon sale, trade, or other release of the vehicle upon which the special plates have been displayed, the person shall notify the department and the person may retain the special plates.

(d) All 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 Olympic Training Account in the General Fund established pursuant to Section 7592 of the Government Code.

(e) The department shall report to the Legislature the number of commemorative plates that have been issued and renewed pursuant to this section, the total revenue received for the issuance and renewal, the costs incurred by the department, and the amount deposited in the California Olympic Training Account.

The first report shall be submitted to the Legislature on December 31, 1991, and a report shall be submitted every two years thereafter, with a final report to be submitted on December 31, 2011.

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

In order to reduce, at the earliest possible time, the additional fee for the initial issuance of a set of commemorative Olympic reflectorized license plates in order to encourage sales of those plates, it is necessary that this act take effect immediately.

CHAPTER 271

An act to amend Section 44009 of the Public Resources Code, relating to solid waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. Section 44009 of the Public Resources Code is amended to read:

44009. (a) (1) The board shall, in writing, concur or object to the issuance, modification, or revision of any solid waste facilities permit within 60 days of the board's receipt of any proposed solid waste facilities permit submitted under Section 44007 after consideration of the issues in this section.

(2) If the board determines that the permit is not consistent with the state minimum standards adopted pursuant to Section 43020, or

is not consistent with Sections 43040, 43600, 44007, 44010, 44017, 44150, and 44152 or Division 31 (commencing with Section 50000), the board shall object to provisions of the permit and shall submit those objections to the local enforcement agency for its consideration.

(3) If the board fails to concur or object in writing within 60 days, it shall be deemed to have concurred in the issuance of the permit as submitted to it.

(b) Notwithstanding subdivision (a), the board is not required to concur in, or object to, and shall not be deemed to have concurred in, the issuance of a solid waste facilities permit for a disposal facility if the owner or operator is not in compliance with, as determined by the regional water board, an enforcement order issued pursuant to Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code, or if all of the following conditions exist:

(1) Waste discharge requirements for the disposal facility issued by the applicable regional water board are pending review in a petition before the state water board.

(2) The petition for review of the waste discharge requirements includes a request for a stay of the waste discharge requirements.

(3) The state water board has not taken action on the stay request portion of the pending petition for review of waste discharge requirements.

(c) In objecting to the issuance, modification, or revision of any solid waste facilities permit pursuant to this section, the board shall, based upon substantial evidence in the record on the matter before the board, state its reasons for objecting. The board shall not object to the issuance, modification, or revision of any solid waste facilities permit unless it finds that the permit is not consistent with the state minimum standards adopted pursuant to Section 43020, or is not consistent with Section 43040, 43600, 44007, 44010, 44017, 44150, or 44152 or Division 31 (commencing with Section 50000).

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

In order to facilitate the issuance, modification, and revision of solid waste facilities permits, thereby better protecting the environment and public health and safety by providing for the management of solid waste, it is necessary that this act take effect immediately.

CHAPTER 272

An act to add Section 31529.9 to the Government Code, relating to county retirement systems.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. Section 31529.9 is added to the Government Code, to read:

31529.9. (a) In addition to the powers granted by Sections 31529, 31529.5, 31614, and 31732, the board of retirement and the board of investment may contract with the county counsel or with attorneys in private practice or employ staff attorneys for legal services.

(b) Notwithstanding Sections 31529.5 and 31580, the board shall pay, from system assets, reasonable compensation for the legal services.

(c) This section shall be applicable to any county of the 2nd class, 14th class, 15th class, or the 16th class as described by Sections 28020, 28023, 28035, 28036, and 28037.

SEC. 2. The Legislature finds and declares that this act is not intended to diminish, limit, or otherwise affect the power of a county board of retirement or investments to appoint, discharge, or otherwise administer and manage its employees under Section 31522.1 of the Government Code or other provisions of the County Employees Retirement Law of 1937 or Section 17 of Article XVI of the California Constitution.

CHAPTER 273

An act to amend Section 5943 of the Fish and Game Code, relating to fishing.

[Approved by Governor July 22, 1996. Filed with Secretary of State July 23, 1996.]

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

SECTION 1. Section 5943 of the Fish and Game Code is amended to read:

5943. (a) The owner of a dam shall accord to the public for the purpose of fishing, the right of access to the waters impounded by the dam during the open season for the taking of fish in the stream or river, subject to the regulations of the commission.

(b) Subdivision (a) does not apply to any impoundment of water by a dam that is wholly located on privately owned land that is primarily agricultural or residential in nature if the impounded waters are from a stream or river that is not naturally frequented by fish and if the dam does not prevent the free passage of fish over or around the dam. The Legislature finds and declares that this subdivision is intended to be declaratory of existing law.

CHAPTER 274

An act to add and repeal Chapter 4 (commencing with Section 18250) of Part 6 of Division 9 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Chapter 4 (commencing with Section 18250) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 4. SANTA CLARA COUNTY WRAP-AROUND SERVICES PILOT PROJECT

18250. (a) It is the intent of the Legislature that Santa Clara County be authorized to continue to provide children with service alternatives to group home care through the development of expanded family-based services currently provided through "Program UPLIFT." This program shall include individualized or "wrap-around" services, where services are wrapped around a child living with his or her birth parent, relative, adoptive parent, licensed or certified foster parent, or guardian. The wrap-around services developed under this section shall build on the strengths of each eligible child and family and be tailored to address their unique and changing needs.

(b) It is further the intent of the Legislature that the pilot project continuing "Program UPLIFT" include the following elements:

(1) Making available to the county the state share of nonfederal reimbursement for group home placement, minus the state share, if any, of any concurrent out-of-home placement costs, for children eligible under this chapter, for the purpose of allowing the county to develop family-based service alternatives.

(2) Enabling the county to access all possible sources of federal funds for the purpose of developing family-based service alternatives.

(3) Encouraging collaboration among persons and entities including, but not limited to, parents, county welfare departments, county mental health departments, county probation departments, county health departments, special education local planning agencies, school districts, and private service providers for the purpose of planning and providing individualized services for children and their birth or substitute families.

(4) Ensuring local community participation in the development and implementation of wrap-around services by county placing agencies and service providers.

(5) Preserving and using the service resources and expertise of nonprofit providers to develop family-based and community-based service alternatives.

18251. As used in this chapter:

(a) "County" means Santa Clara County.

(b) "County placing agency" means a county welfare or probation department, or a county mental health department with respect to those children placed pursuant to Section 7572.5 of the Government Code.

(c) "Eligible child" means a child who is any of the following:

(1) A child who has been adjudicated as either a dependent or ward of the juvenile court pursuant to Section 300, 601, or 602 and who would be placed in a group home licensed by the department at a rate classification level of 12 or higher.

(2) A child who would be voluntarily placed in out-of-home care pursuant to Section 7572.5 of the Government Code.

(3) A child who is currently placed in a group home licensed by the department at a rate classification level of 12 or higher.

(d) "Wrap-around services" means community-based intervention services that emphasize the strengths of the child and family and includes the delivery of coordinated, highly individualized unconditional services to address needs and achieve positive outcomes in their lives.

18252. Santa Clara County shall, at the county's option, develop a county plan for intensive wrap-around services and monitor the provision of those services in accordance with the plan. The county's plan shall include all the following elements:

(a) A process and protocol for reviewing the eligibility of children and families for service and for monitoring accessibility and availability of service to the targeted population. Children shall be determined as eligible for wrap-around services pursuant to subdivision (d) of Section 18251, except that:

(1) Once a child is determined to be eligible for wrap-around services under this chapter, he or she shall remain eligible for the time period specified in his or her individualized services plan.

(2) A child and family participating in a family maintenance services program as described in Section 16506 and the wrap-around services program, shall not be subject to the time limitations specified in Section 16506.

(b) A process to accept, modify, or deny proposed individualized service plans for eligible children and families.

(c) A process for parent support, mentoring, and advocacy that ensures parent understanding of, and participation in, wrap-around services programs.

(d) A planning and review process to support and facilitate the following principles in delivering intensive wrap-around services to eligible children and families:

(1) Focusing on an individual child and family through the creation of service plans designed specifically to address the unique needs and strengths of each child and his or her family.

(2) Providing services geared toward enabling children to remain in the least restrictive, most family-like setting possible.

(3) Developing a close collaborative relationship with each child's family in the planning and provision of wrap-around services.

(4) Conducting a thorough, strengths-based assessment of each child and family that will form the basis for the development of the individualized intervention plan.

(5) Designing and delivering services that incorporate the religious customs, and regional, racial, and ethnic values and beliefs of the children and families served.

18253. The county shall ensure that an evaluation of the pilot project is conducted to determine the cost and treatment effectiveness of outcomes such as family functioning and social performance, preventing placement in more restrictive environments, improving emotional and behavioral adjustments, school attendance, and academic performance for eligible children.

18254. (a) Reimbursement rates for intensive wrap-around services, under this pilot project, shall be based on the average cost of rate classification levels 12 to 14, inclusive, in Santa Clara County, minus the cost, if any, of concurrent out-of-home placement of those children.

(b) The annual maximum limit on funding available for the pilot project authorized by this chapter shall be based on the average cost, determined pursuant to subdivision (a), for 125 child welfare cases.

(c) The department shall reimburse to Santa Clara County, for the purpose of providing intensive wrap-around services, up to 100 percent of the state share of nonfederal funds, to be matched by Santa Clara County's share of cost as established by law, and to the extent permitted by federal law, up to 100 percent of the federal funds allocated for group home placements of eligible children, at the rate authorized pursuant to subdivision (a).

(d) These funds shall be remitted quarterly to the county as part of the child welfare allocation.

(e) State and, to the extent permitted by federal law, federal foster care funds shall remain with the administrative authority of the county welfare department, which may enter into an interagency agreement to transfer those funds, and shall be used to provide intensive wrap-around services.

(f) General Fund costs for the provision of benefits to eligible children pursuant to subdivision (c) of Section 18251 at rates authorized by subdivision (a) through the pilot project authorized by

this chapter shall not exceed the costs which would otherwise have been incurred had the eligible children been placed in a group home.

18255. The pilot project authorized by this chapter shall be limited to not more than 125 child welfare cases in any year.

18256. On or before July 1, 2001, Santa Clara County shall submit a report to the appropriate committees of the Legislature assessing the effectiveness of the pilot project authorized by this chapter, which shall include, but need not be limited to, all of the following:

(a) The effectiveness of the project in reducing the level of out-of-home services required, and in reducing the average length of stay in out-of-home care.

(b) A comparison of the cost of placement and services for children in the pilot project with the average cost of out-of-home placement for the same number of children.

18257. This chapter shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

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

In order to ensure a continuous flow of uninterrupted funding for the innovative program providing services to severely emotionally disturbed children in Santa Clara County, it is necessary that this act take effect immediately.

CHAPTER 275

An act to amend Section 308 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor July 24, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 308 of the Welfare and Institutions Code is amended to read:

308. (a) When a peace officer or social worker takes a minor into custody pursuant to this article, he or she shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that the minor is in custody and that the child has been placed in a facility authorized by law to care for the child, and shall provide a telephone number at which the minor may be contacted. The confidentiality of the address of any licensed foster family home in which the child has been placed shall be maintained until the dispositional hearing, at

which time the judge may authorize, upon a finding of good cause, the disclosure of the address. However, the court may order the release of the address of the licensed foster family home to the minor's parent, guardian, or responsible relative upon notification of the licensed foster family home in cases where a petition to challenge jurisdiction or other motion to delay the dispositional hearing beyond 60 days after the hearing at which the minor was ordered removed or detained, pursuant to subdivision (b) of Section 352, is granted. Moreover, a foster parent may authorize the release of the address of the foster family home at any time during the placement. The county welfare department shall make a diligent and reasonable effort to ensure regular telephone contact between the parent and a child of any age, prior to the detention hearing, unless that contact would be detrimental to the child. The initial telephone contact shall take place as soon as practicable, but no later than five hours after the child is taken into custody.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he or she has been taken into custody, a minor 10 years of age or older shall be advised that he or she has the right to make at least two telephone calls from the place where he or she is being held, one call completed to his or her parent, guardian, or a responsible relative, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his or her right to make these telephone calls is guilty of a misdemeanor.

CHAPTER 276

An act to amend Section 15379.21 of the Government Code, relating to economic development.

[Approved by Governor July 24, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. The Legislature finds and declares that the California Community Colleges Economic Development Program, whose mission is described in Section 15379.21 of the Government Code, should be utilized to, among other things, train and retrain workers in order to attract prospective industry and retain existing industry in affected areas. The Legislature further finds and declares that it should therefore be a priority of the program to assist community colleges working in conjunction with local communities

experiencing military base downsizing or closure, or both, or the appropriate authority designated by that community.

SEC. 2. Section 15379.21 of the Government Code is amended to read:

15379.21. (a) The mission of the economic development program, subject to approval and amendment by the Board of Governors of the California Community Colleges, shall include, but not be limited to, all of the following:

(1) To advance California's economic growth and global competitiveness through quality education and services focusing on continuous work force improvement, technology deployment, and business development.

(2) To coordinate a community college response to meet statewide work force needs that attracts, retains, and expands businesses.

(3) To develop innovative solutions, as needed, in identified strategic priority areas, including, but not limited to, advanced transportation technologies, biotechnologies, small business applications, applied competitive technologies, including computer integrated manufacturing, production, and continuous quality improvement, environmental technologies, health care delivery, international trade, and work place literacy.

(4) To identify, acquire, and leverage resources to support local, regional, and statewide economic development.

(5) To create logistical, technical, and marketing infrastructure support for economic development activities within the California Community Colleges.

(6) To optimize access to community colleges' economic development services.

(7) To develop strategic public and private sector partnerships.

(8) To assist communities experiencing military base downsizing and closures.

(b) The board of governors and the chancellor may award grants to districts for leadership in accomplishing the mission and goals of the economic development program, as described in subdivision (a).

CHAPTER 277

An act to add Part 10.5 (commencing with Section 17211) and Part 23 (commencing with Section 38000) to, to repeal and add Part 10 (commencing with Section 15100) of, and to repeal Part 10.5 (commencing with Section 17900) and Part 23 (commencing with Section 39001) of, the Education Code, and to repeal Sections 53080, 53080.1, 53080.15, 53080.2, 53080.3, 53080.4, 53080.6, and 53081 of the Government Code, relating to school facilities.

[Approved by Governor July 24, 1996. Filed with
Secretary of State July 25, 1996.]

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

SECTION 1. Part 10 (commencing with Section 15100) of the Education Code is repealed.

SEC. 2. Part 10 (commencing with Section 15100) is added to the Education Code, to read:

PART 10. SCHOOL BONDS

CHAPTER 1. BONDS OF SCHOOL DISTRICTS AND COMMUNITY COLLEGE DISTRICTS

Article 1. Purposes for Authorizing Bonds

15100. Except as otherwise provided by law, the governing board of any school district or community college district may, when in its judgment it is advisable, and shall, upon a petition of the majority of the qualified electors residing in the school district or community college district, order the county superintendent of schools to call an election and submit to the electors of the district the question whether the bonds of the district shall be issued and sold for the purpose of raising money for the following purposes:

(a) The purchasing of school lots.

(b) The building or purchasing of school buildings.

(c) The making of alterations or additions to the school building or buildings other than as may be necessary for current maintenance, operation, or repairs.

(d) The repairing, restoring, or rebuilding of any school building damaged, injured, or destroyed by fire or other public calamity.

(e) The supplying of school buildings and grounds with furniture, equipment, or necessary apparatus of a permanent nature.

(f) The permanent improvement of the school grounds.

(g) The refunding of any outstanding valid indebtedness of the district, evidenced by bonds, or of state school building aid loans.

(h) The carrying out of the projects or purposes authorized in Section 17577 or 81613.

(i) The purchase of schoolbuses the useful life of which is at least 20 years.

(j) The demolition or razing of any school building with the intent to replace it with another school building, whether in the same location or in any other location.

Any one or more of the purposes enumerated, except that of refunding any outstanding valid indebtedness of the district evidenced by bonds, may, by order of the governing board entered in its minutes, be united and voted upon as one single proposition.

15101. Notwithstanding any provision of law to the contrary, no election shall be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as the statewide election, subject to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

15102. The total amount of bonds issued shall not exceed 1.25 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987–88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987–88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15103. Notwithstanding any other provision of law, for the purpose of computing the limit on the amount of bonds which may be issued by a district pursuant to the provisions of this chapter, the taxable property of the district shall be determined upon the basis that the district's assessed value has not been reduced by the exemption of the assessed value of business inventories in the district or reduced by the homeowner's property tax exemption.

15105. For the purpose of the provisions of Sections 15102 and 15106 which require that the valuation as shown on the last equalized assessment roll be modified pursuant to Section 41201 or 84201, the "current year" as used in Section 41201 or 84201 shall be deemed to be the latest fiscal year for which there exists a last equalized county assessment roll as ascertained in accordance with Chapter 3 (commencing with Section 2050) of Part 3 of Division 1 of the Revenue and Taxation Code, and the term "two immediately preceding years" shall be deemed to be the two fiscal years immediately preceding the fiscal year for which the last equalized county assessment roll exists. Whenever in any year it becomes necessary to determine the modification under Sections 15102 and 15106, at a time between the date when the assessment roll for that year becomes the last equalized county assessment roll ascertained under Chapter 3 and the date when the factor for the current year is certified and becomes available, the factor for the current year shall be deemed to be 1.00.

15106. Any unified school district or community college district may issue bonds not to exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.

In computing the outstanding bonded indebtedness of any unified school district or community college district for all purposes of this section, any outstanding bonds shall be deemed to have been issued for elementary school purposes, high school purposes, and community college purposes, respectively, in the respective amounts that the proceeds of the sale of those outstanding bonds, excluding any premium and accrued interest received on that sale, were or have been allocated by the governing board of the unified school district or community college district to each of those purposes respectively.

(a) For the purposes of the State School Building Aid Law of 1952 with respect to applications for apportionments and apportionments filed or made prior to September 15, 1961, and to the repayment thereof, Chapter 6 (commencing with Section 15700) of this part, inclusive, only, any unified school district shall be considered to have a bonding capacity in the amount permitted by law for an elementary school district and a bonding capacity in the amount permitted by law for a high school district.

(b) For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987–88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987–88 fiscal year, and multiplying the result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll. In the event of the unification of two or more school districts or community college districts subsequent to the 1987–88 fiscal year, the assessed value of all unitary and operating nonunitary property of the unified district or community college district shall be deemed to be the total of the assessed value of the taxable property of each of the unifying districts as that assessed value would be determined under Section 15102.

15107. In computing the limitation of indebtedness of any school district or community college district of any kind or class heretofore or hereafter formed or organized, hereinafter in this section referred to as the "bonding district," the outstanding indebtedness of any previously existing district all or any part of which forms a component part of the bonding district and the outstanding indebtedness of any district for which any territory which has become a part of the bonding district is liable shall be excluded and shall not be deemed, for the purposes of computing the limitation of indebtedness under Section 15102 or 15106, to constitute outstanding indebtedness of the bonding district, except to the extent that the outstanding indebtedness has been expressly assumed by the bonding district by vote of not less than two-thirds of the electors of the bonding district

voting at an election at which the proposition of assuming the indebtedness is voted upon. Nothing herein contained shall operate to release any property from liability for taxes to pay the principal and interest of indebtedness incurred by any component district or for which any territory which has become a part of the bonding district is liable and in which the taxable property is located at the time of the incurring of the indebtedness. It is the intent of the Legislature to provide in this section a special method of computing the limitation of indebtedness of school districts or community college districts irrespective of liability of the area embraced within the school districts for the payment of any bonded indebtedness.

15108. For the purpose of determining the limitation of indebtedness of a school district or community college districts of any type or class under Section 15102 or 15106, that portion of the bonded indebtedness of the district for which another district or territory in another district is liable shall be excluded and shall not be deemed to constitute outstanding bonded indebtedness of the district.

15109. Where an elementary school district and a high school district with a combined average daily attendance of 300,000 or more are governed by the same governing board, and the pupils in grades seven and eight in the districts are in attendance at high schools maintained by the high school district, the governing board, by resolution filed with the county auditor, may provide that the bond issuance limitations determined under Section 15102 shall be adjusted by reducing the bond issuance limitation of the elementary school district by 1 percent of its total and by augmenting the bond issuance limitation for the high school district by the amount by which that of the elementary district was reduced.

15110. An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In such action, all findings, conclusions and determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

15111. The governing board of each school district or community college district shall, within 30 days after the end of each fiscal year, submit to the county superintendent of schools who has jurisdiction over the school district or community college district a report containing the following information, concerning any election held pursuant to Sections 4152, 15120, 15121, and 16058 for the approval of the issuance of bonds or the assumption of any bonded indebtedness or other indebtedness:

(1) The total amount of the bond issue, bonded indebtedness or other indebtedness involved.

(2) The percentage of registered electors of the district who voted at the election.

(3) The results of the election, with the percentage of votes cast for and against the proposition involved.

Article 2. General Provisions for Bond Elections

15120. The election shall be conducted as provided in Chapter 3 (commencing with Section 5300) of Part 4, except with respect to each of the following:

(1) As otherwise provided in Sections 15100 to 15126, inclusive.

(2) That the formal notice of the election shall contain, in addition to the items specified in Section 5361, each of the following:

(a) The purposes for which the bonds are to be issued.

(b) The amount of the bonds.

(c) The maximum rate of interest, not to exceed the maximum rate of interest allowed by Sections 15140 to 15143.

(d) The maximum number of years, not to exceed 25, not to exceed which the bonds or any series thereof are to run.

No election shall be held under this section in any school district for a period of 90 days after the election in the same school district.

15121. Any election called pursuant to Sections 15100 to 15141, inclusive, and Sections 15142 to 15261, inclusive, may be consolidated with any other election pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

15122. The words to appear upon the ballots shall be "Bonds—Yes" and "Bonds—No," or words of similar import. A brief statement of the proposition, setting forth the amount of the bonds to be voted upon, the maximum rate of interest, and the purposes for which the proceeds of the sale of the bonds are to be used, shall be printed upon the ballot. No defect in the statement other than in the statement of the amount of the bonds to be authorized shall invalidate the bonds election.

15123. The form and details of all ballots at school district or community college bond elections shall comply with ballot provisions of this code applicable to governing board member elections with additional requirements as provided for in this chapter.

15124. If it appears from the certificate of election results that two-thirds of the votes cast on the proposition of issuing bonds of the district are in favor of issuing the bonds; or, a majority of the votes cast, if the election is held to repair, reconstruct or replace school buildings in compliance with Section 17367 or 81162 or any other provision of law, the governing board of the school district or community college shall cause an entry of that fact to be made upon its minutes. The governing board shall then certify to the board of supervisors of the county whose superintendent of schools has jurisdiction over the district, all proceedings had in the premises. The county superintendent of schools shall send a copy of the certificate of election results to the board of supervisors of the county.

15125. The proceedings relating to the authorization of bonds of a joint school district of any type need be certified only to the board of supervisors of the county whose superintendent of schools has jurisdiction over the district. The board of supervisors may issue and

sell the bonds and no action of the board of supervisors of any other county in which the district is situated shall be required in connection with the issuance and sale, and the bonds need not be signed by any officer of any the other county.

15126. No error, irregularity, or omission which does not affect the substantial rights of the taxpayers within the district or the electors voting at any election at which bonds of any district are authorized to be issued shall invalidate the election or any bonds authorized.

Article 3. Issuance and Sale of Bonds

15140. Bonds of a school district or community college district shall be offered for sale by the board of supervisors of the county, the county superintendent of which has jurisdiction over the district, or the community college district governing board, where appropriate, as soon as possible following receipt of a resolution duly adopted by the governing board of the school district or community college district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds.

15141. When authorized by the governing board of a school district or a community college district, bonds of a school district or a community college district may be offered for sale as a group by the board of supervisors of the county, the county superintendent of schools, or the governing board of a community college district, which has jurisdiction over the district, at a time determined by the board of supervisors following receipt of a resolution duly adopted by the governing board of the school district or community college district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. Bidders shall be required to bid a lump-sum bid on all bonds as a group. If bids satisfactory to the governing board of each school district included in the group are received, the bonds offered for sale shall be awarded to the bidder whose bid will result in the lowest net interest cost for the group or for the bonds of any district included within the group. Bonds shall be issued and sold in the name of each school district or a community college district in the same manner as provided in this chapter.

15142. The bonds shall be issued in the denomination or denominations as the board of supervisors or governing board of the community college district may prescribe.

15143. The bonds shall not bear a rate of interest greater than 8 percent per annum, payable annually or semiannually.

15144. The number of years the whole or any part of the bonds are to run shall not exceed 25 years, from the date of the bonds or the date of any series thereof.

15145. (a) The board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds. The bonds shall be signed by the chairperson of the board of supervisors, or by any other member thereof as the board of supervisors shall, by resolution adopted by a four-fifths vote of all its members, authorize and designate for that purpose, and also signed by the treasurer of the county, and shall be countersigned by the clerk of the board of supervisors or by a deputy of either of the officers. Unless the board of supervisors otherwise provides, all the signatures and countersignatures may be printed, lithographed, engraved, or otherwise mechanically reproduced except that one of the signatures or countersignatures to the bonds shall be manually affixed. Any signature may be affixed in accordance with the provisions of the Uniform Facsimile Signatures of Public Officials Act, Chapter 6 (commencing with Section 5500) of Title 1 of the Government Code. All expense incurred for the preparation, sale, and delivery of the school bonds, including but not limited to, fees of an independent financial consultant, the publication of the official notice of sale of the bonds, the preparation, printing and distribution of the official statement, the obtaining of a rating, the purchase of insurance insuring the prompt payment of interest and principal, the preparation of the certified copy of the transcript for the successful bidder, the printing of the bonds, and legal fees of independent bond counsel retained by the school district or community college district issuing the bonds are legal charges against the funds of the district issuing the bonds and may be paid from the proceeds of sale of the bonds.

(b) Notwithstanding subdivision (a), the board of supervisors may, in its discretion, determine that all of the required signatures and countersignatures shall be by facsimiles, provided, however, that the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the board or its authorized designee.

15146. The bonds shall be issued by the board of supervisors, payable out of the interest and sinking fund of the district. The board of supervisors, in its discretion, and without further authorization from the governing board, may sell the bonds at a negotiated sale or by competitive bidding. The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not exceeding the maximum permitted by law. If the sale is by competitive bid, the board of supervisors shall comply with Sections 15147 and 15148. The bonds shall be sold by the board of supervisors no later than the date designated by the governing board of the school district or

community college district as the final date for the sale of the bonds. The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the building fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the district.

15147. Before selling the bonds, or any part of them, the board of supervisors or community college district, as appropriate, shall advertise for bids at least two weeks in some daily or weekly newspaper of general circulation published in the county whose county superintendent of schools or governing board of the community college district has jurisdiction over the district, or if there is no newspaper published in the county, in a newspaper published in some other county in the state having a general circulation in the county.

15148. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder or bidders, and the county clerk shall prepare and certify to all of the proceedings on file in his office relative to the issuance and sale of the bonds, which transcript of proceedings shall be delivered to the successful bidder or bidders without charge. If no bids are received, or if the board determines that the bids received exceed either the maximum acceptable interest rate prescribed by the governing board or the maximum rate prescribed by Section 15143, or that they are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and without further authorization from the governing board, either readvertise or sell the bonds at private sale.

For the purpose of determining whether or not a bid exceeds the maximum acceptable interest rate, the interest rate of that bid shall be deemed to be the interest rate resulting from the total net interest cost arrived at by computing the total amount of interest which the district would be required to pay from the date of the bonds to the respective maturity dates thereof at the rate or rates specified in the bid and by deducting therefrom any premium bid.

15149. The issuing school district or community college district by action of its governing board may prepare, or have prepared, bond brochures to serve as a prospectus for bond buyers to assist in the satisfactory sale of the bonds, the expense of the brochures to be payable out of the funds of the district. The brochures may be prepared only after the issuance of the bonds to be sold has been approved by the electors of the district pursuant to Sections 15120 to 15126, inclusive.

The issuing school district or community college district by action of its governing board may expend district funds for the purposes of advertising the availability of the bonds for purchase in any publication or newspaper which in the opinion of the governing board will give notice to prospective bond buyers that the bonds are available for purchase by bond buyers.

Article 4. Required Form of Bonds

15180. Whenever under Sections 15100 and 15102, and Sections 15107 to 15140, inclusive, and Sections 15142 to 15261, inclusive, any bonds are issued, the bonds may be issued either in the form of coupon bonds, or in the form of registered bonds, or some in the form of coupon bonds and some in the form of registered bonds, as may be provided in the proceedings for the issuance of the bonds, and notwithstanding any language or provision to the contrary contained in any statute authorizing the issuance of the bonds, or in any other law.

15181. If any officer whose signature, countersignature, or attestation appears on any school bonds or coupons ceases to be an officer before the delivery of the bonds to the purchaser, the signature, countersignature, or attestation either on the bonds or the coupons, or on both, is nevertheless valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds, and the signature upon the coupons of the person who is auditor at the date of the bonds, is valid although the bonds themselves may be attested by a different person who is auditor at the time of delivery of the bonds.

15182. Any bonds executed in the manner provided by the board of supervisors shall be valid, notwithstanding any change in the officers who signed the bonds or the coupons, or in the seal of the board of supervisors, occurring after the execution.

Article 5. Registration of Bonds

15190. Whenever the owner of any coupon bond or of any bond payable to bearer presents the bond to the treasurer or other officer of the county in which the district is located, who by law performs the duties of treasurer, with a request for the conversion of the bond into a registered bond, the treasurer or other officer shall cut off and cancel the coupons of the coupon bond, and shall stamp, print, or write upon the coupon bond or other bond payable to the bearer, either upon its back or upon its face, as may be convenient, a statement to the effect that the bond is registered in the name of the owner and that thereafter the interest and principal of the bond are payable to the registered owner.

15191. After registration any bond may be transferred by the registered owner in person, or by attorney duly authorized, on

presentation of the bond to the treasurer or other officer performing the duties of treasurer. The bond may be again registered as before, a similar statement being stamped, printed, or written thereon.

15192. The statement stamped, printed, or written upon the bond may be substantially in the following form:

(Date, giving month, day, and year.)

This bond is registered pursuant to the statute in such cases made and provided in the name of (insert name of owner) and the interest and principal thereof are hereafter payable to the owner.

_____

Treasurer (or other officer)

15193. After any bond has been registered as provided in this article, the principal and interest of the bond shall be payable to the registered owner.

15194. The treasurer or other officer shall keep in his or her office a book or books which shall at all times show what bonds are registered and in whose name respectively.

Article 6. Cancellation of Unsold Bonds

15200. If any bonds authorized under the provisions of Sections 15100 and 15102, and Sections 15107 to 15140, inclusive, and Sections 15142 to 15261, inclusive, have not been offered for sale for one year from the date of the election at which they were authorized or remain unsold for a period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the governing board of the district, for which the bonds were authorized, may petition the board of supervisors that has jurisdiction of the issuance and sale of the bonds to cause the unsold bonds to be canceled.

15201. Upon receiving the petition, signed by a majority of the members of the governing board, the board of supervisors shall fix a time for hearing it, which shall not be more than 30 days after receipt of the petition, and shall cause a notice stating the time and place of the hearing, and the object of the petition in general terms, to be published for 10 days prior to the hearing, in a newspaper published in the school district or community college district, if there is one, and if there is no newspaper published in the school district, in a newspaper published at the county seat of the county.

15202. At the time and place designated in the notice, or at any subsequent time to which the hearing may be postponed, the board of supervisors shall hear any reasons that may be submitted for or against the granting of the petition.

15203. If the board of supervisors deem it for the best interests of the school district or community college district named in the

petition that the unsold bonds be canceled, it shall make and enter an order in the minutes of its proceedings that the unsold bonds be canceled. Upon the entry of the order the bonds and the vote by which they were authorized to be issued shall cease to be of any validity.

15204. The governing board of any school district or community college district may petition the board of supervisors to cancel the remaining authorization of that district to issue and sell bonds resulting from any particular school bond election after the sale of at least 90 percent of the bonds authorized at the election if the amount of the remaining authorization is not more than twenty-five thousand dollars ($25,000) and in the opinion of the governing board the sale of the remaining bonds would not be economically justified. Sections 15201 and 15202 shall be applicable and at or following, the hearing provided in Section 15201 and 15202, the board of supervisors, if it determines that the public interest will be served thereby, may make and enter an order in the minutes of its proceedings that the remaining authorization be canceled. Upon the entry of the order the vote by which the remaining authorization was created shall cease to be of any validity with respect to the remaining authorization.

Article 7. Purchase of Bonds by Issuing School Districts and Community College Districts

15220. The governing board of a school district or community college district may purchase in the open market bonds issued by the district. The cost of bonds purchased may be paid out of any funds of the district not required by law to be set aside for teachers' salaries.

15221. When any bonds issued by a district have been purchased by the governing board of the district, the bonds shall be deemed canceled and of no further validity. The governing board of the district shall immediately, after purchasing the bonds, notify the board of supervisors of its action, describing the bonds purchased. At its first meeting thereafter the board of supervisors shall note the purchase and cancellation of the bonds in the minutes of its proceedings.

Article 8. Method of Bond Payment

15230. The board of supervisors by an order entered upon its minutes shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. If the governing board of the district has prescribed in its resolution the time or times when the whole or any part of the bonds shall be payable, the times and amounts shall be fixed by the order of the board of supervisors.

Any bonds authorized at an election held after September 15, 1945, may be issued subject to call and redemption before maturity at the

option of the governing board of the district. The governing board may include in its resolution a requirement that all or any part of such bonds shall be issued subject to call and redemption before maturity and the price or prices at which the bonds shall be redeemed. The board of supervisors, in its order fixing the form of the bonds and the maturities thereof, shall provide that the bonds be redeemable at the option of the governing board and at the price or prices fixed in the resolution. Bonds issued subject to call and redemption prior to maturity shall contain a recital to that effect, and no bond shall be subject to call or redemption prior to maturity unless it contains that recital. The board of supervisors in its order shall fix the method of giving notice of redemption to holders of bonds to be redeemed.

15231. The board of supervisors at the direction of governing board of the district may divide the principal amount of bonds authorized at any election into two or more series and may fix different dates for the bonds of each series, in which event the maximum maturity date of the bonds shall be calculated from the date of each series respectively. When the issuance of bonds shall have been authorized pursuant to two or more propositions submitted at the same or different elections, all or any part of the bonds not theretofore issued may be combined and issued and sold as one or more series.

15232. The board of supervisors may make the principal and interest of the bonds payable at the office of the treasurer of the county, or at any other place within the United States which the board may designate, or at the office of the county treasurer, or at any other designated place at the option of the bondholder. The place of payment shall be specified in the bonds. The expense of paying the bonds elsewhere than at the office of the treasurer shall be a proper charge against the district to be paid out of the tax levied and collected for the payment of the bonds.

15233. The principal and interest on the bonds shall be paid by the county treasurer of the county, the superintendent of schools of which has jurisdiction of the district in behalf of which the bonds were issued, at the place required by the terms of the bonds, upon presentation and surrender of warrants drawn by the county auditor in payment thereof, after he or she has canceled the bonds and coupons, or upon the receipt of the registered owner, if the bonds are registered, after a proper warrant has been drawn by the auditor, out of the fund provided for their payment.

15234. Any money remaining in the interest and sinking fund of any district after the payment of all bonds and coupons payable from the fund, or any money in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the general fund of the district upon the order of the auditor.

15235. Any money paid into the county treasury of the county and credited to the interest and sinking fund of any district pursuant to

subdivision (b) of Section 2106 or subdivision (b) of Section 2109 remaining after the payment of all bonds and coupons payable from the fund, or which is in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the special reserve fund of the school district, or designated building fund of the community college district upon the order of the auditor, and may be used only for the purpose specified in Section 42840 or in accordance with the California Community Colleges Budget and Accounting Manual and for no other purpose.

Article 9. Tax for Payment of Bonds

15250. The board of supervisors of the county, the superintendent of schools of which has jurisdiction over any district, shall annually at the time of making the levy of taxes for county purposes, levy a tax for that year upon the property in the district for the interest and redemption of all outstanding bonds of the district. The tax shall not be less than sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund for the payment of the principal on or before maturity and may include an allowance for an annual reserve, established for the purpose of avoiding fluctuating tax levies. The tax shall be sufficient to provide funds for the payment of the interest on the bonds as it becomes due and also any part of the principal and interest that is to become due before the proceeds of a tax levied at the time for making the next general tax levy may be made available for the payment of the principal and interest.

15251. All taxes levied, when collected shall be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the school district in behalf of which the tax was levied, to the credit of the interest and sinking fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual, and shall be used for the payment of the principal and interest of the bonds and for no other purpose.

15252. The board of supervisors of the county, the superintendent of schools which has jurisdiction over any school district, shall annually at the time of making the levy of taxes for county purposes estimate the amount of money required to meet the payment of the principal and interest on bonds of the district authorized by the electors of the district and not sold, and which the governing board of the district informs the board in their belief will be sold before the next tax levy, and the board of supervisors shall levy a tax sufficient to pay the principal and interest so estimated.

15253. If the bonds are declared invalid or are not issued for any reason, the tax levied and collected shall, if the school district or community college district has other bonds outstanding, be retained in the interest and sinking fund of the district to meet the interest and principal falling due on the bonds. If the district has no bonds

outstanding the proceeds of the tax levy shall be transferred to the general fund of the district on the order of the auditor.

15254. This article shall apply only to bonds of a school district or community college district which were approved by the electors prior to July 1, 1978, and to bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

Article 10. Tax for Payment of Bonds of School District or Community College District Located in Two or More Counties

15260. In case of a district lying in two or more counties, the assessor of each of the counties in which the district lies, shall annually as soon as the county assessments have been equalized by the State Board of Equalization, certify to the board of supervisors of each of the counties in which any portion of the district is situated, the assessed value of all taxable property in the county situated in the school district or community college district. The tax shall be levied according to the ratio which the assessed value of the property in the district in any county bears to the total assessed value of the property in the district. Each board of supervisors shall levy upon the property of the district and within its own county the rate of tax that will be sufficient to raise not less than the amount needed to pay the interest and any portion of the principal of the bonds that is to become due during the year.

15261. The tax shall be entered upon the assessment roll and collected in the same manner as other school taxes.

The tax when collected shall be paid into the county treasury of the county. The treasurer of any county, other than the one whose superintendent of schools has jurisdiction over the school, shall, upon order of the county auditor, pay the sum collected on account of the tax into the treasury of the county whose superintendent of schools has jurisdiction over the school.

15262. This article shall apply only to bonds of a school district which were approved by the electors prior to July 1, 1978, and to bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

CHAPTER 2. BONDS OF SCHOOL FACILITIES IMPROVEMENT DISTRICTS

Article 1. General Provisions

15300. This chapter provides a method for the formation of school facilities improvement districts consisting of a portion of the territory within a school district and for the issuance of general obligation bonds by a school facilities improvement district.

15301. (a) Any school district that has a community facilities district formed pursuant to the Mello-Roos Community Facilities Act

of 1982, as set forth in Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, that has as one of its purposes the construction of school facilities within a portion of the territory of the school district, may proceed under this chapter.

(b) The boundaries of any school facilities improvement district formed pursuant to this chapter shall include all of the portion of the territory within the boundaries of the school district that is not located within the boundaries of the community facilities district as described in subdivision (a).

15302. General obligation bonds of the school facilities improvement district may be issued for the following purposes, if the purpose of the bonds is to benefit the land within the school facilities improvement district consistent with any of the following:

(a) To purchase real property upon which to construct school facilities.

(b) To build or purchase school facilities.

(c) To make alterations or additions to the school facilities other than those necessary for ordinary maintenance, operation, or repairs.

(d) To repair, restore, or rebuild any school facilities damaged, injured, or destroyed by fire or other public calamity.

(e) To supply playgrounds with furniture, equipment, or necessary apparatus of a permanent nature.

(f) To permanently improve school grounds.

(g) To refund any valid outstanding indebtedness of the school facilities improvement district that is evidenced by bonds.

(h) To carry out the projects or purposes authorized in Section 39613.

(i) To demolish or raze any school building with the intent to replace it with another school building, whether in the same location or in any other location.

15303. This chapter shall not be operative in any county or counties until the board of supervisors of either the county in which the county superintendent of schools having jurisdiction over the school district in which the school facilities improvement district is located or, if a school facilities improvement district lies in two or more counties, the board of supervisors for those counties, by resolution adopted by a majority vote of the board of supervisors, makes this chapter applicable in the county or counties.

Article 2. Formation of District

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

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

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

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

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

(e) That a map showing the exterior boundaries of the proposed school facilities improvement district is on file with the governing board of the school district and is available for inspection by the public. The boundaries of the school facilities improvement district shall meet the requirements set forth in subdivision (b) of Section 15301.

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

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

15321. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in each affected county, pursuant to Section 6066 of the Government Code, the first publication shall be at least 14 days prior to the time fixed for the hearing. The notice shall also be given by posting a copy of the resolution in three public places located within the proposed school facilities improvement district for at least 14 days prior to the time fixed for the hearing. No notice other than that required by this section need be given.

15322. The governing board of the school district shall hold the hearing provided for by resolution of intention at the time and place fixed by that resolution. Any interested person, including, but not limited to, all persons owning land in the school district, or in the proposed school facilities improvement district, may appear and be heard concerning any matters set forth in the resolution of intention.

15323. At the hearing, the governing board of the school district may adopt a resolution proposing modifications, consistent with Section 15302, of the purpose stated in the resolution of intention. A resolution proposing modification shall describe the proposed modifications, state the change, if any, in the estimated cost of carrying out the purpose, and shall fix a time and place for hearing by the governing board.

15324. The governing board of the school district shall publish the resolution proposing the modifications to the resolution of intention once in the same newspaper in which the resolution of intention was

published at least 14 days prior to the date of hearing on the proposed modifications.

15325. The hearing on any proposed modifications may be held at the same time and place as any continued hearing on the resolution of intention and both hearings may be held and conducted concurrently.

15326. At the conclusion of the hearing on the resolution of intention and of the hearing, if any, upon proposed modifications, the governing board may by resolution order the school facilities improvement district formed for the purpose and with the boundaries described in the resolution of intention, and, if relevant, the resolution proposing modifications. The resolution ordering the school facilities improvement district formed shall state the estimated cost of carrying out the purpose described in the resolution. The resolution shall also number and designate the school facilities improvement district substantially as "School Facilities Improvement District of _____ School District."

15327. The governing board of the school district in which a school facilities improvement district has been formed shall have the same rights, powers, duties and responsibilities with respect to the formation and government of school facilities improvement district as the governing board has with respect to the school district.

Article 3. Financing the Bonds

15330. The total amount of bonds issued shall not exceed 1.25 percent of the taxable property of the school facilities improvement district as shown by the last equalized assessment of the county or counties in which the school facilities improvement district is located. For purposes of this section, the taxable property of a school facilities improvement district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property located within the school facilities improvement district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property located within the school facilities improvement district for the fiscal year by the gross assessed value of all unitary and operating nonunitary property located within the county in which the school facilities improvement district is located for the fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15331. Notwithstanding any other law, for the purpose of computing the limit on the amount of bonds that may be issued by a school facilities improvement district pursuant to the provisions of this chapter, the taxable property of the school facilities improvement district shall be determined upon the basis that the school facilities improvement district's assessed value has not been

reduced by the exemption of the assessed value of business inventories in the school facilities improvement district or reduced by the homeowner's property tax exemption.

15332. Notwithstanding Section 15330, any school facilities improvement district that is located within the boundaries of a unified school district may issue bonds not to exceed 2.5 percent of the taxable property of the school facilities improvement district as shown by the last equalized assessment of the county or counties in which the school facilities improvement district is located.

In computing the outstanding bonded indebtedness of any school facilities improvement district that is located in any unified school district, any outstanding bonds shall be deemed to have been issued for elementary school purposes, high school purposes, respectively, in the respective amounts that the proceeds of the sale of those outstanding bonds, excluding any premium and accrued interest received on that sale, were or have been allocated by the governing board of the unified school district to each of those purposes respectively.

For purposes of this section, the taxable property of a school facilities improvement district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property located within the school facilities improvement district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property located within the district for the fiscal year by the gross assessed value of all unitary and operating nonunitary property located within the county in which the district is located for the fiscal year, and multiplying the result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15333. In computing the limitation of indebtedness of any school facilities improvement district, hereinafter in this section referred to as the "bonding district," the outstanding indebtedness of any previously existing district all or any part of which forms a component part of the bonding district and the outstanding indebtedness of any district for which any territory that has become a part of the bonding district is liable shall be excluded and shall not be deemed, for the purposes of computing the limitation of indebtedness under Sections 15330 and 15332, to constitute outstanding indebtedness of the bonding district, except to the extent that the outstanding indebtedness has been expressly assumed by the bonding district by vote of not less than two-thirds of the electors of the bonding district voting at an election at which the proposition of assuming the indebtedness is voted upon. Nothing in this section shall operate to release any property from liability for taxes to pay the principal and interest of indebtedness incurred by any component district or for which any territory that has become a part of the bonding district is liable and in which the taxable property is located at the time of the

incurring of the indebtedness. It is the intent of the Legislature to provide in this section a special method of computing the limitation of indebtedness of school facilities improvement districts irrespective of liability of the area embraced within the school districts for the payment of any bonded indebtedness.

15334. For the purpose of determining the limitation of indebtedness of a school facilities improvement district under Section 15330 or 15332, that portion of the bonded indebtedness of the school facilities improvement district for which another district or territory in another district is liable shall be excluded and shall not be deemed to constitute outstanding bonded indebtedness of the school facilities improvement district.

15335. An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In the action, all findings, conclusions and determinations of the legislative body that conducted the proceedings shall be conclusive in the absence of actual fraud.

15336. Within 30 days after the end of each fiscal year, the governing board of the school district in which the school facilities improvement district is located shall submit a report containing the following information relating to an election held pursuant to Article 4 (commencing with Section 15340), to the county superintendent of schools who has jurisdiction over the school district:

(a) The total amount of the bond issue, bonded indebtedness, or other indebtedness involved.

(b) The percentage of qualified electors who are residents of the school facilities improvement district who voted at the election.

(c) The results of the election, with the percentage of votes cast for and against the proposition involved.

Article 4. General Provisions for Bond Elections

15340. (a) After adopting the resolution ordering the formation of the school facilities improvement district, the governing board may provide for and call a special bond election within the school facilities improvement district to, or may at the next statewide election, submit to the voters of the school facilities improvement district a proposition of whether or not an indebtedness of the district shall be incurred and bonds issued therefor in an amount not exceeding the estimate stated in the resolution ordering the school facilities improvement district formed.

(b) The indebtedness and the bonds shall be payable from taxes to be levied and collected upon lands located within the school facilities improvement district.

15341. Notwithstanding any law, no election shall be held pursuant to this chapter within 45 days before a statewide election or

within 45 days after a statewide election unless conducted at the same time as the statewide election, subject to the provisions of Part 2.5 (commencing with Section 23300) of Division 14 of the Elections Code.

15342. Any one or more of the purposes enumerated in Section 15302, except that of refunding any outstanding valid indebtedness of the school facilities improvement district evidenced by bonds, may, by order of the governing board of the school district in which the school facilities improvement district is located, be united and voted upon in a single proposition.

15343. The election shall be conducted as provided in Chapter 3 (commencing with Section 5300) of Part 4 except as provided by each of the following:

(a) As otherwise provided in this chapter.

(b) That the formal notice of the election shall contain and specify, in addition to the items specified in Section 5361:

(1) The purposes for which the bonds are to be issued.

(2) The amount of the bonds.

(3) The maximum rate of interest, not to exceed the maximum rate of interest allowed by Article 5 (commencing with Section 15350).

(4) The maximum number of years, not to exceed 25, not to exceed which the bonds or any series thereof are to run.

(c) No election shall be held under the provisions of this section in any school facilities improvement district for a period of 90 days after an election in the same school facilities improvement district.

15344. Any election called pursuant to this chapter may be consolidated with any other election pursuant to the provisions of Part 2.5 (commencing with Section 23300) of Division 14 of the Elections Code.

15345. Any qualified elector who is a resident of the territory of the school facilities improvement district may vote on the proposition of issuing bonds of the school facilities improvement district.

15346. The words to appear upon the ballots shall be "Bonds—Yes" and "Bonds—No," or words of similar import. A brief statement of the proposition, setting forth the amount of the bonds to be voted upon, the maximum rate of interest, and the purposes for which the proceeds of the sale of the bonds are to be used, shall be printed upon the ballot. No defect in the statement other than in the statement of the amount of the bonds to be authorized shall invalidate the bonds election.

15347. Unless otherwise specified in this chapter, the form and details of all ballots at school facilities improvement elections shall comply with ballot provisions of Part 4 (commencing with Section 2400) of the Government Code.

15348. The proposition shall be deemed approved upon approval by two-thirds of the votes cast by voters voting on the proposition of issuing bonds of the school facilities improvement district.

15349. If it appears from the certificate of election results that two-thirds of the votes cast by the voters voting on the proposition of issuing bonds of the school facilities improvement district are in favor of issuing the bonds, the governing board of the school district in which the school facilities improvement district is located shall cause an entry of that fact to be made upon its minutes. The governing board of that school district shall then certify to the board of supervisors of the county whose superintendent of schools has jurisdiction over the school district, all proceedings had in the premises. The county superintendent of schools shall send a copy of the certificate of election results to the board of supervisors of the county.

15349.1. The proceedings relating to the authorization of bonds of a school facilities improvement district that is located within a joint school district of any type need be certified only to the board of supervisors of the county whose superintendent of schools has jurisdiction over the school district in which the school facilities improvement district exists. The board of supervisors may issue and sell the bonds and no action of the board of supervisors of any other county in which the school board is situated shall be required in connection with the issuance and sale of the bonds, and the bonds need not be signed by any officer of any other county.

15349.2. No error, irregularity, or omission that does not affect the substantial rights of the taxpayers within the school facilities improvement district or the qualified electors voting at any election at which bonds of any school facilities improvement district are authorized to be issued shall invalidate the election or any bonds authorized by that election.

Article 5. Issuance and Sale of Bonds

15350. Bonds of a school facilities improvement district shall be offered for sale by the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located as soon as possible, when appropriate, following receipt of a resolution duly adopted by the governing board of that school district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds.

15351. When authorized by the governing board of the school district in which the school facilities improvement district is located, bonds of the school facilities improvement district may be offered for sale as a group by the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located,

at a time determined by the board of supervisors following receipt of a resolution duly adopted by the governing board of that school district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. Bidders shall be required to bid a lump-sum bid on all bonds as a group. If bids satisfactory to the governing board of each school district in which a school facilities improvement district is located are received, the bonds offered for sale shall be awarded to the bidder whose bid will result in the lowest net interest cost for the group or for the bonds of any district included within the group. Bonds shall be issued and sold in the name of each school facilities improvement district in the same manner as provided in this chapter.

15352. The bonds shall be issued in the name of the school facilities improvement district and shall be designated "Bonds of the School Facilities Improvement District of the _____ School District" and each bond and all interest coupons shall state that the tax for the payment thereof shall be limited to annual taxes to be levied upon and collected from the lands within the school facilities improvement district.

15353. The bonds shall be issued in the denomination or denominations as the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located may prescribe.

15354. The bonds shall not bear a rate of interest greater than 8 percent per annum, payable annually or semiannually.

15355. The number of years the whole or any part of the bonds are to run shall not exceed 25 years, from the date of the bonds or the date of any series thereof.

15356. (a) The board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located shall prescribe the form of the bonds by an order entered upon its minutes. The bonds shall be signed by the chairperson of the board of supervisors, or by any other member thereof as the board of supervisors shall, by resolution adopted by a four-fifths vote of all its members, authorize and designate for that purpose, and also signed by the treasurer of the county, and shall be countersigned by the clerk of the board of supervisors or by a deputy of either of the officers. Unless the board of supervisors otherwise provides, all the signatures and countersignatures may be printed, lithographed, engraved, or otherwise mechanically reproduced except that one of the signatures or countersignatures to the bonds shall be manually affixed. Any signature may be affixed in accordance with the provisions of the Uniform Facsimile Signatures of Public Officials

Act, Chapter 6 (commencing with Section 5500) of Title 1 of the Government Code. All expenses incurred for the preparation, sale, and delivery of the school facilities improvement bonds, including but not limited to, fees of an independent financial consultant, the publication of the official notice of sale of the bonds, the preparation, printing, and distribution of the official statement, the obtaining of a rating, the purchase of insurance insuring the prompt payment of interest and principal, the preparation of the certified copy of the transcript for the successful bidder, the printing of the bonds, and legal fees of independent bond counsel retained by the school facilities improvement district issuing the bonds are legal charges against the funds of the school facilities improvement district issuing the bonds and may be paid from the proceeds of sale of the bonds.

(b) Notwithstanding subdivision (a), the board of supervisors may, in its discretion, determine that all of the required signatures and countersignatures shall be by facsimiles, provided, however, that the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the board or its authorized designee.

15357. The board of supervisors shall establish within the country treasury a school facilities improvement fund for each school facilities improvement district the purpose of depositing the proceeds of the bonds issued pursuant to this chapter. The board of supervisors shall also establish within the county treasury a school facilities improvement bond interest and sinking fund for each school facilities improvement district.

15358. The bonds shall be issued by the board of supervisors, payable out of the interest and sinking fund of the school facilities improvement district. The board of supervisors, in its discretion, and without further authorization from the governing board of the school district in which the school facilities improvement district is located, may sell the bonds at a negotiated sale or by competitive bidding. The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not exceeding the maximum permitted by Section 15354. If the sale is by competitive bid, the board of supervisors shall comply with the provisions of Sections 15359 and 15359.1. The bonds shall be sold by the board of supervisors no later than the date designated by the governing board of the school district in which the school facilities improvement district is located as the final date for the sale of the bonds. The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the school facilities improvement fund of the school facilities improvement district. The proceeds deposited shall be drawn out as necessary to finance the purposes approved by the voters pursuant to this chapter. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the

county treasury established for the school facilities improvement district.

15359. Before selling the bonds, or any part of them, the board of supervisors as appropriate, shall advertise for bids at least two weeks in some daily or weekly newspaper of general circulation published in the county whose county superintendent of schools has jurisdiction over the governing board of the school district in which the school facilities improvement district is located or if there is no newspaper published in the county, in a newspaper published in some other county in the state having a general circulation in the county.

15359.1. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder or bidders, and the county clerk shall prepare and certify to all of the proceedings on file in his or her office relative to the issuance and sale of the bonds, which transcript of proceedings shall be delivered to the successful bidder or bidders without charge. If no bids are received, or if the board determines that the bids received exceed either the maximum acceptable interest rate prescribed by the governing board or the maximum rate prescribed by Section 15353, or that they are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and without further authorization from the governing board of the school district in which the school facilities improvement district is located, either readvertise or sell the bonds at private sale.

For the purpose of determining whether or not a bid exceeds the maximum acceptable interest rate, the interest rate of that bid shall be deemed to be the interest rate resulting from the total net interest cost arrived at by computing the total amount of interest that the school facilities improvement district would be required to pay from the date of the bonds to the respective maturity dates thereof at the rate or rates specified in the bid and by deducting therefrom any premium bid.

15359.2. The issuing school facilities improvement district, by action of the governing board of the school district in which the school facilities improvement district is located, may prepare, or have prepared, bond brochures to serve as a prospectus for bond buyers to assist in the satisfactory sale of the bonds, the expense of the brochures shall be payable out of the funds of the district. The brochures may be prepared only after the issuance of the bonds to be sold has been approved by the electors of the school facilities improvement district pursuant to Article 4 (commencing with Section 15340).

The issuing school facilities improvement district by action of the governing board in which the school facilities improvement district is located may expend funds of the school facilities improvement district for the purposes of advertising the availability of the bonds for purchase in any publication or newspaper that in the opinion of

that governing board will give notice to prospective bond buyers that the bonds are available for purchase by bond buyers.

Article 6. Required Form of Bonds

15360. Notwithstanding any other provision of law, whenever any bonds are issued pursuant to this chapter, the bonds may be issued either in the form of coupon bonds, or in the form of registered bonds, or some in the form of coupon bonds and some in the form of registered bonds, as may be provided in the proceedings for the issuance of the bonds.

15361. If any officer whose signature, countersignature, or attestation appears on any school facilities improvement bonds or coupons ceases to be an officer before the delivery of the bonds to the purchaser, the signature, countersignature, or attestation either on the bonds or the coupons, or on both, is valid and sufficient for all purposes as if the officer had remained in office until the delivery of the bonds, and the signature upon the coupons of the person who is auditor at the date of the bonds, is valid although the bonds themselves may be attested by a different person who is auditor at the time of delivery of the bonds.

15362. Any bonds executed in the manner provided by the board of supervisors shall be valid, notwithstanding any change in the officers who signed the bonds or the coupons, or in the seal of the board of supervisors, occurring after the execution.

Article 7. Registration of Bonds

15370. Whenever the owner of any coupon bond or of any bond payable to bearer presents the bond to the treasurer or other officer of the county in which the school facilities improvement bonds are issued is located, who by law performs the duties of treasurer, with a request for the conversion of the bond into a registered bond, the treasurer or other officer shall cut off and cancel the coupons of the coupon bond, and shall stamp, print, or write upon the coupon bond or other bond payable to the bearer, either upon its back or upon its face, as may be convenient, a statement to the effect that the bond is registered in the name of the owner and that thereafter the interest and principal of the bond are payable to the registered owner.

15371. After registration, any bond may be transferred by the registered owner in person, or by attorney duly authorized, on presentation of the bond to the treasurer or other officer performing the duties of treasurer. The bond may be again registered as before, a similar statement being stamped, printed, or written thereon.

15372. The statement stamped, printed, or written upon the bond may be substantially in the following form:

(Date, giving month, day, and year.)

This bond is registered pursuant to the statute in the cases made and provided in the name of (insert name of owner) and the interest and principal thereof are hereafter payable to the owner.

_____

Treasurer (or other officer)

15373. After any bond has been registered as provided in this article, the principal and interest of the bond shall be payable to the registered owner.

15374. The treasurer or other officer shall keep in his or her office a book or books that shall at all times show what bonds are registered and in whose name respectively.

Article 8. Cancellation of Unsold Bonds

15380. If any bonds authorized under this chapter have not been offered for sale for one year from the date of the election at which they were authorized or remain unsold for a period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the governing board of the school district in which the school facilities improvement district is located and for which the bonds were authorized, may petition the board of supervisors that has jurisdiction of the issuance and sale of the bonds to cause the unsold bonds to be canceled.

15381. Upon receiving the petition, signed by a majority of the members of the governing board of the school district in which the school facilities improvement district is located, the board of supervisors shall fix a time for a hearing, which shall not be more than 30 days after receipt of the petition, and shall cause a notice stating the time and place of the hearing, and the object of the petition in general terms, to be published for 10 days prior to the hearing, in a newspaper published in the school facilities improvement district if there is one, and if there is no newspaper published in the school facilities improvement district, in a newspaper published at the county seat of the county.

15382. At the time and place designated in the notice, or at any subsequent time to which the hearing may be postponed, the board of supervisors shall hear any reasons that may be submitted for or against the granting of the petition.

15383. If the board of supervisors deem it for the best interests of the school facilities improvement district named in the petition that the unsold bonds be canceled, it shall make and enter an order in the minutes of its proceedings that the unsold bonds be canceled. Upon the entry of the order the bonds and the vote by which they were authorized to be issued shall cease to be of any validity.

15384. The governing board of a school district in which a school facilities improvement district is located may petition the board of supervisors to cancel the remaining authorization of that district to issue and sell bonds resulting from any particular school bond election after the sale of at least ninety percent (90%) of the bonds authorized at the election if the amount of the remaining authorization is not more than twenty-five thousand dollars ($25,000) and in the opinion of the governing board the sale of the remaining bonds would not be economically justified. The provisions of Sections 15381 and 15382 shall be applicable and at or following the hearing therein provided for, the board of supervisors, if it determines that the public interest will be served thereby, may make and enter an order in the minutes of its proceedings that the remaining authorization be canceled. Upon the entry of the order the vote by which the remaining authorization was created shall cease to be of any validity with respect to such remaining authorization.

Article 9. Purchase of Bonds by Issuing School Districts

15390. The governing board of a school district in which a school facilities improvement district is located may purchase in the open market bonds issued by the school facilities improvement district with available funds from the school facilities improvement fund.

15391. When any bonds issued by a school facilities improvement district have been purchased by the governing board of the school district in which the school facilities improvement district is located, the bonds shall be deemed canceled and of no further validity. The governing board of the school district in which the school facilities improvement district is located shall immediately, after purchasing the bonds, notify the board of supervisors of its action, describing the bonds purchased. At its first meeting thereafter the board of supervisors shall note the purchase and cancellation of the bonds in the minutes of its proceedings.

Article 10. Method of Bond Payment

15400. The board of supervisors by an order entered upon its minutes shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. If the governing board of the school district in which the school facilities improvement district is located has prescribed in its resolution the time or times when the whole or any part of the bonds shall be payable, the times and amounts shall be fixed by the order of the board of supervisors.

Any bonds may be issued subject to call and redemption before maturity at the option of the governing board of the school district in which the school facilities improvement district exists. The governing board may include in its resolution a requirement that all

or any part of the bonds shall be issued subject to call and redemption before maturity and the price or prices at which said bonds shall be redeemed. The board of supervisors, in its order fixing the form of the bonds and the maturities thereof, shall provide that the bonds be redeemable at the option of the governing board and at the price or prices fixed in the resolution. Bonds issued subject to call and redemption prior to maturity shall contain a recital to that effect, and no bond shall be subject to call or redemption prior to maturity unless it contains the recital. The board of supervisors in its order shall fix the method of giving notice of redemption to holders of bonds to be redeemed.

15401. The board of supervisors at the direction of the governing board of the school district in which the school facilities improvement district is located may divide the principal amount of bonds authorized at any election into two or more series and may fix different dates for the bonds of each series, in which event the maximum maturity date of the bonds shall be calculated from the date of each series respectively. When the issuance of bonds shall have been authorized pursuant to two or more propositions submitted at the same or different elections, all or any part of the bonds not theretofore issued may be combined and issued and sold as one or more series.

15402. The board of supervisors may make the principal and interest of the bonds payable at the office of the treasurer of the county, or at any other place within the United States which the board may designate, or at the office of the county treasurer, or at any other designated place at the option of the bondholder. The place of payment shall be specified in the bonds. The expense of paying the bonds elsewhere than at the office of the treasurer shall be a proper charge against the school facilities improvement district to be paid out of the tax levied and collected for the payment of the bonds.

15403. The principal and interest on the bonds shall be paid by the county treasurer of the county in which the superintendent of schools has jurisdiction of the school district in which the school facilities improvement district is located, at the place required by the terms of the bonds, upon presentation and surrender of warrants drawn by the county auditor in payment thereof, after he or she has canceled the bonds and coupons, or upon the receipt of the registered owner, if the bonds are registered, after a proper warrant has been drawn by the auditor, out of the fund provided for their payment.

15404. Any money remaining in the interest and sinking fund of any school facilities improvement district after the payment of all bonds and coupons payable from the fund, or any money in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the general fund of the governing board of the school district in which the school facilities improvement district is located upon the order of the auditor.

15405. Any money paid into the county treasury of the county and credited to the interest and sinking fund of any school facilities improvement district remaining after the payment of all bonds and coupons payable from the fund, or which is in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the special reserve fund of the school district in which the school facilities improvement district is located and may be used only for the purpose specified in Section 42840.

Article 11. Tax for Payment of Bonds

15410. The board of supervisors of the county in which the superintendent of schools of who has jurisdiction over a school district in which a school facilities improvement district is located shall annually at the time of making the levy of taxes for county purposes levy a tax for that year upon the property in the school facilities improvement district for the interest and redemption of all outstanding bonds of the district. The tax shall not be less than sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund for the payment of the principal on or before maturity and may include an allowance for an annual reserve, established for the purpose of avoiding fluctuating tax levies. The tax shall be sufficient to provide funds for the payment of the interest on the bonds as it becomes due and also that part of the principal and interest as is to become due before the proceeds of a tax levied at the time for making the next general tax levy can be made available for the payment of the principal and interest.

15411. All taxes levied, when collected, shall be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located and on behalf of which the tax was levied. All collected tax revenues shall be used exclusively for the payment of the principal and interest of the bonds of the school facilities improvement district, including any sinking fund.

15412. The board of supervisors of the county whose superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located, shall annually at the time of making the levy of taxes for county purposes estimate the amount of money required to meet the payment of the principal and interest on bonds of the district authorized by the electors of the district and not sold, and that the governing board of the school district informs the board on their belief will be sold before the next tax levy, and the board of supervisors shall levy a tax sufficient to pay the principal and interest so estimated.

15413. If the bonds are declared invalid or are not issued for any reason, the tax levied and collected shall be retained in the interest and sinking fund of the school facilities improvement district to meet the interest and principal falling due on the bonds. If the school

facilities improvement district has no bonds outstanding the proceeds of the tax levy shall be transferred to the general fund of the school district in which the improvement district is located on the order of the auditor.

15414. This article shall apply only to general obligation bonds issued for one or more purposes specified in Section 15302 and approved by two-thirds of the votes cast by the voters voting on the proposition.

Article 12. Tax for Payment of Bonds of School Facilities Improvement District Located in Two or More Counties

15420. If a school facilities improvement district lies in two or more counties, the assessor of each of the counties in which the district lies, shall annually as soon as the county assessments have been equalized by the State Board of Equalization, certify to the board of supervisors of each of the counties in which any portion of the schools facilities improvement district is located, the assessed value of all taxable property in the county located within the school facilities improvement district or community college district. The tax shall be levied according to the ratio which the assessed value of the property in the district in any county bears to the total assessed value of the property in the school facilities improvement district. Each board of supervisors shall levy upon the property of the school facilities improvement district and within its own county the rate of tax that will be sufficient to raise not less than the amount needed to pay the interest and the portion of the principal of the bonds as is to become due during the year.

15421. The tax shall be entered upon the assessment roll and collected in the same manner as other on real property.

The tax when collected shall be paid into the county treasury of the county. The treasurer of any county, other than the one whose superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located, shall, upon order of the county auditor, pay the sum collected on account of the tax into the treasury of the county whose superintendent of schools has jurisdiction over the school district in which the community facilities district is located.

15422. This article shall apply only to general obligation bonds issued for one or more purposes specified in Section 15302 and approved by two-thirds of the votes cast by voters voting on the proposition.

Article 13. Maximum Tax for Payment of Bonds

15425. Notwithstanding any other provision of this chapter, it is the intent of the Legislature that the rate of taxes levied annually upon the property in a school facilities improvement district

pursuant to this chapter not be greater than the rate of the annual special tax levied upon parcels in the same school district that are part of a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, as set forth in Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code. A determination by the governing board of a school district, made at the time bonds are sold pursuant to this chapter, that the rate of taxes to be levied annually upon the property in the school facilities improvement district, based upon tax rate estimates prepared pursuant to Section 9401 of the Elections Code, does not exceed the rate of the annual special tax levied upon parcels in the same school district that are part of a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, shall be conclusive evidence of compliance with the intent of this section.

CHAPTER 3. CALL AND REDEMPTION OF STATE SCHOOL CONSTRUCTION BONDS

15600. The State School Building Finance Committee or other governmental body empowered to make a determination of whether any or all of the bonds authorized to be issued by the state, under legislation enacted following the effective date of this section, for the purpose of assisting local school districts in the acquisition of sites, the construction of school buildings and related facilities, and the purchase of furniture and equipment, may instruct the Treasurer to include in the bonds, or any of them, provisions permitting their call and redemption at the option of the state prior to their maturity and indicating the price at which such bonds shall be subject to redemption; and it shall be the duty of the Treasurer to comply therewith. No bonds shall be subject to call or redemption prior to maturity unless they contain a recital to that effect.

CHAPTER 4. STATE SCHOOL BUILDING AID LAW, 1949

Article 1. General Provisions

15700. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to aid school districts of the state in providing necessary and adequate school sites and buildings for the pupils of the public school system, the system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

In adopting this act, the Legislature considers that the great need in school construction is for adequate classrooms for the education of the pupils of the public school system. It is the intent of the Legislature to first satisfy this primary need to the greatest extent possible before providing additional educational facilities, regardless

of how desirable such additional facilities may be. To the end that school classrooms may be made available at once and to all school districts in need of such classrooms, provisions for other needed school facilities is necessarily subordinated.

15701. As used in this chapter:

(a) "Board" means the State Allocation Board.

(b) "Director" means the Director of Education for kindergarten and grades 1 to 12, inclusive.

(c) "Project" means the purposes for which a school district has applied for an apportionment under this chapter.

(d) "Grade level maintained by a district" means either of the following:

(1) The kindergarten, if any, and grades 1 to 6, inclusive, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district.

(2) Grades 7 to 12, inclusive, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, maintained by a high school district or unified school district.

(e) "Apportionment" means an apportionment made under this chapter unless the context otherwise requires.

15702. The Director of General Services shall administer this chapter and shall provide any assistance to the board that it may require.

15703. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board in an advisory capacity shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the Public School Building Loan Fund.

15704. The board by the adoption of rules shall give priority in allocating funds to districts to those districts where the children will benefit most from additional schoolhouse facilities. This priority shall be based on acuteness of overcrowding, on sudden growth in attendance, on amount of local tax funds expended for housing of a character within the purposes of this chapter, and on the time the district's application has been ready for allotment. The board may make exceptions when it determines that it will be for the benefit of the children affected.

In adopting rules the board may provide for the granting of priority points to govern the allocation according to the following schedule:

(a) Two priority points may be granted for each percent of the latest computed average daily attendance of the district that is inadequately housed. The number of inadequately housed pupils is the latest computed average daily attendance of the district less the sum of both of the following:

(1) Any classrooms up to a total of two, multiplied by 25.

(2) Any classrooms in excess of two, multiplied by 33.

The term "classrooms" for the purposes of this computation shall mean any school classrooms, temporary and permanent, determined by the State Department of Education to be safely usable.

(b) One priority point may be granted for each 5 percent of the latest computed average daily attendance of the district that represents an increase over the average daily attendance for the fifth preceding school year.

(c) One point of priority may be granted for each one-twentieth of 1 percent of the assessed valuation of the district, collected in taxes and expended for school housing within the scope of this chapter since July 1, 1944. Expenditure of the proceeds of the sale of bonds shall not be counted but expenditure for interest and retirement of bonds shall be counted.

(d) Not more than one point of priority shall be allowed for each calendar month that the completed application of the district has awaited funds.

If any computation of priority points made under this section results in a fraction of a point, that fraction shall be disregarded and the number of priority points shall be taken as the next lowest whole number.

These priorities shall be recomputed at least semiannually when funds are available for allocation, on the respective periods of time next preceding the date of computation. The State Department of Education shall assist and cooperate with the board in determining priority ratings.

15705. In addition to any other powers and duties as are granted the board by this chapter, the board shall do each of the following:

(1) Establish any qualifications not in conflict with other provisions of this chapter that it deems will best serve the purposes of this chapter for determining the eligibility of school districts to apportionments of funds under this chapter.

(2) Establish any procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter that it deems necessary and which are not in conflict with the powers and duties of the State Department of Education or of the director granted or imposed by this chapter.

(3) Adopt any rules and regulations for the administration of this chapter, requiring any procedure, forms, and information, that it may deem necessary.

15706. Apportionment from the Public School Building Loan Fund to school districts shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board, for all of the following purposes:

(a) The purchase and improvement of schoolsites which have been approved by the State Department of Education.

(b) The purchase of desks, tables, chairs, and built-in or fixed equipment, as listed in Part III of the California School Accounting Manual contained in the Bulletin of the California State Department

of Education, Volume XIII, No. 2, June 1944, or as amended or revised.

(c) The planning and construction, reconstruction, alteration of, and addition to, school buildings for any facilities that are approved by the State Department of Education as essential, all of which purposes are hereby declared to be, and are, public works.

Where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction or alteration for which an apportionment has been made, the costs thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering the insurance. However, in other respects the apportionments are eligible for payment under this chapter.

15707. In addition to the purposes for which apportionments may be made to school districts under Section 15706, apportionments may also be made to school districts for the construction, repair, attachment or development of offsite facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

15708. In making application for, and in expending, apportionments of funds under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state. Upon the payment by the district of the amounts required to be paid by it to the state under this chapter the board shall, in the name of the state, convey the property to the district.

15709. The board may require school districts to insure for the benefit of the state all sites, equipment, and buildings which are under Section 15708 the property of the state, against any risks and in any amounts that the board may deem necessary to protect the interests of the state. No state funds apportioned under this chapter shall be used to pay the premiums on said insurance.

15710. Where a district is required by a contract entered into between itself and a general construction contractor to obtain, at its own expense, insurance covering risks incurred during any construction for which an apportionment has been made, the cost thereof may be paid directly to said district out of the Public School Building Loan Fund.

It is the intent and purpose of this section to provide for reimbursement to school districts for any builders' risk insurance that may have been furnished and paid for by the districts in connection with approved apportionments from the Public School Building

Loan Fund from the time of the effective date of Chapter 1389 of the Statutes of 1949.

The Legislature in adopting this section expressly recognizes that eligible school districts in making provision for builders' risk insurance during the period of construction of new buildings has provided a saving for the taxpayers of the district, and also has reduced the amount which otherwise would have been paid out of the Public School Building Loan Fund to the district if the cost of the builders' risk insurance had been borne by the contractor with the district. For this reason the Legislature hereby finds, determines, and declares that the adoption of this section having an effect retroactive to the effective date of Chapter 1389 of the Statutes of 1949 is therefore lawful, proper, and represents the saving of public funds for a lawful and public purpose.

The Controller of the State of California is hereby authorized and directed to cancel and annul any claims or demands against the school district arising out of, or in any way connected with, claims for reimbursement from the school districts to the Public School Building Loan Fund arising out of the direct purchase of builders' risk insurance on any construction by any school district under an approved application by the board.

15712. Funds apportioned to a school district under this chapter for a project, remaining unencumbered or unexpended one year from the date the application of the district for the apportionment was approved, shall not be encumbered or expended except as provided in this section.

The governing board of the district shall notify the board of its desire to encumber or expend the funds. The board shall immediately request the State Department of Education to, and the department shall, review the project for which apportionment was made. If the State Department of Education finds that the conditions existing at the time it approved the project for which the apportionment was made have so changed that the needs of the district are less than originally determined, it shall notify the board of its findings and of the respects in which the project should accordingly be modified. The board shall review the project and revise the project in any manner that it deems necessary, subject to the provisions of Section 15727, and make any changes in the purposes for which the apportionment may be expended that it deems necessary. The cost of the project as revised by the board shall be computed in the manner prescribed by Section 15713 and the excess, if any, of the amount theretofore apportioned to the district over the computed cost of the revised project shall be deducted by the board from the apportionment made to the district. The board shall give notice of its action, in writing, to the Controller, the governing board of the district, and the county auditor and the county treasurer having jurisdiction over the public school building fund of the district. If the amount of the excess, or any portion thereof,

has not been paid to the district, the excess, or portion thereof, shall be made available for apportionment to other districts. If the excess, or portion thereof, has been paid to the district, it shall not be encumbered or expended by the district and shall become due and payable to the State of California. The governing board of the district and the county treasurer shall pay that amount to the Treasurer, out of the funds, and in the manner specified in Section 15752. The payment shall, on order of the Controller, be deposited in the Public School Building Loan Fund in the State Treasury.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

This section does not authorize the board to increase any apportionment made to a district.

15713. Each school district which desires an apportionment for a grade level maintained by it, shall submit through its governing board to the board an application therefor in any form and number of copies that the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire project for which the district desires an apportionment. Estimates of cost for new construction appearing in an application shall not exceed typical current costs of comparable new construction by school districts in the same area not receiving or not eligible for apportionment under this chapter, as determined by the Director of General Services, or if there has been no new construction by districts in the area, the estimates of cost shall not exceed the reasonable current cost of similar construction in the area as determined by the Director of General Services. Immediately upon receipt of an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the director and to the Director of General Services.

A district may at any time amend or supplement its application.

The Director of General Services shall determine the school district's financial ability to meet all or a portion of the cost of the project and the amount which the district can contribute toward the cost of the project out of its available funds, and shall submit his report thereon to the board.

The directors shall as promptly as possible prepare a report and recommendation with respect to the application and refer the application, report, and recommendation to the Director of General Services, who shall, if he or she finds the documents to be in proper form and otherwise sufficient, refer them to the board. If the Director of General Services finds the documents to be lacking in any respect as to any matter which is subject to the jurisdiction or approval of the director or State Department of Education, he or she shall refer them to the director who shall take any action that may be necessary. The

board shall, subject to the provisions of this chapter approve or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the Public School Building Loan Fund the amount applied for, or any portion thereof that the board may deem appropriate. However, it may order that the apportionment or any part thereof shall be paid in progressive installments at the times and under the conditions that it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 15721 is favorable and if bonds are authorized and sold in the amounts prescribed by the board, and the proceeds of the bonds sold earmarked for the project as approved. The conditional apportionment shall remain effective for a period of nine months from the date of the resolution of the board, and if it does not become a final apportionment by the date, it shall become void and the money so apportioned shall become again available for apportionment pursuant to this chapter.

The board may for any good cause that it shall determine, reduce the amount of, or modify any provisions relating to, any contribution required of a district under the terms of an apportionment, other than any contribution required of the district under Section 15721 from the sale of bonds. However, the board may not, without the consent of the district, increase the amount of any district contribution under the terms of an apportionment, in the absence of mistake arising from any source, or misrepresentation, concealment, or omission, on the part of the district, intentional or otherwise. The provisions of this paragraph shall be applicable to apportionments heretofore or hereafter made.

15714. When an apportionment has been made by the board to a school district the board may, upon application of the governing board of the district, authorize the governing board to transfer funds from other authorized purposes if more than one purpose has been authorized in the district by the board, or to make additional apportionments to the district, or both, if the board determines that additional apportionments or transfers are necessary to meet the actual cost of the specific school plant facilities or sites for which the original apportionment was made. An apportionment made under this section shall be final if the original apportionment has become final, otherwise it shall become final if and when the original apportionment becomes final.

All provisions of this chapter shall apply to apportionments made under this section, except Sections 15713, 15721, 15722, 15725, and 15726 exclusive of the second paragraph of Section 15726 and any other provisions that may relate to application and eligibility for apportionments.

15715. The board may approve, in whole or in part, an application submitted by a school district under Section 15713 and in the amount,

not exceeding the amount applied for, that the board may deem appropriate.

The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount determined by the board as aforesaid, to the applicant school district from the Public School Building Loan Fund for that portion or portions of the project that the board determines the district is ready to proceed with. If the board has approved an application and made an apportionment as to a portion or portions of a project, the board may approve the remaining portion or portions of the project and make an additional apportionment or apportionments within two years after the original approval without requiring a district to issue additional bonds.

The total of the amounts of applications as approved by the board under this section shall not, when added to all amounts apportioned to school districts by the board under Section 15713, exceed 90 percent of the total amount of state school building bonds authorized to be issued and sold by Section 2 of Article XVI of the Constitution of the state.

Except as otherwise provided in this section, all provisions of this chapter relating to apportionments shall apply to apportionments made under this section.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

15716. If, after a conditional apportionment has been made to a school district, legal proceedings initiated prior or subsequent to the making of the conditional apportionment prevent the taking, within the period during which the conditional apportionment remains effective under Section 15713, of the actions necessary to permit the conditional apportionment to become final, the conditional apportionment shall nevertheless remain effective for a period of nine months from the date upon which the legal proceedings are finally determined. The amount of the apportionment may be diminished by the board after a second investigation at which the board shall determine whether conditions existing at the time it approved the project for which apportionment was made have so changed that the needs of the district are less than originally determined and if so the conditional apportionment shall be reduced by a corresponding amount.

15717. With respect to any apportionment made to a school district prior to December 26, 1950, the board may, on the application of the governing board of the district make additional apportionments to the school district for the purchase of the furniture authorized by Section 15706. An apportionment made under this section shall be final if the original apportionment has become final;

otherwise it shall become final if and when the original apportionment becomes final.

All provisions of this chapter shall apply to apportionments made under this section, except Sections 15713, 15721, 15722, 15725, and 15726, exclusive of the second paragraph of Section 15726, and any other provisions that may relate to applications and eligibility for apportionments.

15718. The sum of two million dollars ($2,000,000) was by Chapter 13 of the Statutes of 1952 (First Extraordinary Session) made available from the Public School Building Loan Fund for apportionment by the board pursuant to this chapter, except as otherwise provided by this section and to be transferred by the Controller as needed into a separate account in the State School Building Fund which was created in the State Treasury.

Apportionments made under this section shall be available as grants to those school districts to which apportionments have been made under this chapter, prior to April 1, 1952, and only for the amounts thereof as are in excess of the apportionments the voters of the districts voted to accept and repay under Sections 15721, 15722, and 15723.

If and when the electors of districts receiving apportionments under this section, vote to accept and repay additional amounts under Sections 15721, 15722, and 15723, the board may make apportionments under other sections of this chapter in substitution in whole or in part of the grants made under this section.

In the event the electors of the district fail to vote to accept and repay the additional amounts or if apportionments covering the amounts are not made under other sections of this chapter, beginning in September 1953, and annually for nine years thereafter, apportionments made to the districts from the State School Fund under Sections 46304, 46305, and 92 or 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, or any successor thereof, shall be reduced by an amount equivalent to one-tenth of the amount apportioned under this section. This section shall not be applied so as to reduce any average daily attendance apportionment below the constitutional minimum. During the year beginning September 1953, and each year thereafter in which the Controller determines that the apportionment of any district is to be reduced as herein provided, he or she shall deduct the total amount of the annual repayment of each district in equal amounts from each installment of the apportionments made to the district. The amount deducted shall, on order of the Controller, be transferred from the State School Building Fund to the General Fund at the time and for the purpose provided in Section 15903.

Notwithstanding any other law, taxes in the districts shall be increased sufficiently to offset the amounts by which the average daily attendance apportionments are reduced under this section. The

tax increases shall be made in the manner prescribed under Section 15742 of this chapter.

Any amounts made available by this section which are not apportioned by June 30, 1953, and any recovery by substitution of apportionments made in accordance with this section shall be transferred to the Public School Building Loan Fund.

15719. No apportionment shall be made for new construction which when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per pupil of the estimated enrollment in excess of that computed under the following schedule:

Type of school	Enrollment	Square feet per pupil
Elementary school comprising kindergarten and grades 1 to 6, inclusive	300 or more	55
Elementary school comprising grades 7 and 8	750 or more	75
Junior high school comprising grades 7 and 9, inclusive	750 or more	75
Junior high school comprising grades 7 to 10, inclusive	750 or more	75
High school comprising grades 7 to 12, inclusive	750 or more	80
High school comprising grades 9 to 12, inclusive	750 or more	80
High school comprising grades 10 to 12, inclusive	750 or more	80

The maximum total building areas per pupil allowed to applicants having schools with smaller estimated enrollments than shown in the above schedule shall be determined by the State Department of Education, and shall be building areas to provide comparable facilities to those enumerated above, and shall be the least building area required to house adequately the estimated enrollment and the normal instructional and other services.

No estimate of enrollment made by an applicant for the purpose of justifying an apportionment shall be made for a longer time than the second fiscal year beyond the fiscal year in which an application is made, and in no case shall be given effect unless approved by the State Department of Education.

15720. Payment shall be made in accordance with the terms of a final apportionment, either directly or by way of reimbursement, to

a school district for expenditures, or commitments therefor, which have been made by the district subsequent to December 5, 1949, for any items approved by the board in the apportionment. However, where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of the district containing the item was received by the board, payment or reimbursement for the item, either with state funds or with district funds which the district is required to contribute by the apportionment, shall be made only upon authorization of the board by special resolution citing this section.

15721. No apportionment to a school district shall become final unless one of the following is satisfied:

(a) The total amount of outstanding bonds of the district exceeds 95 percent of the maximum amount of bonds which the district could have had outstanding under any law on the date the conditional apportionment is made.

(b) If the total amount of the bonds of the district outstanding and unpaid is less than 95 percent of the amount of the bonds permitted to be issued by the district, the amount of district bonds outstanding is within twenty-five thousand dollars ($25,000) of the total bond limit permitted, as of the date on which the conditional apportionment is made. At the time the board makes a conditional apportionment pursuant to Section 15713, it shall determine what portion of the total amount of bonds which a district is permitted to issue and sell by law shall be issued and sold by the district, the proceeds of which shall be applied toward the cost of the project for which the apportionment is sought. The portion so determined by the board shall be not less than the minimum amount required for the apportionment to become final under this section. Any apportionment made by the board pursuant to Section 15713 shall be conditioned upon the approval and sale of the bonds by the district.

No apportionment to a district shall become final unless, at an election called by the governing board of the district, two-thirds of the qualified electors of the district voting thereat have authorized the governing board of the district to accept, expend, and repay, as provided in this chapter, an apportionment under the provisions of this chapter. The election shall be combined with and held at the same time as the bond election to authorize the amount of bonds required by the board, if any, and shall be called, held, and conducted in the same manner as are elections to authorize the issuance of district bonds, except that the ballot, in addition to the bond proposition, shall contain substantially the following words:

"Shall the governing board of the _____ school district be authorized to accept and expend an apportionment in an amount not to exceed _____ dollars ($_____) from the State of California under and subject to the provisions of Chapter 6 (commencing with Section 15700) of Part 10 of Division 1 of Title

1 of the Education Code which amount is subject to repayment as provided by said chapter? Yes ____ No ____."

15722. Immediately after the result of the election has been determined, the county superintendent of schools shall make a certificate in duplicate stating whether the bonds have been authorized in the amount prescribed by the board and whether the school district has authorized the acceptance and expenditure of the apportionment. One copy of the certificate shall be sent to the board and one copy to the Controller. When the bonds authorized have been issued and sold and the proceeds thereof made available for the purposes of the application, the county superintendent of schools shall also certify this fact to the board and the Controller. Upon the receipt by the board of the certificate stating that the bonds have been issued and sold and the proceeds thereof made available for the purposes of the application, the apportionment shall become final.

15723. The election by a school district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 15721 may be called and held either before or after the making of an apportionment.

All elections held prior to October 13, 1950, whether before or after the making of an apportionment, are hereby validated and confirmed if otherwise called and held pursuant to law.

15724. Whenever a conditional apportionment has been made, and the county auditor has inadvertently and erroneously included in his certification of the outstanding bonded indebtedness of the school district the bonded indebtedness of another school district having the same, or substantially the same, boundaries, which bonded indebtedness is less than 2 percent of the total amount of the total bonded indebtedness certified, and thereafter an election upon the issuance of new bonds in the amount required by the board has been had and the vote thereon has been in favor of the issuance of the bonds, and the board has certified to the Controller that the apportionment to the district has become final, the final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the Public School Building Loan Fund according to the terms of the final apportionment is hereby confirmed, ratified, and validated.

Any bonds erroneously certified, however, shall not be taken into consideration in making the computation required by Section 15721.

15725. No apportionment shall be made to a school district for any grade level if the estimated cost of the project, as approved by the Director of General Services, is (1) an amount which would result in an apportionment to the district exceeding the amount authorized at the district election held under Section 15721, or (2) an amount which if raised by the issuance and sale of bonds of the district running for 25 years bearing the current going rate of interest as determined by the board and the principal of which is payable in 25

equal annual payments, would require the levy of a tax under Section 15250 upon property in the district which would, when added to the tax actually being levied upon property in the district for the grade level as determined by the Director of General Services under that section, amount to less than thirty cents ($0.30) on each one hundred dollars ($100) of assessed valuation of property in the district during the next fiscal year. Beginning in 1981–82, the amount shall be the levy of a tax which would amount to less than 0.075 percent of full valuation of property in the district during the next fiscal year.

At the time the board makes an apportionment, it shall, with the approval of the Director of General Services, fix the interest to be paid by the district on the sum apportioned to it at a rate equal to the effective rate paid by the state upon the bonds sold from the proceeds of which the apportionment is made, giving effect to the price at which the bonds are sold and the premium, if any, paid thereon, adjusted to the next highest one-eighth of 1 percent, to cover the cost of sale and issuance of the bonds and costs of administration, to be compounded annually through the 30th day of June of each year.

15726. As used in Section 15725 of the Education Code, the phrase "adjusted to the next highest one-eighth of 1 percent" means "increased by a full one-eighth of 1 percent." It is hereby declared that this construction is not intended as a change in the present law, but as a declaration of the existing law, and shall apply to any interest rate heretofore or hereafter fixed by the board under said section.

15727. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment or for any project or part thereof which has not been approved by the State Department of Education.

15728. Each district to which an apportionment has been made under this chapter shall repay the principal amount of the apportionment and the accrued interest thereon in the amount and in the manner hereinafter provided in this chapter.

15729. The following definitions apply to the computations and determinations required to be made under Sections 15730, 15732, and 15733, and they apply with respect to each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year.

(a) "Forty-cent tax amount" means the amount that would be produced by a tax of forty cents ($0.40) on each one hundred dollars ($100) of assessed valuation, to and including 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.10 percent of the full valuation. This tax amount shall exclude the assessed valuation of solvent credits and other intangible property, for the current fiscal year within the district;

(b) "Thirty-cent tax amount" means the amount that would be produced by a tax of thirty cents ($0.30) on each one hundred dollars ($100) of such assessed valuation to and including the 1980–81 fiscal year. For 1981–82 and thereafter, the tax shall be 0.075 percent of such full valuation: and

(c) "Ten-cent tax amount" means the amount that would be produced by a tax of ten cents ($0.10) on each one hundred dollars ($100) of such assessed valuation to and including the 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.025 percent of the full value.

(d) "Eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each such grade level prior to the date of the first final apportionment for any grade level to the district under this chapter, computed as provided in Section 15730.

15730. On or before the first day of December of each fiscal year, the Director of General Services shall determine for each grade level and certify to the Controller the eligible bonded debt service for the district, as follows:

(a) He or she shall determine the amount of the bonded indebtedness that was incurred by the district for each grade level, when bonds were issued and sold for purposes of more than one grade level. When one or more additional apportionments have been made to a grade level of a district, conditioned upon the issuance and sale of additional bonds of the district, the Director of General Services shall determine and include in the eligible bonded debt service and in his or her certificate the amount raised and to be raised by the district during the current fiscal year for the payment of principal and interest on that portion of the additional bonded indebtedness of the district that was incurred for each grade level as a condition to receiving the additional apportionment.

(b) If the Director of General Services determines in any fiscal year that the amount certified to the Controller as the eligible bonded debt service during the last preceding fiscal year is more than the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 15729 and subdivision (a) of this section, then the Director of General Services shall subtract from the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of the bonded indebtedness and the amount so certified by the Director of General Services.

(c) If the Director of General Services determines in any fiscal year that the amount certified to the Controller as the eligible bonded debt service during the last preceding fiscal year is less than

the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 15729 and subdivision (a) of this section, then the Director of General Services shall add to the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of the bonded indebtedness and the amount so certified by the Director of General Services.

15731. Notwithstanding any other provisions of this chapter, a school district otherwise eligible to receive a conditional apportionment under Chapter 8 (commencing with Section 16000) of this part may apply for an adjustment of annual repayment obligations under this chapter.

The board may require any information that is necessary to determine the number of units of estimated average daily attendance for which the district would have been eligible to construct school facilities under this chapter, if the conditional apportionment had been made and had become final. The units shall be known as "eligible attendance units." The board shall then determine an "eligible facilities cost" by multiplying the number of the eligible attendance units by the average cost of housing elementary or high school pupils as set forth in the latest report to the Legislature required under Section 16098.

In any fiscal year in which the school district is, in the judgment of the board, operating sufficient year-round classes to provide housing for the eligible attendance units, the Director of General Services shall add to the amount which he or she is required to certify to the Controller under Section 15730 an amount equal to one-twentieth of such eligible facilities costs.

The additional amount so certified shall be considered for all purposes of this article as eligible bonded debt service.

15732. On or before the first day of January of each fiscal year, the Controller shall compute for each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year the 40-cent tax amount, the 30-cent tax amount and the 10-cent tax amount.

15733. On or before the first day of January of each fiscal year the Controller shall determine the annual repayment, if any, to be due from each district during the next succeeding fiscal year, as follows:

(a) If, for any grade level of a district, the amount of the eligible bonded debt service exceeds the 40 cents ($0.40) tax amount, no annual repayment shall be due the state from the district with respect to the grade level during the next succeeding fiscal year.

(b) If, for any grade level of a district, the 40 cents ($0.40) tax amount is greater than the eligible bonded debt service, the amount of the excess shall constitute the annual repayment due the state with respect to the grade level during the next succeeding fiscal year.

However, if the eligible bonded debt service is less than the 10 cents ($0.10) tax amount, the annual repayment shall equal the 30 cents ($0.30) tax amount.

(c) The total repayment from each district is the sum of the annual repayments determined for each grade level of the district under this section.

15734. Notwithstanding any other provision of this chapter, and regardless of how many apportionments are made to a grade level of a school district under the provisions of this chapter, the total annual repayment for the grade level during any fiscal year, covering all the apportionments, shall not exceed the amount that would be computed under Sections 15729 to 15735, inclusive, for any one of the apportionments.

15735. The Controller shall, during the next fiscal year following that in which he or she determines the annual repayment as herein provided, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to the district from the State School Fund under Sections 46304, 46305, and 92 or 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, and, on order of the Controller, the amount so deducted shall be transferred to the Public School Building Loan Fund. All money transferred to the Public School Building Loan Fund under this section shall be available only for transfer to the General Fund under Section 15903.

15736. Notwithstanding any provision of law to the contrary, whenever in any fiscal year, pursuant to Chapter 5, Part 9, Division 1 of the Revenue and Taxation Code, a refund is made or a judgment rendered, as the case may be, for the return of an amount collected as school district taxes levied during a previous year upon secured or unsecured personal property, because it was determined that the property was exempt from taxation, and the property so determined to be exempt equals 1 percent, or more, of the assessed valuation in the school district upon which school district taxes for the previous year were levied, the Controller shall reduce the annual repayment of the district and the amount deducted from the State School Fund apportionment of the district for the fiscal year next succeeding that in which the refund was made or judgment rendered, by that amount by which the annual repayment and deduction of the district would have been reduced for the fiscal year next succeeding that in which the taxes were levied had the assessed valuation upon which the annual repayment was computed not included an amount of assessed valuation equal to the amount of assessed valuation of the property so determined to be exempt.

The amount of annual repayment and deduction, reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 15735, 15741, and 15742 for the fiscal year in which the reduction is made.

15737. (a) Upon request of the district, the Controller shall use in computing the "40-cent, 30-cent, and 10-cent tax amounts" under Section 15732 the difference between the total assessed valuation of property in a district as shown on the equalized assessment roll for the current fiscal year and the assessed valuation of property as shown on the equalized assessment roll for the current fiscal year, in excess of 2 percent of the total assessed valuation, with respect to which revenues of the district taxes levied in the 1954–1955 fiscal year, or thereafter, have been impounded by the county auditor pursuant to Section 14240. Beginning with the 1981–82 fiscal year, the amount in excess of 0.5 percent of the total assessed valuation shall be used in the computation. If the request is received prior to August 1, 1955, with respect to the impounding of revenues of taxes levied during the 1954–1955 fiscal year, the Controller shall recompute the annual repayment of the district due during the 1955–1956 fiscal year on the basis of the reduced assessed valuation, and, on or before September 1, 1955, notify the officers and board referred to in Section 15741 of the recomputed annual repayment for the 1955–1956 fiscal year, and of the recomputed amount to be deducted from the State School Fund apportionment to the district during the 1955–1956 fiscal year.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction and the Controller of the release of impounded tax revenues to the school district, the Controller shall add to the annual repayment of the district, for the first fiscal year or second fiscal year next succeeding that in which the notification of release was made, that amount by which the annual repayment of the district for a previous fiscal year was reduced by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released.

(c) The amount of annual repayment and deduction, increased or reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 15735, 15741, and 15742 for the fiscal year in which the increase or reduction occurs.

(d) If a request is received from a school district and an annual repayment reduced pursuant to subdivision (a), Section 15736 shall not apply with respect to any tax revenues to which subdivision (a) applies.

15738. The Controller shall make the deduction provided by Section 15735 during each fiscal year, as herein provided, until the principal amount of the apportionment made to the district for the grade level, and all accrued interest due thereon, has been withheld; but no interest shall accrue or become due and payable to the state with respect to the principal amount of any apportionment after the expiration of 25 years from the first day of July of the fiscal year next succeeding the date of the warrant issued by the Controller covering the payment to the county treasurer of each portion of the apportionment. At the expiration of 30 years from the first day of July

of the fiscal year next succeeding the date of the warrant issued by the Controller covering the payment to the county treasurer of each portion of the apportionment, any unpaid balance of the principal amount of the apportionment, including all interest included in the principal amount, shall be canceled on the books of the Controller, and the state shall have no further right to the repayment of the unpaid balance.

15739. The Controller shall certify to the board the cancellation of the unpaid balance of the principal amount of the apportionment. Upon receipt of the certification, the board shall, in the name of the state, convey to the district all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to, from moneys provided by the apportionment covered by the cancellation.

15740. The Controller shall determine and maintain a record of the amount due the state in connection with each apportionment made to each grade level of a district under this chapter. He or she shall compute interest on the original amount of the apportionment at the rate fixed by the board, from the date of issuance of the Controller's warrant covering the payment to the county treasurer of any portion of the apportionment until the first day of July of the fiscal year next succeeding that in which the warrant was issued. Thereafter, interest shall accrue to and be compounded as a part of the principal amount due the state pursuant to the apportionment through the 30th day of the following June of each year, until the principal and interest have been paid, or until the interest ceases to accrue, as provided in this chapter. Interest on unpaid school building aid apportionments shall be computed as if the annual repayment were credited on the first day of July of the fiscal year in which the repayment is withheld.

15741. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the succeeding fiscal year, the Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

15742. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money to be withheld by the Controller during the fiscal year in which the tax is levied. The tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

15743. The board shall prescribe in the detail that it deems necessary, the purposes for which moneys apportioned by it or which it requires the district to contribute toward, or in reduction of the cost of a project, may be expended, and the prescription shall be binding upon the governing board of the district, save as it may be changed or modified by the board for any cause that it sees fit. In determining funds which can be contributed by the district, the board may require the district to contribute unexpended balances of funds earmarked or encumbered by the district for furniture, equipment, or any other lawful purpose. However, the changes or substitutions in the purposes for which the funds were earmarked or encumbered, with respect to the requirement under any apportionment heretofore or hereafter made, may be authorized by the board, or pursuant to its delegation, by the Director of General Services.

15744. Unless the board has received the certificates of the county superintendent of schools required by Section 15722 within nine months from the date of the conditional apportionment, it shall, at the expiration of the nine-month period, void the conditional apportionment and shall certify this fact to the Controller. Each final apportionment made by the board under this chapter shall be certified by it to the Controller who shall from time to time draw his or her warrant on the Treasurer in favor of the county treasurer of the county having jurisdiction over the district in accordance with the terms of the final apportionment. The warrant shall be exempt from the provisions of Division 4 of Title 2 of the Government Code and shall be paid by the Treasurer from the Public School Building Loan Fund.

15745. A public school building fund is hereby created in the county treasury in each county for each school district in the county. The county treasurer of each county shall pay into the public school building fund of each district, exactly as apportioned by the board, all moneys received by him or her under this chapter with respect to that district.

15746. The governing board of each school district to which an apportionment is made under this chapter is authorized to, and shall, transfer to the public school building fund of the district from all other funds of the district in which the moneys may be, all moneys of the district which under, or pursuant to, this chapter are required to be expended for the project for which the apportionment was made.

15747. A fund in the State Treasury is hereby created, to be known as the Public School Building Loan Fund. All money in the Public School Building Loan Fund, including any money deposited in the fund from any source whatsoever after July 29, 1949, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under the provisions of this chapter.

15748. Notwithstanding any provision of law to the contrary, the State Allocation Board may from time to time by appropriate resolution order the transfer from the Public School Building Loan Fund to the State School Building Aid Fund of any amounts therein which it deems no longer desirable to retain for the purposes of this chapter and Sections 15900 to 15909, inclusive. Nothing herein shall be deemed to apply to any moneys heretofore or hereafter deposited in the Public School Building Loan Fund by virtue of Sections 15735 and 15907, and former Section 5107 as added by Chapter 922 of the Statutes of 1949, and as subsequently amended; or to any moneys appropriated from the Public School Building Loan Fund by virtue of the Budget Acts of 1954 and 1955, and which remain available for expenditure. Upon such order or orders the Controller shall make appropriate transfers, and any sums so transferred shall be available for apportionment in the same manner as other moneys in the State School Building Aid Fund, except that to the amount available for apportionment on the fifth day of each month pursuant to Section 16409, there shall be added any amount transferred to the State School Building Aid Fund by virtue of this paragraph prior to the fifth day of the preceding month. Notwithstanding the provisions of Section 15904, after July 7, 1955, there shall be no further transfers to the General Fund from the Public School Building Loan Fund of any amounts deposited therein by virtue of Sections 15752, 15753, and 15754.

15749. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the public school building fund of the district exactly as apportioned by the board and only for the purposes for which the moneys were apportioned to the district, and for no other purpose, and shall make the reports relating to the expenditure of the moneys that the board and the Controller shall require.

15750. A complete detailed report of expenditure of funds allocated pursuant to this chapter shall be made by the board annually to the Legislature. The report shall contain a detailed statement of facilities provided, type of construction, square footage provided and all other items which will enable the Legislature fully to understand the nature of the construction performed by the school districts.

15751. It shall be the duty of the Controller to make the audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, as he or she may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes and under the conditions authorized by this chapter.

15752. Whenever the Controller determines that any money apportioned to a school district has been expended by the school district for purposes not authorized by this chapter, or exceeds the

final cost of the project which is authorized by this chapter to be paid therefrom, the Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of the unauthorized expenditures, or the amount of the excess apportionment, as the case may be. Upon receipt of the notice, the governing board shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. That amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the Public School Building Loan Fund.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

If, upon petition of the district, the Controller determines that the amount is in excess of the amount that may be paid out of taxes levied at the maximum rate increased by any increase in the rate authorized by the electors of the district pursuant to Section 42202, without impairing essential district services, he or she may provide for the payment of the entire amount or any unpaid balance thereof in not exceeding three consecutive annual payments, commencing with the next school year. Each payment shall be an equal portion of the principal amount, plus accrued interest, and shall be paid not later than January 31st of each school year in which a payment is due. If the district fails to make the payment as specified, the Controller shall deduct the amount thereof from the February payment made to the district under Section 14041.

Deferred payments under this section shall bear interest at the same annual rate of interest as the apportionment from which the unauthorized expenditures or the amounts of excess apportionment were made.

15753. Any portion of an apportionment paid to a school district under this chapter shall be available for expenditure by its governing board for not less than one year nor more than three years, as the board shall determine, after the date on which the warrant covering the portion of the apportionment was issued by the Controller. For the purposes of this chapter, an apportionment shall be deemed to be expended at the time and to the extent that the amount thereof on deposit in the county treasury has been encumbered by the creation of a valid obligation on the part of the school district. Upon the expiration of its period of availability, the unencumbered balance of any apportionment made under this chapter shall become due and payable to the State of California; and the governing board of the school district and the county treasurer shall pay the amount of the

unencumbered balance to the Treasurer, out of the funds, and in the manner specified in Section 15752. The payment shall, on order of the Controller, be deposited in the Public School Building Loan Fund in the State Treasury.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

15754. Whenever a school district receives an apportionment under this chapter for the purchase or improvement of a school building site and within a period of five years after the date on which the warrant covering the appropriate portion or portions of the apportionment was drawn on the State Treasurer from the Public School Building Loan Fund, (1) sells or otherwise disposes of the site or the improvements thereon, or any portion thereof, purchased or improved in whole or in part from the apportionment, or (2) within not less than one year nor more than five years, as the board shall determine, does not begin to use the site or the improvements thereon for the purpose or purposes for which the apportionment was made, the board shall make the determinations and take the action with respect thereto as it may deem necessary. If the board determines that the district has (1) sold or otherwise disposed of the site or the improvements thereon, or any portion thereof, or (2) has not used the site for the purpose for which the apportionment was made, it shall demand the return of the apportionment or the portion thereof that it deems proper.

Written notice of the demand, setting forth the amount due the state pursuant thereto, shall be furnished by the board to the governing board of the school district, the county superintendent of schools, the county auditor, the county treasurer of the county whose county has jurisdiction over the school district, and the Controller. Upon receipt of the notice and demand, the governing board of the school district shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the Public School Building Loan Fund.

It shall be the duty of the governing board and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

Article 2. School Housing Aid for Reorganized Districts

15780. (a) As used in this article:

(1) "State-aided district" means a district to which a conditional or final apportionment has been made under this chapter.

(2) "Acquiring district" means a district in which all, or a part of, a state-aided district or an applicant district has been included.

(b) Except as otherwise provided in Section 15788, the effective date for the purposes of this article of any change of boundaries or annexation or other inclusion affecting a school district shall be the date the action became effective for the purposes of Section 4002.

15781. When a district has received conditional apportionments which have become final under this chapter, and there is a unification of the district prior to December 31, 1952, within the meaning of Section 4320, with another district having the same boundaries, the effective date of the unification for the purpose of the first district receiving additional apportionments pursuant to the terms of Section 15714 shall be July 1, 1953.

15782. Whenever, prior to the date on which a conditional apportionment is made by the board to an applicant district, (1) if an applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no apportionment shall be made to the applicant district; (2) if less than the whole of an applicant district is included in a district which is ineligible for an apportionment under this chapter, the board may reconsider the application of the applicant district and make the determinations and take the action with respect thereto, including the making, subject to Article 1 of this chapter, of a conditional apportionment to the district, as the board may deem necessary because of the inclusion of less than the whole of the applicant district in the acquiring district; (3) if an applicant district is annexed to or otherwise included in whole or in part in a district which is eligible for an apportionment under this chapter and has made or does make an application for the apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make such determinations and take such action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 15700) of this chapter, of conditional apportionments to districts, that the board may deem necessary because of the annexation or other inclusion in the acquiring district of the applicant district in whole or in part.

15783. Whenever, subsequent to the date on which a conditional apportionment is made by the board to an applicant district, but prior to the date on which the conditional apportionment becomes final, (1) if an applicant district is annexed to or otherwise included in whole in a district which is not eligible for an apportionment under this chapter, the conditional apportionment shall, notwithstanding any other provisions of this chapter, become void and the board shall promptly notify the Controller in writing thereof and the date on which the apportionment became void; (2) if the district to which an applicant district is annexed or in which it is otherwise included in whole is eligible for an apportionment, has made or does make an application for an apportionment under this chapter, the conditional

apportionment made to the applicant district shall, notwithstanding any other provisions of this chapter, become void but the board may reconsider the application of the acquiring district and make determinations and take action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 15700) of this chapter except as hereinafter provided, of additional conditional apportionments to the acquiring district, as the board may deem necessary as a result of the annexation or other inclusion in the acquiring district of the applicant district; (3) if less than the whole of an applicant district is included in another district, the conditional apportionment shall, notwithstanding any other provisions of this chapter become void, but the board may reconsider the application and make such determinations and take such actions with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 15700) of this chapter except as hereinafter provided, of new conditional apportionments to the applicant district, as the board may deem necessary as a result of such inclusion of a portion of the applicant district in the acquiring district.

Notwithstanding anything in the first sentence of Section 15721 to the contrary, additional conditional apportionments made to a district under (2), or new conditional apportionments made to a district under (3) of the first paragraph of this section may, with the approval of the board, become final if the total amount of the bonds of the district outstanding and unpaid is within ten thousand dollars ($10,000) of the amount required under Section 15721.

15784. Whenever, prior to the date on which conditional apportionments have been made to an applicant district for the full amount of state aid approved for the district under Section 15715, (1) if the applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no further apportionment shall be made to the applicant district; (2) if the applicant district is annexed to or otherwise included in whole in a district which is eligible for an apportionment under this chapter and which has made or does make an application for an apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make determinations and take any action with respect thereto, including the making, subject to Article 1 (commencing with Section 15700) of this chapter, of a conditional apportionment or apportionments to the acquiring district that the board may deem necessary because of such annexation or other inclusion in the acquiring district of the applicant district; (3) if a portion of the applicant district is annexed to or otherwise included in another district, the board may reconsider the application of the applicant district and may, within two years after the first apportionment made under the approval, make additional apportionments that it sees fit to the applicant district, but not in excess of the amount in which the application was originally approved, without requiring the district to issue additional bonds.

15785. Notwithstanding, and in lieu of, any provisions of this chapter to the contrary, excepting Section 15725 if during the fiscal year 1950–1951, or any subsequent fiscal year, a conditional apportionment is or has been made to a district, hereinafter referred to as the original district, and if the original district (1) holds or has held all elections required by Section 15721, and (2) before the apportionment becomes final is or has been annexed to or included in whole in another district, hereinafter referred to as the acquiring district, which had prior thereto received its first final apportionment under this chapter during the same fiscal year, and (3) after the inclusion or annexation sells or has sold the bonds authorized by the aforesaid elections, the board may approve any application by the governing board of the acquiring district and make an apportionment, or apportionments, for any project for which the original district would have been eligible under this chapter had such inclusion not taken place. No apportionment shall be made to the acquiring district under this section unless the proceeds of the bonds which the board required the original district to sell are available for and will be contributed toward the cost of the approved project. Any apportionment made to the acquiring district under this section shall become final when made.

The computations provided in Sections 15729, 15730, and 15733 with respect to apportionments made under this section shall be made exactly as though the acquiring school district was comprised only of the original school district.

Any rate or amount of tax levied pursuant to or under the authority of Sections 14204 and 15742, or any other provision of law, for the purpose of producing the amount or any part thereof deducted by the Controller with respect to apportionments made under this section, during any fiscal year under Sections 15735 and 15738 from apportionments to the acquiring district from the State School Fund shall be levied only on property in the original school district.

15786. Whenever, subsequent to the date when a conditional apportionment is made to a district and before the conditional apportionment becomes final the boundaries of the district are changed so that the territory of the district is reduced by not to exceed 1 percent of the assessed valuation of the district, as determined by the last equalized assessment roll immediately preceding the effective date of the change of boundaries, and the superintendent of schools of the county having jurisdiction over the district has failed to file the certificate required by Section 15795, showing the change of boundaries, and prior to April 15, 1952, the board has certified to the Controller that the apportionment made to the district has become final, the final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the Public School Building Loan Fund according to the terms of the final apportionment is hereby confirmed, ratified, and validated.

15787. Notwithstanding any provision of law to the contrary, whenever a conditional apportionment has been made to an elementary school district pursuant to Section 15714 prior to August 1, 1951, and the school district has subsequently voted to become a part of a union school district before the school district has voted to accept and repay an amount sufficient to include both said entire apportionment made pursuant to Section 15714, and all other apportionments made to the school district by the board prior to August 1, 1951, the elementary school district is continued in existence until September 1, 1953, for the purpose of (1) receiving any apportionment made to said district subsequent to August 1, 1951, under Section 15718, as if the elementary district had not voted to unionize with another school district, and (2) for the purpose of voting upon the acceptance and repayment of the apportionment mentioned in (1) or any other apportionment made to the district by the board subsequent to August 1, 1951.

If any elementary school district so described above shall vote, prior to September 1, 1953, to accept and repay any apportionment above mentioned (except of any apportionment made under Section 15718), the apportionment shall thereupon become final. Repayment of any apportionment referred to in this section shall be made by the elementary district pursuant to the applicable provisions of this chapter as if no change in boundaries had been made in the district.

15788. Whenever, subsequent to the date on which a conditional apportionment made to a district becomes final, the state-aided district is included in whole in another district, the acquiring district shall, on the effective date of the inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to the apportionment and the property acquired or to be acquired from funds provided thereby, and all funds in the public school building fund of the state-aided district shall be transferred to the public school building fund of the acquiring district. All amounts which would, after the effective date of the inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to the apportionment, shall be paid to the acquiring district. In addition, the acquiring district shall, on the effective date of the inclusion of the state-aided district in the acquiring district as fixed by Section 4000, become liable for the annual repayments and other payments due the state under this chapter with respect to the apportionment or the property acquired or to be acquired therewith.

15789. Whenever one or more state-aided districts are included in whole in an acquiring district, and the acquiring district applies for and receives an apportionment, then after the effective date of the inclusion and upon the approval of the application of the acquiring district, the governing board of each component state-aided district shall immediately transfer to the acquiring district all moneys of the component district which are required to be, or have been,

earmarked for a project or projects of the district. The acquiring district, upon the transfer to it of the funds, may expend the funds for any projects of the acquiring district as to which its application was approved.

15790. Whenever, subsequent to the date on which a conditional apportionment made to a state-aided district becomes final, less than all of such district is included in another district, the Director of General Services shall determine what portion of the apportionment was expended or will be expended for property acquired or to be acquired by the acquiring district. Any determination made by the Director of General Services under this section may be redetermined by him or her, from time to time, until the project for which the apportionment was made has been completed, and the final cost thereof determined and the final determination has been made pursuant to the final cost. The Director of General Services shall promptly notify the Controller, the governing board of the state-aided district and of the acquiring district, the superintendent of schools, the auditor, and the treasurer of the counties having jurisdiction over said districts of each determination and redetermination made by him or her under this section. No redetermination shall be retroactive nor affect the liability of any school district for any payment or annual repayment, or portion thereof, previously made by or on behalf of such district to the state under the provisions of this chapter.

On and after the date of the change of boundaries, the acquiring district succeeds to and is vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to that portion of the apportionment which the Director of General Services has determined or redetermined under this section was expended, or will be expended, for property acquired or to be acquired by the acquiring district, and the unexpended part of the portion of the apportionment in the public school building fund of the state-aided district shall be transferred to the public school building fund of the acquiring district. In addition, and at the same time, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other payments due the state under the provisions of this chapter with respect to that portion of the apportionment which the Director of General Services has determined or redetermined was expended, or will be expended for property acquired, or to be acquired by the acquiring district, or, in the event a portion of the apportionment is a lower percentage of the apportionment than the percentage that the assessed valuation in the territory of the state-aided district which was transferred to the acquiring district is of the total assessed valuation of the state-aided district immediately preceding the effective date of the transfer, the acquiring district shall become liable for the payment to the state of that percentage of the annual repayment and all other repayments due to the state under provisions of this chapter with respect to the

apportionment which is equal to the percentage of assessed valuation in the territory transferred to the acquiring district.

Notwithstanding the foregoing, the liability of the acquiring district for the repayment of any portion of the apportionment made to the state-aided district shall not exceed the product of the highest percentage referred to above (whether relating to assessed valuation or to the portion of the apportionment expended in the property acquired), multiplied by the balance due on the apportionment made to the state-aided district at the time of the withdrawal on the effective date specified in Section 4064 of the territory referred to. The limited liability is hereinafter referred to as "the maximum." It is the intent of the Legislature that the maximum shall be applied by the Controller, both retroactively and prospectively, provided that as a result of the application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than the maximum, assuming this paragraph had been in effect at that time, the excess shall be credited by the Controller against any apportionment balances for which said district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from other districts by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 15735 prior to January 1, 1966.

If any subsection, clause, sentence of phrase of this section is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section, and each subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences or phrases be declared unconstitutional.

15791. Notwithstanding any change in the boundaries of a state-aided district or the annexation to, or the inclusion in, another district of a state-aided district, the state-aided district as it existed immediately prior to the effective date of the action shall be continued in existence for the determination of the assessed valuation of the property therein and for the purposes of the computations provided by Sections 15729, 15730, and 15733; and all the computations required to be made pursuant to those sections shall be made exactly as if there had been no change of boundaries, annexations, or inclusion, except as otherwise provided in Sections 15792 and 15793.

15792. Whenever, subsequent to the date on which a conditional apportionment becomes final, territory is withdrawn from a state-aided district and no portion of the apportionment was expended for school property acquired by the acquiring district:

(1) If the acquiring district is a state-aided district, the assessed valuation in the territory acquired shall be included in determining assessed valuation of the property in the acquiring district, and shall thereafter be excluded in determining assessed valuation of the property in the state-aided district, for purposes of the computations under Sections 15729 to 15733, inclusive;

(2) If the acquiring district is not a state-aided district, the State Controller shall determine the percentage relationship, at the time of the withdrawal, between (a) the assessed valuation in the territory acquired, together with the current assessed valuation in all other territory theretofore acquired by the acquiring district from the state-aided district since the date of its first conditional apportionment under this chapter, and (b) the current assessed valuation of the state-aided district as it was territorially constituted on the latter date.

If the percentage of assessed valuation in acquired territory is, in the aggregate, less than 10 percent, the assessed valuation in all the acquired territory shall be excluded, until the next withdrawal of territory from the state-aided district to the acquiring district, in determining the assessed valuation of the state-aided district for the purposes of the computations under Sections 15729 to 15733, inclusive.

If the percentage of assessed valuation in acquired territory is, in the aggregate, a percentage equal to or greater than 10 percent, the Controller shall, by deducting such percentage from 100 percent, obtain the "complement percentage." Until the next withdrawal of territory from the state-aided district to the acquiring district, the assessed valuation of the state-aided district for purposes of the computations under Sections 15729 to 15733, inclusive, shall be determined by dividing the current assessed valuation of the state-aided district, as territorially constituted immediately subsequent to the last withdrawal, by the complement percentage.

Whenever, pursuant to this section, the assessed valuation of the state-aided district is adjusted for repayment computation purposes by use of the complement percentage, liability for the annual repayment computed shall be apportioned between the state-aided district and the acquiring district by multiplying such annual repayment by the complement percentage, the product representing the liability of the state-aided district, and the remainder of the computed repayment representing the liability of the acquiring district.

Notwithstanding the foregoing, the liability of the state-aided district shall not exceed the product of any "complement percentage" (as it may from time to time exist) times the balance due on the final apportionment at the time the complement percentage is established; and the liability of the acquiring district (while a complement percentage remains unchanged) shall not exceed the remainder of the balance of the aforesaid final apportionment at the

time the complement percentage is established. The maximum liability on the part of either the state-aided or acquiring districts established as above (and until the time that the liability be altered by altering the "complement percentage") shall be hereinafter referred to in this section with respect to each district as "the maximum."

(3) In the event that two or more nonstate-aided districts acquire territory from the state-aided district the Controller shall determine the formulae for apportioning liability for the annual repayment between the districts affected (including the formulae for determining what assessed valuations shall be used within the affected districts or territories withdrawn, and the dates of determination thereof) as will in his or her opinion best comply with the principles set forth above, irrespective of whether the formulae are in literal compliance therewith. The same percentage of annual repayment for which a district is liable at the time the liability apportionment is made shall (unless and until the liability apportionment is subsequently changed pursuant to this paragraph) be deemed applicable to the liability of the district for the balance (as of the date the liability apportionment is made) due on the final apportionment to the state-aided district. The liability for the balance shall, with respect to any affected district, be hereinafter referred to as the "maximum" for the district.

(4) It is the intent of the Legislature that the foregoing "maximums" shall be applied by the Controller both retroactively and prospectively, provided that as a result of the application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than its "maximum," assuming this paragraph and others to which it is referable had been in effect at that time, the excess shall be credited by the Controller against any apportionment balances for which the district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from any other district by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 16080 prior to January 1, 1966.

If any subsection, clause, sentence or phrase of this section is for any reason held to be unconstitutional that decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section and each subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences, or phrases be declared unconstitutional.

15793. Whenever, subsequent to the date on which a conditional apportionment becomes final, any territory is withdrawn from a nonstate-aided district and annexed to the state-aided district, the

assessed valuation in the territory so annexed shall be included with the valuation of the state-aided district for the purposes of making the computations provided by Sections 15729 to 15733.

15794. The Controller shall compute, in accordance with Sections 15791, 15792, and 15793, the amount of the annual repayment due the state on account of the apportionment or apportionments to each state-aided district and shall deduct from the respective apportionments made from the State School Fund under Sections 46304, 46305, and 92 or 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, to the state-aided district and an acquiring district the portion thereof for which each is liable under this article.

15795. (a) When, after any application is filed, the applicant district is annexed to, or, by change of boundaries or otherwise, is included in whole or in part in another district or districts, the superintendent of schools of the county having jurisdiction over the applicant district shall, within 10 days after the effective date of the annexation, inclusion, or change of boundaries, file a certificate with the board, in writing, in the form that the board shall prescribe, setting forth each of the following:

(1) The effective date of the annexation, inclusion, or change of boundaries.

(2) Identification of the area of the school district affected by such change and the name of the school district or districts in which such area is included as a result thereof.

(3) Any additional information in any form that the board may require.

(b) The board shall, upon receiving the appropriate certificate from a county superintendent of schools as provided herein, promptly notify the Controller, in writing, of each of the following:

(1) The effective date of annexation or other inclusion of a state-aided district by an acquiring district.

(2) The name of the state-aided district.

(3) The name of the acquiring district.

(4) The number and other identification of the apportionment affected.

CHAPTER 5. STATE SCHOOL BUILDING FINANCE COMMITTEE

15900. For the purpose of creating a fund to provide aid to school districts of the state, the State School Building Finance Committee, created by Section 15909, shall be and it hereby is authorized and empowered to create a debt or debts, liability or liabilities, of the state in the manner and to the extent hereinafter provided, but not otherwise, nor in excess thereof.

15909. There is hereby created a State School Building Finance Committee composed of the Governor, Controller, Treasurer, Director of Finance, and Superintendent of Public Instruction, all of

whom shall serve thereon without compensation and a majority of whom shall be empowered to act for the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the speaker, shall meet and advise with the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, these Members of the Legislature shall constitute an interim investigation committee on the subject of this chapter and as such shall have the powers and duties imposed upon these committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide any assistance to the State School Building Finance Committee that it may require. The Attorney General of the state shall be the legal adviser of the State School Building Finance Committee.

CHAPTER 6. STATE SCHOOL BUILDING AID LAW OF 1952

Article 1. General Provisions

16000. This chapter may be cited as the State School Building Aid Law of 1952.

16001. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to aid school districts of the state in providing necessary schoolsites and buildings for the pupils of the public school system, this system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

In adopting this chapter, the Legislature considers that the great need in school construction is for classrooms for the education of the pupils of the public school system. It is the intent of the Legislature to first satisfy this primary need to the greatest extent possible before providing additional educational facilities, regardless of how desirable such additional facilities may be. To the end that school classrooms may be made available at once and to all school districts in need of such classrooms, provisions for other needed school facilities is necessarily subordinated.

16002. As used in this chapter:

(a) "Board" means the State Allocation Board.

(b) "Director" means the Director of Education for kindergarten and grades 1 to 12, inclusive.

(c) Notwithstanding any other law, the term "project" shall be deemed to include any or all of the purposes for which a school district has applied for apportionments under this chapter, pursuant to any regulations that the State Allocation Board may adopt.

(d) "Grade level maintained by a district" means any of the following:

(1) The kindergarten, if any, and grades 1 to 6, inclusive, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district.

(2) Grades 7 to 12, inclusive, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, maintained by a high school district or unified school district.

However, not more than one grade level shall be claimed by any district under any one of the paragraphs of this subdivision.

(e) "Apportionment" means an apportionment made under this chapter unless the context otherwise requires. The term "apportionment" in Sections 16091, 16097, 16099, 16100, 16104, 16105, and any other section in this chapter where the context justifies, shall be deemed to include funds of a school district required by the board to be contributed toward the purposes thereof. It is hereby declared that this construction is not intended as a change in the present law but rather as a declaration of existing law.

16002.5. For the purposes of this chapter, the term "basic bond requirement," means 5 percent of the assessed valuation of taxable property of the district for each grade level maintained by a district, as shown by the last equalized assessment of the county or counties in which the district is located, and as modified by Section 41201 or Section 84201.

16003. With respect to applications filed on and after the effective date of this section by a unified district and any apportionments and repayments made under the applications, "grade level maintained by the district" means the kindergarten, if any, and grades 1 to 12, inclusive, maintained by the district.

A unified district if otherwise eligible, may apply for and receive an apportionment for either one or both of the grade levels.

This section shall not apply to a unified district during the first three years following the effective date of this section, or during the first three fiscal years in which the district is in existence for all purposes, if the governing board of the district transmits to the board a written notice stating the district desires to be exempted from this section during that period.

16004. Notwithstanding any provision of this chapter to the contrary, the board shall review each application and shall take action to insure that apportionments are not made that will provide for construction of permanent facilities to meet temporary peak enrollments at any site or at any grade level. In cases deemed by the board to be hardship cases involving high school or unified school districts where the district will not be able to house high school pupils under basic area limitation formulas prescribed in this chapter, the board may make apportionments for high school facilities in excess of the limitations. In that event, the board may provide for the construction of portable facilities at any particular site for which the apportionments are made, particularly where the board determines that there will be, within a six- to nine-year period immediately

following the apportionment for facilities at the site, a diminution in enrollment at the site justifying relocation of facilities. In no event shall the board have any authority to make an apportionment for construction area at a high school attendance center which, when added to the area of adequate school construction at that center, would exceed the area permitted therefor by Sections 16053 and 16054.

16005. The Director of General Services shall administer this chapter and shall provide any assistance to the board that it may require.

16006. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the State School Building Aid Fund.

16007. The board by the adoption of rules shall give priority in allocating funds to districts to those districts where the children will benefit most from additional schoolhouse facilities. This priority shall be based on acuteness of overcrowding, on rapidity of growth in attendance, and on the time the district's application has been ready for allotment. The board may make exceptions when it determines that it will be for the benefit of the children affected.

The State Department of Education shall assist and cooperate with the board in determining priorities.

16008. In allocating funds under this chapter, the board may give first priority to school districts for the replacement and repair of school buildings and necessary facilities appurtenant thereto damaged by any earthquake occurring subsequent to July 1, 1952. All of the provisions of this chapter apply to the districts except the provisions for the establishment of priorities.

Prior to making any apportionment under this section, the State Allocation Board may secure from the Department of General Services, a report showing the urgency of the work of replacement or repair for which an application has been filed. The report shall not be conclusive upon the State Allocation Board, but shall be advisory only.

16009. In addition to any other powers and duties that are granted the board by this chapter, the board shall:

(a) Establish any qualifications not in conflict with other provisions of this chapter that it deems will best serve the purposes of this chapter for determining the eligibility of school districts to apportionments of funds under this chapter.

(b) Establish any procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter that it deems necessary and which are not

in conflict with the powers and duties of the State Department of Education or of the director granted or imposed by this chapter.

(c) Adopt any rules and regulations for the administration of this chapter, requiring the procedure, forms, and information, that it may deem necessary.

16010. The State Department of Education, in addition to any responsibilities or approvals required under Sections 39000 to 39323, inclusive, shall provide the following services to school districts making applications for apportionments under this chapter:

(1) It shall assist school districts in organizing a comprehensive planning effort. It shall guide a planning process through its appropriate steps and, when requested by a school district, it shall provide the school district with sources of expertise, either public or private, which may be able to contribute to the development of plans to find solutions for specific problems a school district may have.

(2) It shall provide continuing research in relation to all phases of educational programs and the school facilities that are required to implement these educational programs.

(3) It shall provide a review and evaluation service to school districts to assure the effectiveness of the facilities that have been provided in accommodating educational programs.

(4) It shall provide communication media through publications, seminars, and prepare planning guides and procedures containing recommendations, which guides shall be used to disseminate educational planning information to all school districts.

16011. Each school district which desires an apportionment of funds under this chapter shall, unless specifically exempted by the board, prepare a long-range comprehensive master plan for the district prepared in accordance with acceptable planning procedures. Information relating to the following factors should be included in this master plan:

(a) A statement of the educational programs and goals of the district in relation to its programs, both current and future.

(b) A comprehensive evaluation and report of the utilization of the school facilities now existing in the district.

(c) A comprehensive demographic study of the district, as it currently exists and as projected into the future.

(d) A policy statement regarding actual or potential human problems.

(e) A policy statement as to the priority in which the district proposes to solve its school housing problems.

(f) A policy statement regarding cooperation with other local public agencies to achieve total community development.

(g) A policy to insure continuous review so that plans will be kept up to date and changing conditions will be reviewed and accommodated by appropriate revision of plans.

The director shall review the long-range master plan and project development plan and shall report his or her findings and recommendations thereon to the board.

16012. The board shall prescribe instructions specifying the manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the apportionment. The net proceeds derived from the disposition shall be contributed in reduction of any apportionment. Any school district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state, by any instruments deemed appropriate by the board, title to property, whereupon, the board shall dispose of the property in any manner it deems appropriate to insure the highest return to the state, and apply the proceeds therefrom in reduction of apportionments to the district. The district affected shall do all things deemed necessary by the board to implement the disposition. Whenever the board determines it to be in the best interests of the state, an apportionment may be made for the demolition of any facilities replaced through an apportionment. This section shall be applicable to property replaced by apportionments heretofore or hereafter made under this chapter or Chapter 6 (commencing with Section 15700) of this part.

16013. Notwithstanding any other provisions of this chapter, the board may grant priority in the apportioning of funds to school districts to those districts which have sold facilities replaced under a previous application and have applied the proceeds therefrom in reduction of prior apportionments to the district. Apportionments so made shall not be in excess of the amount of the proceeds which were applied to prior apportionments subsequent to July 1, 1970, and shall be made only for projects which were approved by the board prior to July 1, 1970.

16014. Apportionment from the State School Building Aid Fund to school districts shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board, for the following purposes, all of which purposes are hereby declared to be, and are, public works:

(a) The purchase and improvement of schoolsites which have been approved by the State Department of Education.

(b) The purchase of necessary desks, tables, chairs and other movable furniture and equipment, as approved by the State Department of Education.

(c) The planning and construction, reconstruction, alteration of, the moving of portable classroom buildings on an existing site or to another schoolsite, and addition to, school buildings, including built-in or fixed equipment, for any facilities that are approved by the State Department of Education as essential, except a room used solely for an auditorium for a school of any type or class and a room used solely for a gymnasium or a room used solely for a cafeteria for

elementary schools. This section does not prohibit the State Department of Education from approving multipurpose rooms which are rooms designed to be used for two or more of the following purposes:

(1) Classroom.
(2) Auditorium.
(3) Gymnasium.
(4) Cafeteria.
(5) Any other purposes that district requires which are approved by the State Department of Education.

Where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering the insurance. However, in other respects the apportionments are eligible for payment under this chapter.

In addition to the foregoing, the board may make an apportionment to a school district for the purchase from another school district of existing facilities, real or personal, including the site thereof, or any portion of any of the foregoing, providing that the board finds that it is economical and good practice on the part of the acquiring district to purchase the same, and that the consideration to be paid in the light of all the circumstances surrounding the transfer is fair and equitable both to the acquiring district and to the state.

16015. Notwithstanding any other provisions of this chapter, the board may make an apportionment to any school district for the cost of leasing portable classrooms during the period in which additional school facilities are being constructed by a previously approved project, provided that each of the following conditions is satisfied:

(a) The district has received a final apportionment for the previously approved project and the construction of which has not yet been completed.

(b) Estimates of average daily attendance used for justifying the previously approved project indicate either of the following:

(1) An increase over the base period of projection of at least 15 percent.

(2) A substantial number of district classes being on triple session during the period of construction, as determined by the State Allocation Board.

(c) The district is making maximum use of its existing facilities through the operation of one or more continuous school programs.

Any apportionment made to a school district pursuant to this section shall be added to the final apportionment for the previously approved project specified in subdivision (a), and the repayment thereof by the school district shall be made under the same terms and conditions as prescribed for the final apportionment.

16016. A leasehold or use permit interest held by a school district in land owned in fee simple by the government of the United States may, for all purposes of this chapter, be deemed a purchase of land by the district and to vest title and ownership in the district.

16017. The board shall not make any apportionment with respect to an application for replacing inadequate school facilities unless it has first investigated and made a finding that it would not be economical or good practice to rehabilitate said facilities.

16018. In addition to the purposes for which apportionments may be made to school districts under Section 16014, apportionments may also be made to school districts for the construction, repair, attachment or development of offsite facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

16019. In making applications for, and in expending apportionments of funds under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state.

The Director of General Services shall file with the county recorder of the county in which any site purchased or improved through the expenditure of funds apportioned under this chapter is located a certificate, properly acknowledged, indicating the state's interest in real property of the district by virtue of this section, without the necessity of particularizing the real property. The recorder shall record and index the certificate in the same manner as abstracts of judgments and the certificate shall constitute constructive notice of the state's interest in the particular real property affected. The certificate shall as to any party thereafter acquiring real property or any interest therein in the county from the school district have the same force, effect and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution. This effect shall commence upon recordation and continue until the certificate is discharged or released as provided herein.

Upon request the Director of General Services shall do each of the following:

(a) Issue a release of the state's interest in any real property or a portion thereof that the district has been authorized by the board to dispose of under Section 16105, provided that delivery of the release may be subject to any conditions that may be prescribed by the board to protect the state's interest.

(b) Issue a disclaimer of the state's interest in any real property or a portion thereof of the district, the disposition of which the board is

not required to consent to under the terms of Section 16105, provided that the delivery of the disclaimer may be subject to any conditions that the board deems appropriate to protect the interests of the state, including conditions relating to the amount of consideration to be received from the disposition where the board asserts an interest in the proceeds of the disposition under other provisions of this chapter. The release or disclaimer shall conclusively protect any third party relying upon the same and shall be acknowledged to permit recordation by the county recorder.

Upon payment by the district of all amounts required to be paid by it or on its behalf to the state under this chapter each of the following shall occur:

(a) The Director of General Services shall file with the recorder a release of any certificate. The release shall be recorded and indexed in the same index as the certificate.

(b) The title to personal property purchased by the school district with funds apportioned under this chapter shall revert to the school district without further action by the state.

16020. The board may require school districts to insure for the benefit of the state all sites, equipment, and buildings which are under Section 16019 the property of the state, against any risk and in any amounts that the board may deem necessary to protect the interests of the state. No state funds apportioned under this chapter shall be used to pay the premiums on the insurance.

16021. A school district shall not expend money apportioned under this chapter unless the contracts under which the funds are expended have been let after competitive bids thereafter pursuant to this code.

16022. Funds apportioned to a school district under Section 16024 for a project, remaining unencumbered or unexpended one year from the date the application of the district for apportionment was approved, shall not be encumbered or expended except as provided in this section.

The governing board of the district shall notify the board of its desire to encumber or expend funds. The board shall immediately request the State Department of Education to, and the department shall, review the project for which apportionment was made. If the State Department of Education finds that the conditions existing at the time it approved the project for which the apportionment was made have so changed that the needs of the district are less than originally determined, it shall notify the board of its findings and of the respects in which the project should accordingly be modified. The board shall review the project and revise the project in any manner that it deems necessary subject to Section 16067, and make any changes in the purposes for which the apportionment may be expended that it deems necessary. The cost of the project as revised by the board shall be computed in the manner prescribed by Section 16024 and the excess, if any, of the amount theretofore apportioned

to the district over the computed cost of the revised project shall be deducted by the board from the apportionment made to the district. The board shall give notice of its action, in writing, to the Controller, the governing board of the district, and the county auditor and the county treasurer having jurisdiction over the state school building fund of the district. If the amount of the excess, or any portion thereof, has not been paid to the district, the excess, or portion thereof, shall be made available for apportionment to other districts, if the excess, or portion thereof, has been paid to the district, it shall not be encumbered or expended by the district and shall become due and payable to the State of California. The governing board of the district and the county treasurer shall pay the amount to the Treasurer, out of the funds, and in the manner specified in Section 16100. The payment shall, on order of the Controller, be deposited in the State School Building Aid Fund in the State Treasury.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

This section does not authorize the board to increase any apportionment made to a school district.

16023. Notwithstanding any other provisions of this chapter, a district may apply, on a separate application, for an apportionment for the purchase of laboratory and vocational training equipment, whether or not the equipment is for use in connection with a construction project.

All of the provisions of this chapter apply to the application and apportionment except that:

(a) Any application for the equipment pursuant to this section which is received by the board shall be transmitted to the State Department of Education. If the State Department of Education approves the application, it shall refer it to the board which shall either approve or reject the application pursuant to Section 16024. Any provision of Section 16024 inconsistent with this section shall not apply to the application.

(b) Section 16007 does not apply.

(c) If the application is approved and an apportionment granted therefor the district shall repay the full amount of the apportionment and the interest thereon. The repayment of the apportionment, and the interest thereon, may be over a period of years, not to exceed 20 years from the first day of January of the fiscal year next succeeding the fiscal year in which the apportionment became final. The number of years allowed for repayment shall be determined by the board at the time it fixes interest on the apportionment. The repayment is in addition to any other repayment required under this chapter.

16024. Each school district that desires an apportionment for a grade level maintained by it, shall submit through its governing board to the board an application therefor in the form and number

of copies as the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project for which the district desires an apportionment. Before the board approves an application for a construction project and makes an apportionment pursuant to this chapter, it shall, after consultation with the Department of General Services, establish standards for all new construction included therein. After this consultation the board shall establish current construction cost standards for that construction. The standards shall not exceed typical comparable new construction by school districts in the same area not receiving or eligible for apportionment under this chapter, or if there has been no new construction by school districts in the area, the standards shall not exceed the reasonable current cost of similar construction in the area. The board shall determine these typical current costs or reasonable current costs. In applying those standards the board shall take into account the size and type of the construction proposed and may make deviations as in their judgment are justified. When a standard has been set by the board to cover any individual apportionment, no apportionment shall be made by the board in excess of that standard, unless the board shall find that in view of a rapid increase in building costs an adjustment is warranted. Immediately upon receipt of an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the director and to the Director of General Services.

A school district shall not let any contract for new construction included in an application for a construction project that has been approved by the board if the cost exceeds the construction cost standards fixed by the board under this section for that new construction.

A school district may at any time amend or supplement its application.

Each construction project for which a district applies for an apportionment shall be applied for on a separate application and shall be considered separately by the board. If a district applies for more than one construction project, at the same time or at different times, the priority points of the district shall be recalculated after the approval of each separate construction project and before a subsequent construction project is approved.

The board shall require the changes in the plans that an applicant school district submits with its application as the board determines is necessary or desirable to reduce the cost of the project. The board may also, by rule, provide for the vesting in the director or in the Director of General Services of the responsibility for requiring those changes, according to whether the subject matter of the change is subject to the jurisdiction or approval of the director or the Director of General Services, respectively.

The board may, for good cause as it shall determine, reduce the amount of, or modify any provisions relating to, any contribution required of a school district under the terms of an apportionment, other than any contribution required of the district under Section 16058 from the sale of bonds. However, the board may not, without the consent of the district, increase the amount of any district contribution under the terms of an apportionment, in the absence of mistake arising from any source, or misrepresentation, concealment, or omission, on the part of the district, intentional or otherwise. The provisions of this paragraph shall be applicable to apportionments heretofore or hereafter made.

The Director of General Services shall determine the school district's financial ability to meet all or a portion of the cost of the project and the amount that the school district can contribute toward the cost of the project out of its available funds, and shall submit his or her report thereon to the board.

The term "available funds" as used in the preceding paragraph means funds of the district other than funds received by gift or bequest.

The director shall, as promptly as possible, prepare a report and recommendation with respect to the application and refer the application, report, and recommendation to the Director of General Services, who shall, if he or she finds the documents to be in proper form and otherwise sufficient, refer them to the board. If the director finds the documents to be lacking in any respect as to any matter that is subject to the jurisdiction or approval of the director or the State Department of Education, or the board of governors, as appropriate to their jurisdiction, he or she shall refer them to the director who shall take action as may be necessary. Subject to this chapter, the board shall approve or reject each application referred to it by the director. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the State School Building Aid Fund the amount applied for, or any portion thereof as the board may deem appropriate. However, it may order that the apportionment or any part thereof shall be paid in progressive installments at the time and under the conditions as it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 16058 is favorable and if bonds are authorized and sold in the amounts prescribed by the board, and the proceeds of the bonds sold earmarked for the project as approved. The conditional apportionment shall remain effective for a period of 12 months from the date of the resolution of the board, and if it does not become a final apportionment by that date, it shall become void and the money so apportioned shall become again available for apportionment pursuant to this chapter.

16025. Notwithstanding any other provisions of this chapter, a school district otherwise eligible to receive a conditional

apportionment under this chapter may apply for an adjustment of annual repayment obligations in lieu of receiving the conditional apportionment.

The board may require any information that is necessary to determine the number of units of estimated average daily attendance for which the district would have been eligible to construct school facilities under this chapter, if the conditional apportionment had been made and had become final. These units shall be known as "eligible attendance units."

The board shall then determine an "eligible facilities cost" by multiplying the number of the eligible attendance units by the average cost of housing elementary or high school pupils as set forth in the latest report to the Legislature required under Section 16098.

In any fiscal year in which the school district is in the judgment of the board operating sufficient year-around classes to provide housing for the eligible attendance units aforementioned, the Director of General Services shall add to the amount which he or she is required to certify to the Controller under Sections 16072, 16084, and 16086 an amount equal to one-twentieth of the eligible facilities costs.

The additional amount so certified shall be considered for all purposes of this chapter as eligible bonded debt service.

16026. Notwithstanding any other provisions of this chapter, any school district whose governing board has adopted and put into effect a year-round school operation plan or continuous school program, as defined in Section 16030, or has adopted a plan or program for operation in the following school year, may apply to the board and the board may provide financial assistance in furnishing and installing an air cooling system in those facilities which will be so operated, so long as the construction of the facility was commenced prior to December 31, 1972. Financial assistance provided by the board may be in any of the following forms:

(a) An apportionment pursuant to Section 16024.

(b) An authorization to use proceeds from the sale of district bonds.

(c) An authorization to use the net proceeds derived from the sale of unused schoolsites whether or not there are unpaid apportionments outstanding against the sites.

The board shall establish cost standards applicable to the furnishing and installing of air cooling systems in existing schools. No apportionment or authorization shall be made by the board in excess of the standard established for the apportionment.

16027. In any fiscal year in which the school district is conducting a year-round school operation or continuous school program, as defined in Section 16030, utilizing a facility for which financial assistance was provided by the board under Section 16026, the Director of General Services shall add to the amount which he or she is required to certify to the Controller under Sections 16072, 16084

and 16086 an amount equal to the debt service for retirement of bonds authorized for use under Section 16026.

16028. Any authorization of the proceeds derived from the sale of an unused site pursuant to Section 16026 shall constitute a conversion of the unpaid portion of the apportionment to the application for an air cooling system as if an apportionment had originally been made therefor. The converted apportionment shall be repaid pursuant to Section 16069 irrespective of Section 16105.

16028.5. Whenever a school district has received an increased building cost allowance pursuant to Section 16024 or 16026 for the purpose of providing facilities for year-round school operation as defined in Section 16030, and in any fiscal year subsequent to the fiscal year in which the facilities are completed fails to conduct a year-around school operation, the Director of General Services shall in the following fiscal year deduct an amount from the eligible bonded debt service of the district equal to one-twentieth of the amount of the increased cost allowance plus interest thereon. The total amount to be deducted in subsequent fiscal years after the completion of the facilities shall not exceed seven-twentieths of the amount of the increased allowance, plus interest.

16029. Notwithstanding any other provisions of this chapter, a school district qualifying for an adjustment of annual repayment obligations under Section 16025 or 15731 may apply for an apportionment under this chapter.

The apportionment shall not exceed the "eligible facilities cost", as defined in Section 16025 or 15731, and may be made available, upon the review and recommendation of the State Department of Education, only for the modifications of existing facilities necessary for the implementation of continuous school programs (as defined in Chapter 5 (commencing with Section 37600) of Part 22).

In allocating funds under this chapter, the board may give first priority to school districts for modifications to existing facilities to be made pursuant to this section when in the judgment of the board the modifications of existing facilities are necessary for operation of year-round classes. In no event shall apportionments be made for modifications to a standard greater than could have been constructed in a new school building under this article. All of the provisions of the chapter apply to the districts except the provisions for the establishment of priorities.

Any apportionment made under this section shall be deducted from the eligible facilities costs before the Director of General Services makes his or her computation of the adjustment under Section 16025 or 15731.

16031. Notwithstanding any provision of this chapter to the contrary, no school district shall be required, except as provided in this section, to contribute toward the cost of a project for which an application for an apportionment is filed, any of the following funds of the district:

(a) Amounts in the general fund of the district which are apportionments from the State School Fund.

(b) Amounts in the general fund of the district which are the proceeds of a tax levy and have not been earmarked by the governing board of the district or the electors of the district for any purposes for which school district bonds may be issued and sold.

In considering an application for an apportionment the board may review the purposes for which the district has expended or encumbered proceeds from the sale of district bonds authorized to be issued at an election held on or after September 3, 1952. Upon a finding by the board that any such proceeds have been expended or encumbered for purposes outside the scope and intent of this chapter, the board may require the district to contribute toward the project for which an apportionment is sought from any funds of the district, except those referred to in subdivision (a) above, an amount equal to the amount of district bonds proceeds expended or encumbered for purposes outside the scope and intent of this chapter. Proceeds from the sale of district bonds which have been encumbered or expended for the purchase of schoolbuses authorized by Section 15100 shall be deemed encumbered or expended for purposes outside the scope and intent of this chapter.

If a district is required pursuant to this section to make a contribution toward the project for which an apportionment is sought as a result of the purchase prior to January 1, 1967, of schoolbuses authorized by Section 15100 out of proceeds from the sale of district bonds, the district at the time that the board determines that the contribution is required may agree to pay the required contribution by payment into the State School Building Aid Fund by 10 or less annual installments payable without interest over a period not exceeding 10 years after the date of the final apportionment. The first installment shall be due and payable one year after the date of the final apportionment. The installment payments shall be made by the governing board of the district from moneys in the general fund of the district if money is available therefor. If the governing board of the district determines that money is not available in the general fund of the district for such purposes, the maximum rate of school district tax for any school year is hereby increased for any school year by such amount not to exceed the amount of the proposed payment into the State School Building Aid Fund as shown by the budget for such school year as finally adopted by the governing board of the district, less any unencumbered balances remaining at the end of the preceding school year derived from the revenue from the increase in the rate of tax provided by this section.

16032. Notwithstanding any other provisions of this chapter, whenever the board makes a finding pursuant to Section 16031 that proceeds from the sale of district bonds have been expended or encumbered by a school district for purposes outside the scope and intent of this chapter the board, in lieu of requiring the district to

contribute toward the project for which an apportionment is sought from any funds of the district, may stipulate that such bond funds expended or encumbered shall not be considered as "eligible bonded debt service" as defined in Section 16070 and 16084.

16033. The expenditure by a school district, prior to the filing of an application for an apportionment under this chapter, of proceeds from the sale of district bonds for the construction of a swimming pool, shall not in and of itself constitute grounds for denying an apportionment, but the board may require a contribution of district funds therefor under Section 16031.

16034. Before the board approves an application for a furniture or equipment project, or an application for a new construction project, including furniture and equipment, and after consultation with the State Department of Education, it shall establish current furniture and equipment cost standards. Such standards shall not exceed the quantity and quality of furniture and equipment for comparable facilities purchased by school districts not receiving or not eligible for an apportionment under this chapter. Such standards shall consist of equipment costs for each type of classroom or pupil station which represents a differential in costs. The standards shall be reviewed quarterly by the board and adjustments made in accordance with current cost standards. When standards have been adopted by the board, no apportionment shall be made by the board in excess of such standards unless a rapid increase in costs warrants an adjustment.

Before the board approves an application for furniture and equipment in connection with an application for the replacement of, reconstruction of, alteration of, or addition to, a school building, the State Department of Education, after full consideration of all the furniture and equipment existing in the applicant district that is in usable condition, shall recommend the amount that shall be approved in the application. The board may approve all or a portion of the amount so recommended.

16035. The board may approve, in whole or in part, an application submitted by a school district under Section 16024 and in such amount, not exceeding the amount applied for, as the board may deem appropriate.

The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount determined by the board, to the applicant school district from the State School Building Aid Fund for that portion or portions of the construction project as the board determines the district is ready to proceed with. If the board has approved an application and made an apportionment as to a portion or portions of a construction project, the board may approve the remaining portion or portions of the construction project and make an additional apportionment or apportionments within five years

after the original approval without requiring a district to issue additional bonds. The board may also make an additional apportionment or apportionments for a period of time in excess of five years after the original approval without requiring a district to issue additional bonds if it has made a finding that the additional apportionment or apportionments are justified by virtue of the fact that state funds were not available for apportionment within the two-year period after the original approval because of the inability of the state to sell authorized state bonds within the maximum permitted interest rate.

If the board determines that the actual cost is in excess of the estimated cost of the specific school plant facilities or sites for which an apportionment to a district has been made, or for which a district's application has been approved in whole or in part pursuant to this section, the board may make an additional apportionment to the district in an amount equal to the excess even though the additional apportionment will result in the total apportionments to the district exceeding the amount of the application originally approved by the board. Before the additional apportionment becomes final the district, pursuant to Section 16058, shall hold an election to repay the amount of the additional apportionment which is in excess of the amount which the district has previously voted to repay. The additional apportionment shall become final when the county superintendent of schools transmits to the board and the Controller a certificate in duplicate stating that the school district has authorized the acceptance and expenditure of the necessary amount of the excess. If the additional apportionments are made by the board within five years after the original approval, except an apportionment made final pursuant to subdivision (c) of Section 16058, the district shall not be required to issue additional bonds.

Except as otherwise provided in this section, all provisions of this chapter relating to apportionments shall apply to apportionments made under this section.

Whenever an apportionment has heretofore been made or is hereafter made to a district for a site and the district heretofore or hereafter proposes to acquire the site through negotiation or condemnation but the total acquisition cost thereof, plus all other costs incidental to either the acquisition or condemnation of the site, exceeds or exceeded the apportionment for the site, the board may at any time hereafter make an additional apportionment to provide for the differential in total acquisition cost without the district being required to issue additional bonds to qualify, providing the board finds (1) that it is in the interest of the state to proceed with the acquisition despite the acquisition costs, and (2) that the district is unable to provide, or it would be a hardship to require it to provide, the excess costs. The board may also, in its discretion, as a condition of making the apportionment, require the district to repay in full all or any part of the excess apportionment, under the terms and

conditions that the board deems desirable, and the district shall be empowered and obligated to comply if it accepts the excess apportionment, notwithstanding any other law to the contrary; provided, (1) that no the repayment shall be required from any source that would be exempt from required contribution toward the cost of a project under Sections 16024 and 16031 (excepting amounts in the General Fund raised by taxes to pay any judgment requiring the repayment), and (2) that any portion of the apportionment not required to be repaid in full, shall be repayable in the same manner as a construction apportionment.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

16036. The board shall, after consultation with the State Department of Education, establish site cost standards which shall be used in evaluating the cost in relationship to the size of any site to be acquired wholly or partially with funds apportioned under this chapter. In determining the standards, consideration should be given to the following factors:

(a) The grade level of the school.
(b) The location of the school.
(c) The enrollment to attend the school.
(d) The purchase price of each acre of the site.
(e) The site development cost.
(f) Land use in the area.

16037. Notwithstanding any other provision of this chapter, whenever the board has made an apportionment more than two years after the original approval of and apportionment for any construction project, and pursuant to Section 16035 has required the district to issue additional qualifying bonds as a condition of the apportionment, the board may continue to make apportionments as it may consider necessary to complete the approved construction project without requiring further qualification by the district, provided the apportionments are made within two years of the date upon which the additional qualifying bonds were required.

16038. Notwithstanding the provisions of Section 16035, if the board has approved an application for a construction project and has made an apportionment therefor, the board may make an additional apportionment or apportionments for a period of time in excess of two years after the original approval without requiring a district to issue additional bonds; provided that: (1) the approved project provides for the structural rehabilitation of an unsafe school building, and (2) the apportionment is necessary to cover costs resulting from additional items of work necessary for compliance with structural safety requirements, and the need for such additional work was not foreseen at the time of the original apportionment.

16039. Notwithstanding any other provisions of this chapter, a district which applies for an apportionment for the purchase of a site or for the cost of the preparation of plans and specifications, which is not a part of a construction project, shall make a separate application for the site or plans and specifications in the same manner as prescribed by Section 16024.

All of the provisions of this chapter apply to that application and apportionment except that:

(a) If the State Department of Education determines that within five years in the case of an application for an elementary grade level maintained by the district, or within seven years, in the case of an application for a high school grade level maintained by the district, from the date of the application for the site or for the plans and specifications, there will be sufficient enrollment in the district, based upon enrollment projection criteria adopted by the board, to show the need of such site or for the plans and specifications, it may approve the application. The board may modify a determination respecting future enrollment in connection with an application for an elementary grade level maintained by the district to utilize a period of seven years from the date of the application if it is necessary to meet the emergency conditions existing in that certain district due to a rapid increase in the enrollment of pupils, or due to the scarcity of land within the district, or both. Any application referred to the board pursuant to this section may be either approved in whole or in part, not exceeding the amount applied for, as the board may deem appropriate, pursuant to Sections 16024 and 16035, except that the board may approve additional portions of an application and make an additional apportionment or apportionments within five years of the original approval without requiring a district to issue additional bonds. No additional approval pursuant to the original application or apportionment thereunder may be made unless the board first has investigated and determined the necessity of the additional approval or apportionment, and has received a report thereon from the State Department of Education. Any provision of Section 16024 inconsistent with this section does not apply to that application. As used in this section, an "elementary grade level maintained by the district" is a grade level composed of the grades and maintained by the districts specified in clause (1) of subdivision (e) of Section 16002. As used in this section a "high school grade level maintained by the district" is a grade level composed of the grades and maintained by the districts specified in clause (2) of subdivision (e) of Section 16002.

(b) Section 16007 does not apply.

(c) An application for a site pursuant to this section may include an amount for the preparation of plans and specifications for school facilities and for the development of the site, which will conform to those eligible for construction under this chapter.

(d) If the application is approved and an apportionment granted therefor the district shall repay the full amount of the apportionment

and the interest thereon. The repayment of the apportionment for a site and the interest thereon, may be over a period of years, not to exceed 30 years from the first day of January of the fiscal year next succeeding the fiscal year in which the apportionment became final. The repayment of the apportionment for plans and specifications, and the interest thereon, may be over a period of years, not to exceed 30 years from the first day of January of the second fiscal year succeeding the fiscal year in which such apportionment became final. The number of years allowed for repayment shall be determined by the board at the time it fixes interest on the apportionment. The repayment is in addition to any other repayment required under this chapter. If an apportionment is granted pursuant to this section for a site and the site is subsequently used in a construction project for which an apportionment is received under other provisions of this chapter, or if an apportionment is granted pursuant to this section for plans and specifications and the plans and specifications are subsequently used in a construction project for which an apportionment is received under other provisions of this chapter, the district shall not be required to make any further repayments for the site, or the plans and specifications, as the case may be, pursuant to this section and the unpaid balance of the apportionment and interest owing on the apportionment for the site, or the plans and specifications, as the case may be, pursuant to this section shall be added to the principal amount of the apportionment and accrued interest thereon for the construction project. The site is "subsequently used in a construction project" within the meaning of the preceding sentence, if it is used in connection with a construction project at the same grade level by any district receiving a construction apportionment therefor, as this is not intended as a change in the present law, but as a statement of the existing law. In addition, the site is "subsequently used in a construction project" within the meaning of that reference, if it is used in connection with the construction project by any district receiving a construction apportionment therefor at a different grade level, providing that in the latter instance the board in its discretion consents by resolution to the combination of the site and construction apportionments.

16039.5. Notwithstanding the provisions of Section 16039, if the board has made apportionments pursuant to the section for purchase of a site or preparation of plans and specifications and the district after January 1, 1977, (1) begins construction on the site of facilities which are justified by the maximum building areas set forth in Sections 16047, 16052, 16053, and 16054, or (2) uses the plans and specifications for the construction of the facilities using, in any case, funds other than an apportionment, the site or plans and specifications shall be deemed to be "subsequently used in a construction project" within the meaning of Section 16039. In these cases, the balance of the principal amount of the apportionment for the site or plans and specifications, and accrued interest thereon,

shall not be payable pursuant to Section 16039, but shall be added by the Controller to, and become a part of, any apportionment for construction pursuant to Section 16041, as if an apportionment had been made for the construction and had become final upon the date construction began.

16040. In any month in which the priority point procedures prescribed by Section 16007 are utilized, the board may apportion to school districts, under Section 16039, not more than the sum of four hundred thousand dollars ($400,000); provided that any amount apportioned or made final pursuant to subdivision (c) of Section 16058 shall not be subject to the limitation.

16041. If an apportionment is or has been made at any time after September 9, 1953, for construction on a site for which an apportionment was made pursuant to Section 16039, from and after the date the apportionment for construction becomes, or became, final, no repayment deductions by the Controller pursuant to Section 16080 attributable to the apportionment for the site shall thereafter be made, except that any the repayment deductions attributable to the site apportionment which would otherwise be made by the Controller during the fiscal year in which the construction apportionment becomes final shall be made during the fiscal year only. The balance of the principal amount of the apportionment for the site, and accrued interest thereon, shall be added by the Controller to and become part of the apportionment for construction, as of the date of the apportionment, and repaid in the manner otherwise prescribed by this article. The Controller shall promptly notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of any revision required by this section of any previous computation made by him or her pursuant to Section 16089.

16042. In addition to any powers granted the board under this chapter, the board shall have authority to make apportionments to school districts for the purchase of sites and construction or purchase of temporary and portable buildings thereon, or for the construction alone, and for the cost of site preparation, including necessary utility costs, in connection with their utilization. The board may establish standards in conjunction with the State Department of Education pertaining to said sites and facilities as a condition of making the apportionments.

In addition, the board may expend moneys from the State School Building Aid Fund directly for the construction, acquisition, storage, maintenance and repair of the buildings, and administrative costs relating thereto. In the event the board may lease, sell or transfer under a lease-purchase agreement the buildings to eligible school districts or to county superintendents of schools. Any agreements with school districts may provide for the payment by the state of site preparation costs, including necessary utility costs, sufficient to

permit the utilization of the facilities. Any building leased for placement on the school property or under a purchase or a lease-purchase agreement shall be deemed the construction or alteration of a school building as those terms are defined in Sections 17280 to 17313, inclusive. The consideration payable by either school districts or county superintendents for the facilities shall, as nearly as practicable, reflect an amount which would render to the state a fair return, as determined by the board, on its investment in said facilities and expenditures connected with their utilization, in the light of the benefits conferred by the agreement pertaining thereto.

The county superintendent of schools may contract with eligible school districts respecting and transfer to them by lease, lease-purchase or sale, facilities acquired by him or her from the board, provided that the agreements are not inconsistent with the rights of the state under any agreement between the superintendent and the board respecting the property. Repayments to the state as due shall be made by the county superintendent from the funds received from the affected school districts, and, if necessary to make the same when due, from the county school service fund, upon which he or she is authorized to draw requisitions for this purpose. The fund shall be reimbursed for the withdrawals from any payments made by the affected districts to the county superintendent not required when made for the discharge of any obligations of the county superintendent hereunder to the state.

No transfer of any property acquired directly by the board to any school district by lease or otherwise shall be made either by the board or county superintendents without the approval of the State Department of Education solely as to (1) the property to be transferred, including incidental construction, if any, connected therewith, (2) whether the same shall be by lease or sale, and (3) if less than a sale, the term of the lease, including any contingent or indefinite term.

The board, affected school districts, and county superintendents of schools are authorized to do any and all things necessary to carry out the purposes of this section. Payments required of any affected school districts under any agreement entered into pursuant to this section shall be made promptly when due. Whenever the board deems it economically desirable in the state's interest to do so, it may dispose of any facilities directly acquired by it to any public or private parties in the manner and under the terms as it deems best, providing that the disposition is not inconsistent with any agreements previously entered into under this section.

The term "eligible school districts" as used in this section, shall be deemed to refer to those districts which at the time an agreement contemplated hereunder is entered into would upon proper application have been eligible to receive an apportionment under this chapter, provided that solely for the purpose of determining the eligibility the board, or the county superintendent of schools in

agreements with districts hereunder, may waive construction area restrictions pertaining to apportionments under this chapter.

16043. If, after a conditional apportionment has been made to a school district, legal proceedings initiated prior or subsequent to the making of any conditional apportionment prevent the taking, within the period during which the conditional apportionment remains effective under Section 16024, of the actions necessary to permit the conditional apportionment to become final, the conditional apportionment shall nevertheless remain effective for a period of nine months from the date upon which such legal proceedings are finally determined. The amount of the apportionment may be diminished by the board after a second investigation at which the board shall determine whether conditions existing at the time it approved the project for which apportionment was made have so changed that the needs of the district are less than originally determined, and if so, the conditional apportionment shall be reduced by a corresponding amount.

16044. No apportionment shall be made for new construction which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of average daily attendance of the estimated average daily attendance in excess of that computed in accordance with Sections 16047, 16052, 16053, 16054, and 16055.

As used in Sections 16047, 16052, 16053, 16054, and 16055, "maximum area" means maximum area of school building construction and "attendance unit" means unit of estimated average daily attendance.

As used in this section and Sections 16053, 16054, and 16055, "attendance center" means a school maintained or to be maintained at a given location within a district. The State Department of Education shall approve or disapprove the allocation by an applicant district of units of estimated average daily attendance among the attendance centers of the district.

To the building area permitted to an applicant school district by Sections 16047, 16052, 16053, 16054, and 16055, there may be added any additional building area that may be required to provide adequate facilities for exceptional children pursuant to Article 3 (commencing with Section 16190) of this chapter.

No estimate of average daily attendance made by an applicant for the purpose of justifying an apportionment shall be made for a longer time than the third fiscal year beyond the fiscal year in which an application is made, except that an estimate for the purpose of justifying an apportionment for a grade level maintained by a unified district, under an application filed prior to September 15, 1961, or by a high school district composed of grades 7 to 12, inclusive, 9 to 12, inclusive, or 7 to 10, inclusive, or of justifying an apportionment for a unified district for a junior high school or high school project under

an application made on or after the effective date shall not be made for a longer time than the fourth fiscal year beyond the fiscal year in which the application is made. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter pupils attending grades 7 and 8 in an elementary district but residing in a high school district which maintains one or more junior high schools shall not be considered in determining or estimating the average daily attendance of the elementary district, unless the elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1959, or unless the electorate of the district, during the year 1974, has authorized the return of the seventh and eighth grade pupils from the high school district and the maintaining of grades 7 and 8 in the elementary district. When pupils attending grades 7 and 8 are so considered in determining or estimating the average daily attendance of the elementary district in making apportionment to the elementary district, these pupils shall not be considered in determining or estimating average daily attendance of the high school district in making an apportionment to the high school district for junior high school purposes.

The board shall develop statewide or areawide averages of pupil occupancy for family dwellings of various sizes and for mobilehomes of various sizes for use by applicant school districts in estimating the average daily attendance of family dwellings and mobilehome parks under construction or newly constructed and never occupied in the district.

16045. (a) The board by the adoption of rules shall provide for the manner of determining the area of adequate school construction existing in an applicant school district at the time of application. The rules shall define and provide for the method of determining building areas that are to be included in whole or in part, or to be excluded from the area of existing adequate school construction.

The board may make exceptions to this section or to the rules adopted pursuant to this section when it determines that the exceptions will be for the benefit of children affected.

For the purposes of this section, "service area" may be defined as any of the following:

(b) (1) Buildings which when constructed were intended to be used for a purpose to which the provisions of Sections 17280 to 17313, inclusive, would not apply, whether or not those sections were in effect at the time when the building was constructed.

(2) Buildings which when constructed were intended to be used for a purpose to which Sections 17280 to 17313, inclusive, would apply,

whether or not those sections were in effect when the building was constructed, but which building has been converted or is intended to be converted, as shown by the application, to use for purposes to which the sections would not apply. Service area may include, but is not limited to, construction used as bus garages, maintenance shops, centrally located district storage and warehouses, custodial houses, utility shelters, administration offices, transformer vaults, and service yards.

(c) In the event that a school district has expended funds for the purpose of constructing buildings used for housing certificated employees of the district and their families, the area of the buildings and the funds expended therefor shall be accounted for in the following manner:

(1) The area of the buildings constructed or acquired with the proceeds of a tax levied under Sections 14200 to 14240, 42200 to 42247, and 45020, inclusive, shall be excluded from the building area of the district.

(2) The area of the buildings constructed or acquired with the proceeds from the sale of school district bonds prior to July 1, 1961, shall be excluded from the building area of the district, however, the bond funds shall not be considered as "eligible bonded debt service" as defined in subdivision (d) of Section 16070 and Section 16084.

(d) The board shall exclude from the building area of a district:

(1) The area of any building which is or will be used exclusively for a parent cooperative nursery education facility, and for no other purpose, and which building at the time of acquisition thereof by the district was incidental to the purchase of a schoolsite and unsuitable for classroom purposes or which was acquired by the district without expenditure of school district funds.

(2) The area of any building which is or will be used exclusively for a preschool educational program facility pursuant to Chapter 4 (commencing with Section 54400) of Part 29, or Chapter 2.5 (commencing with Section 16150) of Part 4 of Division 9 of the Welfare and Institutions Code, or any combination thereof; provided, that the building was constructed, leased, or purchased with local general funds, or federal or state funds allocated specifically for a preschool educational program.

(e) The area of adequate school construction existing in a district at the time of application shall be initially computed as all of the construction area of a district except all of the following:

(1) The areas as may be eligible for replacement under standards established by the board.

(2) The areas in an existing structurally inadequate building for which an application has been filed for structural rehabilitation or in a building previously structurally rehabilitated under either Chapter 6 (commencing with Section 15700) or Sections 16000 to 16207, inclusive, that exceeds the maximum building area allowed by

Section 16044 for a number of pupils, equivalent to those that could be housed in the building after rehabilitation.

The board shall prescribe by rule the method of computing the number of pupils which could be so housed for the purposes of this subdivision.

(f) If the area of adequate school construction, when added to the minimum facilities needed by the district, results in a total construction area in excess of the amount prescribed in Section 16044, then the board may make the following adjustments to the initial computation or the revisions thereof as the board, in its discretion, deems desirable:

(1) Service areas constructed prior to July 19, 1947, shall be excluded, except as provided in paragraph (3).

(2) Service areas constructed subsequent to July 19, 1947, shall be recomputed by multiplying the total number of square feet of said service area by the percentage determined from dividing the actual construction cost per square foot as determined by the Director of General Services by the estimated average cost per square foot of the new school facilities for which the district has made application.

(3) If any inadequate nonservice area constructed prior to July 19, 1947, is, or will be, converted to a service area, the area shall be recomputed by multiplying said area by the percentage determined by dividing the depreciated value of said area by the replacement cost as the value and cost are determined by the Director of General Services.

(4) If, after the revised computation of service areas is made as prescribed under paragraphs (1), (2), and (3), the existing and requested building area of the district is in excess of the schedule set forth in Section 16044, the existing building area of nonservice facilities may be determined on the basis of the number of pupils housed by the facilities at an allowance per pupil which is not more than 25 percent in excess of the amount per pupil prescribed in Section 16044.

The board shall prescribe by rule the method for computing the number of adequately housed pupils for purposes of this subdivision.

16046. Any building area excluded from the computation of adequate school building construction by adjustments made under Section 16045 shall not be subsequently included in computing the area of adequate school construction by reason of its having been converted to usable instructional area used exclusively for vocational educational programs, provided the conversion was accomplished with federal or district funds, allocated specifically for that purpose, other than state apportionment funds or bond funds required to be contributed to the State School Building Aid Program.

16047. There shall be allowed to each district with attendance units of 300 or more in kindergarten and grades 1 to 6, inclusive, a maximum area of 55 square feet for each attendance unit of the district in kindergarten and grades 1 to 6, inclusive.

The maximum total building area per attendance unit allowed to applicant districts with attendance units of less than 300 in kindergarten and grades 1 to 6, inclusive, for the attendance units shall be determined by the board, and shall be building area to provide comparable facilities to those provided by the first paragraph of this section, and shall be the least building area required to house adequately the estimated average daily attendance and the normal instructional and other services.

16048. The area of any building constructed by a school district after September 11, 1957 with any funds other than state or federal funds given or bequeathed to the district after the effective date, and the area of any building given, devised or bequeathed to a school district by any entity other than the state or federal government after the effective date, including any building given to a district by any city, county or political subdivision of this state, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

For the purposes of this section, any building leased to a school district for a term exceeding 24 years and for an annual rental of not exceeding five dollars ($5), shall be construed as constituting a gift to the district.

16049. The area of any classroom or building used for adult education classes during the regular schoolday, except a building area that has been constructed or acquired with the proceeds from the sale of school district bonds or state or federal funds allocated to the district under any state school building aid program, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

16050. The area of any building, the construction of which was financed by the proceeds from a tax levied pursuant to former Section 16633, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

16051. The area of any building which has not been constructed or reconstructed under the provisions of Sections 17280 to 17313, inclusive, shall not be included in any computation of the area of adequate school construction under this chapter, provided that such area is being used exclusively for adult education classes during the regular schoolday and that the operation of such classes has been approved by the State Department of Education.

16051.5. The area of any building, the construction of which was financed by the proceeds of a tax levied pursuant to Section 49502, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

16052. There shall be allowed to each district a maximum area of 75 square feet for each attendance unit of the district in grades 7 and 8.

16053. The allowance of maximum area to a district for the attendance units in junior high schools of the district composed of grades 7 to 9, inclusive, or 7 to 10, inclusive, shall be determined pursuant to this section, rather than Sections 16052 and 16054. This section does not apply to junior high schools composed of grades 7 and 8 only.

There shall be allowed to each district a maximum area for the attendance units of the district in junior high schools determined by computing, in accordance with the following paragraph, the number of square feet for the attendance units at each junior high school attendance center of the district, and totaling the number of square feet so determined for all attendance units in all such junior high school attendance centers of the district.

There shall be allowed a maximum area of 75 square feet for each attendance unit of the junior high attendance center in grades 7 and 8. For each attendance unit in grade 9, or grades 9 and 10, as the case may be, at each junior high school attendance center, there shall be allowed a maximum area of a number of square feet equal to the number of square feet which would be allowed under Section 16054 for each attendance unit of an attendance center having a total number of attendance units equal to the total number of attendance units in grades 7 to 9, inclusive, or 7 to 10, inclusive, as the case may be, at the junior high school attendance center. The number of square feet which would be allowed under Section 16054 for each attendance unit of an attendance center shall be computed by determining in accordance with that section the total number of square feet which would be allowed at an attendance center and dividing such total number of square feet by the total number of attendance units at such attendance center.

16054. There shall be allowed to each district a maximum area for the attendance units of the district in grades 9 to 12, inclusive, determined by computing, for the attendance units in grades 9 to 12, inclusive, at each attendance center of the district, a number of square feet for the number of attendance units in such grades at each attendance center, in accordance with the following table, and totaling the number of square feet so determined for all attendance units in such grades of all attendance centers of the district:

Attendance units of attendance center	Maximum number of square feet of building area
1- 50 18,000	
51-100 18,000	plus 162 for each attendance unit over 50

101-200	26,100	plus 99 for each attendance unit over 100
201-300	36,000	plus 60 for each attendance unit over 200
301-600	42,000	plus 54 for each attendance unit over 300
601-1,800	58,200	plus 80 for each attendance unit over 600
Over 1,800	154,200	plus 85 for each attendance unit over 1,800

16056. When a unified district which is otherwise qualified for an apportionment under this chapter applies for an apportionment and the area of adequate school construction existing in any one of the component elementary districts included in the unified district is of such an amount that the district is prevented, by Sections 16044 to 16055 inclusive, from receiving an apportionment, the maximum area of school construction for each unit of attendance, for elementary school construction prescribed by such sections, may be computed separately for each component elementary district without regard to the area of adequate school construction existing in the other component districts, and apportionments made to the unified district on the basis of such separate computations. On request of the governing board of the unified district the State Superintendent of Public Instruction shall make or cause to be made a survey of building needs in the district and the area computations for elementary school construction. He or she shall report his or her findings and recommendations to the board for consideration in connection with any application before the board from the unified school district.

16057. Payment shall be made in accordance with the terms of a final apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district for any items approved by the board in the apportionment, provided, the construction contract has been let no earlier than two years preceding the date the application is received by the board. Where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of such district containing such item was received by the board, payment or reimbursement for the item, either with state funds or with district funds which the district is required to contribute by the apportionment, shall be made only upon authorization of the board by special resolution citing this section.

16058. No apportionment to a school district shall become final unless: (a) the total amount of outstanding bonds of the district

exceeds 95 percent of the basic bond requirement of the district on the date the conditional apportionment is made, or (b) if the total amount of the bonds of the district outstanding and unpaid is within twenty-five thousand dollars ($25,000) of the basic bond requirement of the district, as of the date on which the conditional apportionment is made, or (c) the district has issued and sold pursuant to this section, and as a condition to the initial conditional apportionment, an amount of bonds equal to the total cost of the project for which the apportionment was made, including necessary contingencies. At the time the board makes a conditional apportionment pursuant to Section 16024, it shall determine the total amount of bonds which shall be issued and sold by the district, the proceeds of which shall be applied toward the cost of the project for which the apportionment is sought. The amount so determined by the board shall be not less than the minimum amount required for the apportionment to become final under this section. Any apportionment made by the board pursuant to Section 16024 shall be conditioned upon the approval and sale of the bonds by the district. The amount of any apportionment for a construction project made as a consequence of applying district bond proceeds toward the reduction of prior apportionments pursuant to this section instead of applying the district bond proceeds toward the cost of the construction project, shall be excluded in determining the amount chargeable against the apportionments authorized by the electorate of the district to be accepted, expended and repaid. It is hereby declared that this provision, added by the amendment to this section enacted at the 1958 First Extraordinary Session of the Legislature, is not intended as a change in the law, but rather as a declaration of existing law.

Any provision of this code to the contrary notwithstanding, whenever the electors of a district, subsequent to any requirement by the board for the sale of bonds in connection with an apportionment, authorize the issuance of bonds for any purpose for which an apportionment could lawfully be made, the authorization shall, in addition to the purposes specified, be deemed to constitute the consent of the electors to apply the proceeds of the bonds so required to be sold by the board toward the reduction of any apportionment previously made to the district. Any bond funds used to reduce any apportionment pursuant to this section shall be transferred to the State School Building Aid Fund and shall be available for reapportionment by the board. The amount so determined by the board shall be not less than the minimum amount required for the apportionment to become final under this section. Any apportionment made by the board pursuant to Section 16024 shall be conditioned upon the approval and sale of the bonds by the district.

No apportionment to a school district under this chapter shall become final, nor any agreement authorized by Section 16042 be entered into unless at an election called by the governing board of

the district, two-thirds of the qualified electors of the district voting thereat have authorized the governing board to accept, expend and repay as provided in this chapter and apportionment under the provisions thereof or, with respect to the agreement, to obligate the district in an amount equal to or in excess of the maximum amount which the district could be obligated by the agreement, or by any act of its governing board or for which it is responsible, contemplated or permitted thereby. The election shall be called, held and conducted in the same manner as are elections to authorize the issuance of school district bonds, except that the ballot shall contain substantially the following words:

"Shall the governing board of the district be authorized (1) to accept and expend an apportionment from the State of California under and subject to the provisions of Chapter 8 (commencing with Section 16000) of Part 10 of Division 1 of Title 1 of the Education Code, which amount is subject to repayment as provided by said chapter, or (2) to enter into an agreement or agreements with the state pursuant to Section 16042 of the Education Code, which will at the time of such agreement or agreements (or at the time of any subsequent act of the governing board, or for which it is responsible, contemplated or permitted thereby) commit the district to a total expenditure in connection with all such agreements of not more than _____ dollars ($_____), or both. Yes____ No____."

16059. Notwithstanding any provision of Section 16058, if a previously eligible applicant school district has received apportionments and has realized savings in state aid apportionments or district contributions, or both, including any interest earned thereon, on completed projects pursuant to this chapter, which projects have not been reduced to final costs, the district may apply for, and shall be granted, final apportionments for additional eligible facilities in a total amount not to exceed those project savings.

The project savings for which a district has applied pursuant to this section shall not be considered excess apportionments or unencumbered balances for the purposes of Sections 16100 and 16104.

In no event shall the grant of the project savings to the district pursuant to this section extend the repayment period of any prior apportionments for the purposes of canceling the interest and principal payable thereon pursuant to Section 16083.

16060. Notwithstanding any provisions of Section 16058, if an applicant district issues and sells bonds prior to an apportionment in an amount which results in its being on the date of the apportionment within five thousand dollars ($5,000) of the basic bond requirement of the district, and makes the entire proceeds of the bond issue available for the purposes of the apportionment, or as a condition of an apportionment is required by the board to sell bonds to within five

thousand dollars ($5,000) of the basic bond requirement of the district, and to make the proceeds available for the purposes of Section 16058, the district shall remain qualified to receive an apportionment or apportionments prior to the next equalized assessment of the county or counties in which said district is located without being required to issue and sell additional bonds, notwithstanding the retirement of any bonds of the district or territorial changes therein subsequent to any apportionment referred to in this section and prior to the next equalized assessment.

16061. Immediately after the result of the election has been determined, the county superintendent of schools shall make a certificate in duplicate stating whether the bonds have been authorized in the amount prescribed by the board and whether the school district has authorized the acceptance and expenditure of the apportionment. One copy of the certificate shall be sent to the board and one copy to the Controller. When the bonds authorized have been issued and sold and the proceeds thereof made available for the purposes of the application, the county superintendent of schools shall also certify this fact to the board and the Controller. Upon the receipt by the board of the certificates stating that the bonds have been issued and sold and the proceeds made available for the purposes of the application, the apportionment shall become final.

16062. The election by a school district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 16058 may be called and held either before or after the making of an apportionment except that no election shall be held within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as that statewide election, subject to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

16063. Whenever a conditional apportionment has, prior to January 1, 1980, been made to an applicant school district pursuant to this chapter and thereafter the county superintendent of schools of the county having jurisdiction over the district has certified to the board and the Controller that at an election called, held and conducted in the district for that purpose, two-thirds of the qualified electors of the district voting thereat authorized the governing board of the applicant school district to accept, expend and repay an apportionment under this chapter, and whenever thereafter the county superintendent of schools has certified to the board and the Controller that the amount of bonds, if any, required by the board, as a condition to the apportionment becoming final, have been issued and sold and the proceeds thereof made available for the purposes of the application and the board has certified to the Controller that the apportionment to the applicant school district has become final, the final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the State School Building Aid

Fund according to the terms of the final apportionment is hereby confirmed, ratified, and validated.

Notwithstanding any provision to the contrary, no funds authorized by any bond act for the purpose of this chapter shall be made available for expenditure without specific authority of the board or its delegated representative.

16064. If the board has made an apportionment to a school district after November 1, 1960, upon the condition that the district issue and sell district bonds in an amount prescribed by the board, and an election was heretofore held in the district at which two-thirds of the voters voting on the proposition to authorize the issuance and sale of bonds in an amount sufficient to meet the condition of the apportionment voted in favor thereof, all acts or proceedings heretofore taken by or on behalf of the school district, under any law, or under the color of any law, for the authorization, issuance, sale or exchange of the bonds of the school district for any public purpose are hereby confirmed, validated and declared legally effective. This shall include all acts and proceedings of the governing board of the school district, and of any person or officer, heretofore done or taken upon the authorization, issuance, or sale of the bonds.

All bonds of any the school district heretofore authorized to be issued and hereafter issued and delivered in accordance with the authorization shall be the legal, valid and binding obligations of the district.

As used in this section the word "hereafter" means any time on or subsequent to the effective date of this section and the word "heretofore" means any time prior to the effective date.

16065. Notwithstanding any provision to the contrary after June 28, 1955, at the time the board makes an apportionment, the board, with the approval of the Director of General Services, shall, pursuant to this section, fix the rate of interest to be paid by the district on the sum apportioned to it. The board shall compute the average of the rates of interest which the state pays upon the state school building bonds, authorized by Article XVI, sold at the three sales of state school building bonds occurring immediately prior to the apportionment, or, if the board so determines, at all of the sales of the bonds occurring in the two years immediately prior to the apportionment, giving effect to the price at which the state school building bonds sold at the sales, and the premium, if any paid, thereon. The average rate shall be adjusted to the next highest one-tenth of 1 percent to cover the cost of sale and issuance of the bonds and costs of administration. The adjusted average rate shall be the rate paid by the district on its apportionment, and shall be compounded annually through the 30th day of June of each year.

16066. Apportionments may be made irrespective of whether there is on deposit at the time thereof a sufficient amount in the State School Building Aid Fund to permit the payment of the apportionments. Disbursements may be made under any

apportionment which heretofore or hereafter becomes final from any funds in the State School Building Aid Fund without regard to whether there exists at the time of the disbursement a sufficient amount in the fund to permit the payment in full of all apportionments previously made. However, no disbursements shall be made from any funds in the State School Building Aid Fund required by law to be transferred to the General Fund, or from any moneys therein which the Controller deems necessary to satisfy appropriations from the fund for purposes other than apportionments.

16067. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment or for any project or part thereof which has not been approved by the State Department of Education.

16068. If any school district receives a final apportionment under this chapter and after November 12, 1952, receives money from the federal government as reimbursement for any expenditures by the state or school district for constructing any school facilities included in the construction project for which the district is receiving an apportionment, the amount of the district's annual repayment next succeeding the date on which the district receives the money shall be increased by the amount of the money so received; provided, however, that the annual repayment of the district shall not be so increased where the money received from the federal government constitutes a contribution toward the cost of school facilities which are to be acquired, in part, with an apportionment, and the federal funds are encumbered or expended by the district in accordance with the purposes of the apportionment.

16069. Each district to which an apportionment has been made under this chapter shall repay the principal amount of the apportionment and the accrued interest thereon in the amount and in the manner provided in this chapter.

16070. The following definitions apply to the computation and determinations required to be made under Section 16072, 16074, and 16075, and they apply with respect to each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year.

(a) "Forty-cent tax amount" means the amount that would be produced by a tax of forty cents ($0.40) on each one hundred dollars ($100) of assessed valuation, to and including 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.10 percent of the full valuation. This tax amount shall exclude the full value of solvent credits and other intangible property, for the current fiscal year within the district.

(b) "Thirty-cent tax amount" means the amount that would be produced by a tax of thirty cents ($0.30) on each one hundred dollars ($100) of the assessed valuation to and including the 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.075 percent of the full valuation.

(c) "Ten-cent tax amount" means the amount that would be produced by a tax of ten cents ($0.10) on each one hundred dollars ($100) of the assessed valuation to and including the 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.025 percent of the full value.

(d) "Eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each the grade level prior to the making of the first apportionment for grade level to the district under the provisions of this chapter computed as provided in Section 16072 plus the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part, provided that for the purposes hereof the first apportionment made to a district for a grade level after all previous apportionments to the district for that grade level have been repaid in full, excluding apportionments made under Section 16039 and not combined with construction apportionments, shall be deemed to be the "first apportionment for the grade level."

16071. This section applies only to a unified school district that filed an application on or after April 30, 1977, for an apportionment for a grade level consisting of kindergarten, if any, and grades 1 to 12, inclusive, and the repayments required for apportionments made under those applications.

The following definitions apply to the computation and determinations required to be made under Sections 16072, 16074, and 16075, and they apply with respect to the grade level of a unified school district for which grade level an apportionment has become final during any preceding fiscal year:

(a) "Forty-cent tax amount" means the amount that would be produced by a tax of 0.20 percent of full valuation for the current fiscal year within the district.

(b) "Thirty-cent tax amount" means the amount that would be produced by a tax of 0.15 percent of full valuation for the current fiscal year within the district.

(c) "Ten-cent tax amount" means the amount that would be produced by a tax of 0.05 percent of full valuation for the current fiscal year within the district.

(d) "Eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each grade level prior to the making of the first apportionment for the grade level to

the unified school district under this chapter computed as provided in Section 16072 plus the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part.

If the unified school district's first apportionment under this chapter was for a grade level consisting of kindergarten, if any, and grades 1 to 6, inclusive, grades 1 to 8, inclusive, grades 7 to 12, inclusive, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, "eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the indebtedness that was incurred for elementary and high school purposes prior to the making of the first apportionment under this chapter computed as provided in Section 16072 together with the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part.

16071.5. The amounts raised and to be raised by the district during the current fiscal year for repayment of principal and interest for any bonds, issued and sold by an applicant district, which are in excess of the "basic bond requirement," as defined in Section 16002.5, shall not be considered as "eligible bonded debt service" for purposes of computing repayments or deferments pursuant to Sections 16070, 16072, 16073, 16084 and 16086.

16072. On or before the first day of December of each fiscal year, the Director of General Services shall determine for each grade level and certify to the Controller the eligible bonded debt service for the district, as follows:

(a) He or she shall determine the amount of the bonded indebtedness that was incurred by the district for each grade level, when bonds were issued and sold for purposes of more than one grade level. When one or more additional apportionments have been made to a grade level of a school district, conditioned upon the issuance and sale of additional bonds of the district or upon the requirement that the proceeds of bonds issued and sold be contributed for the purposes of the application for which the apportionment is made, the Director of General Services shall determine and include in the eligible bonded debt service and in his certificate the amount raised and to be raised by the district during the current fiscal year for the payment of principal and interest on that portion of the additional bonded indebtedness of the district that was incurred for each such grade level as a condition to receiving the additional apportionment or which was incurred for bonds issued and sold, the proceeds of which were required to be contributed for purposes for which the apportionment was made.

(b) If the Director of General Services determines in any fiscal year that the amount certified to the Controller as the eligible bonded debt service during the last preceding fiscal year is more than the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in

subdivision (d) of Section 16070 and subdivision (a) of this section, then the Director of General Services shall subtract from the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of such bonded indebtedness and the amount so certified by the Director of General Services.

(c) If the Director of General Services determines in any fiscal year that the amount certified to the Controller as the eligible bonded debt service during the last preceding fiscal year is less than the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 16070 and subdivision (a) of this section, then the Director of General Services shall add to the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of the bonded indebtedness and the amount so certified by the Director of General Services.

(d) If an apportionment has been made to a district for a grade level for which the district also received an apportionment pursuant to Chapter 4 (commencing with Section 15700) of this part, the Controller shall determine the amount of the annual repayment, if any, due from the district during the next succeeding fiscal year for the grade level as required by Chapter 4 (commencing with Section 15700) of this part and the amount shall be included by the Controller in the eligible bonded debt service of the district for that grade level. For an apportionment to a unified district for a grade level consisting of kindergarten, if any, and grades 1 to 12, inclusive, for which an application for an apportionment was filed on or after the effective date of the amendment to this section made at the 1961 session of the Legislature, if an apportionment had also been made to the district pursuant to Chapter 4 (commencing with Section 15700) of this part for a grade level consisting of kindergarten, if any, and grades 1 to 6, inclusive, or 1 to 8, inclusive, or grades 7 to 12, inclusive, 9 to 12, inclusive, or 7 to 10, inclusive, the Controller shall determine the amount of the annual repayment, if any, due from the district during the next succeeding fiscal year for all of the grade levels as required by Chapter 4 (commencing with Section 15700) and the amount shall be included by the Controller in the eligible bonded debt service of the district for the grade level consisting of kindergarten, if any, and grades 1 to 12, inclusive.

16072.5. Whenever a school district has applied the proceeds of a sale of local bonds to a project pursuant to subdivision (c) of Section 17032, the Director of General Services shall include in the determination of the eligible bonded debt service of the district, the amount raised or to be raised for repayment of principal and interest

on that portion of the bonded indebtedness of the district generating the proceeds.

16073. Whenever (a) a school district which has not sold bonds within two fiscal years immediately preceding the fiscal year in which a repayment computation is made pursuant to this article; and (b) the district is not eligible for deferment under Section 16084 or 16086 and has been required during the fiscal year in which repayment computations are made to issue bonds in order to qualify for an apportionment; and (c) no funds for the required bond issue have been provided during that year in the district's bond interest and redemption fund budget, the Director of General Services shall determine the eligible portion of the amount required from taxes for the required issue during the next succeeding fiscal year and shall certify the amount to the Controller as additional eligible debt service prior to the levy of taxes during such fiscal year. The provisions of this section shall apply to the qualifying bond requirements commencing with the 1972–73 fiscal year.

16074. On or before the first day of January of each fiscal year, the Controller shall compute for each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year the 40-cent tax amount, the 30-cent tax amount and the 10-cent tax amount.

16075. On or before the first day of January of each fiscal year the Controller shall determine the annual repayment, if any, to be due from each district during the next succeeding fiscal year, as follows:

(a) If, for any grade level of a district, the amount of the eligible bonded debt service exceeds the 40-cent tax amount, no annual repayment shall be due the state from such district with respect to such grade level during the next succeeding fiscal year.

(b) If, for any grade level of a district, the 40-cent tax amount is greater than the eligible bonded debt service, the amount of such excess shall constitute the annual repayment due the state with respect to such grade level during the next succeeding fiscal year; except that if the eligible bonded debt service is less than the 10-cent tax amount, the annual repayment shall equal the 30-cent tax amount.

(c) The total repayment for each district is the sum of the annual repayments determined for each grade level of the district under this section.

16076. Whenever the Director of General Services has certified an additional amount of eligible debt service under the provisions of Section 16073, the Controller shall make a recomputation of the annual repayment and notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the revised repayment. The recomputation and notification shall be completed prior to the date on which the board of supervisors makes the levy of taxes for county purposes.

16077. If an apportionment is made for a project which includes a multipurpose room the board shall determine and specify the portion of the apportionment that is allocated to the cost of the multipurpose room.

If a district receives an apportionment a portion of which is for a multipurpose room it shall repay the principal amount of such portion of the apportionment as an additional payment as provided by this section. Interest on the total apportionment shall be paid as provided in Section 16083. The repayment is in addition to the repayments required on the total of all apportionments to the district, which shall be repaid as otherwise provided in this chapter.

Notwithstanding the provisions of Sections 16083 and 16087 for cancellation of the principal amount of apportionments the Controller shall continue to make the deduction provided by Section 16080 during each fiscal year thereafter until the principal amount of the portion of the apportionment that was allocated to the cost of the multipurpose room and was made and disbursed to the district has been withheld, or for an additional period of 10 years, whichever first occurs. At the expiration of 40 years from the first day of July of the fiscal year next succeeding the fiscal year in which the apportionment became final, the unpaid balance of the principal amount of the portion of the apportionment shall be canceled on the books of the State Controller and the provisions of Section 16083 shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 16087.

16078. Notwithstanding any other provision of this chapter, the total amount of the repayment made each year by each school district to which one or more apportionments have been made under this chapter shall not be less than the amount of the cost to the state for that year to pay principal and interest on the bonded indebtedness incurred to fund the apportionment or apportionments made to that district.

16079. Notwithstanding any other provision of this chapter, and regardless of how many apportionments are made to a grade level of a school district under the provisions of this chapter, the total annual repayment for such grade level during any fiscal year, covering all such apportionments, shall not exceed the amount that would be computed under Sections 16070 to 16080, inclusive, for any one of such apportionments.

16080. The Controller shall, during the next fiscal year following that in which he or she determines the annual repayment as herein provided, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to the district from the State School Fund under Sections 46304, 46305, and 41050 and 92, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, and, on order of the Controller, the amount so deducted shall be transferred to the State School Building Aid Fund. All money

transferred to the State School Building Aid Fund under this section shall be available only for transfer to the General Fund of Section 16403.

16080.5. (a) Notwithstanding any other provision of this chapter, for any school district that qualifies under subdivision (b), as certified by the State Allocation Board, the Controller, upon receipt of a written request to that effect from the governing board of the school district, shall reduce the tax amount that would otherwise be utilized in computing the district's annual repayment obligation under this chapter by the amount of 50 percent.

(b) Subdivision (a) shall apply to any school district in which, on or after January 1, 1989, the voters of the district approve a local general obligation bond measure, which measure includes within its purposes the funding of school facilities construction or reconstruction. Subdivision (a) shall apply to a district that qualifies under this subdivision as of the day following the date of that voter approval.

16081. Notwithstanding any provision of law to the contrary, whenever in any fiscal year, pursuant to Chapter 5 (commencing with Section 5096), Part 9, Division 1 of the Revenue and Taxation Code, a refund is made or a judgment rendered, as the case may be, for the return of an amount collected as school district taxes levied during a previous year upon secured or unsecured personal property, because it was determined that such property was exempt from taxation, and such property so determined to be exempt equals 1 percent, or more, of the assessed valuation in the school district upon which school district taxes for such previous year were levied, the Controller shall reduce the annual repayment of the district and the amount deducted from the State School Fund apportionment of such district for the fiscal year next succeeding that in which such refund was made or judgment rendered, by that amount by which the annual repayment and deduction of the district would have been reduced for the fiscal year next succeeding that in which such taxes were levied had the assessed valuation upon which such annual repayment was computed not included an amount of assessed valuation equal to the amount of assessed valuation of the property so determined to be exempt.

The amount of annual repayment and deduction, reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 16080, 16089 and 16090 for the fiscal year in which such reduction is made.

16082. (a) Upon request of the district, the Controller shall use in computing the "40-cent, 30-cent, and 10-cent tax amounts" under Section 16070 the difference between the total assessed valuation of property in a district as shown on the equalized assessment roll for the current fiscal year and the assessed valuation of property as shown on the equalized assessment roll for the current fiscal year, in excess of 2 percent of such total assessed valuation, with respect to

which revenues of the district taxes levied in the 1954–1955 fiscal year, or thereafter, have been impounded by the county auditor pursuant to Section 14240. Beginning with the 1981–82 fiscal year, the difference in excess of 0.50 percent of the total assessed value shall be used in the computation. If the request is received prior to August 1, 1955, with respect to the impounding of revenues of taxes levied during the 1954–1955 fiscal year, the Controller shall recompute the annual repayment of the district due during the 1955–1956 fiscal year on the basis of the reduced assessed valuation, and, on or before September 1, 1955, notify the officers and board referred to in Section 16089 of the recomputed annual repayment for the 1955–1956 fiscal year, and of the recomputed amount to be deducted from the State School Fund apportionment to the district during the 1955–1956 fiscal year.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction and the Controller of the release of impounded tax revenues to the school district, the Controller shall add to the annual repayment of the district for the first fiscal year or second fiscal year next succeeding that in which the notification of release was made, that amount by which the annual repayment of the district for a previous fiscal year was reduced by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released.

(c) The amount of annual repayment and deduction, increased or reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 16080, 16089, and 16090 for the fiscal year in which the increase or reduction occurs.

(d) If a request is received from a school district and an annual repayment reduced pursuant to subdivision (a) hereof, Section 16081 shall not apply with respect to any tax revenues to which subdivision (a) applies.

16083. The Controller shall make the deduction provided by Section 16080 during each fiscal year, as herein provided, until the principal amount of the apportionment made and disbursed to the district for the grade level, and all accrued interest due thereon, has been withheld; but no interest shall accrue, or become due and payable, to the state with respect to the principal amount of the apportionment, or any portion thereof, for any period of time following the expiration of 25 years after the first day of July of the fiscal year next succeeding the fiscal year in which the apportionment becomes final. At the expiration of 30 years from the first day of July of the fiscal year next succeeding the fiscal year in which the apportionment became final, the unpaid balance of the principal amount of the apportionment disbursed to the district, including all interest included in the principal amount as provided in Section 16088, shall be canceled on the books of the Controller; and the state shall have no further right to the repayment of the unpaid balance. Notwithstanding the provisions of this section, that portion

of the "annual repayment," if any, computed by the Controller under Section 16075 prior to the date of cancellation of the principal amount of an apportionment under this section, which has not been withheld by the Controller, as provided by Section 16080, prior to the date of the cancellation, shall be withheld by the Controller, as provided by Section 16080, subsequent to the effective date of the cancellation; and the amount so withheld shall be credited to the school district in determining the principal amount of the apportionment, including all interest included therein, which is canceled under the provisions hereof. The grade level shall be excluded from any computations provided under Sections 16070, 16071, 16072, 16074, and 16075, in making the computations, after the effective date of the cancellation, to determine the "annual repayment," if any, that may thereafter be due the state from the school district with respect to other grade levels thereof.

16084. If, on or before June 30th of any fiscal year, the governing board of any school district files a request with the Controller for a deferment of the annual repayment due from the district during the next succeeding fiscal year for an apportionment received by the district pursuant to this chapter or Chapter 6 (commencing with Section 15700) of this part, and it is determined, in accordance with this section, that the district is entitled to a deferment of all or part of the annual repayment, the deferment shall be made in accordance with the determination. The request for deferment, having once been filed with the Controller, shall remain in effect each ensuing year, and the Controller shall continue to compute and allow the deferment in accordance with this section each year, until the time as the governing board of the school district files a written request with the Controller to discontinue the deferment.

As used in the preceding paragraph, "any school district" means a district which is liable for the repayment of the principal amount of apportionments made to the district under the provisions of Chapter 4 (commencing with Section 15700) of this part and which has received a conditional apportionment under this chapter.

The portion of the annual repayment to be deferred under this section shall be determined as follows:

There shall be computed the amount required to be raised by taxes on property within the district, during the fiscal year in which the annual repayment is to be deducted pursuant to Sections 15735 and 16080, for the payment of principal and interest on (a) any bonded indebtedness incurred for school purposes prior to the first conditional apportionment to the school district under this chapter, (b) any bonded indebtedness which was incurred as a condition to any apportionment under this chapter, and (c) any bonded indebtedness incurred, the proceeds of which were required to be contributed for the purposes for which an apportionment was made under this chapter. To this amount shall be added the amount required during such fiscal year, for the annual repayment of school

building apportionments under Chapter 4 (commencing with Section 15700) of this part and under this chapter. The total of these amounts shall constitute the "basic tax amount."

If the applicant district is a unified district, the amount to be deferred shall be separately considered for each grade level thereof. For this purpose, the basic tax amount shall only include the amounts specified in the preceding paragraph required to be raised for the repayment of principal and interest on bonded indebtedness which was incurred for, or as a condition to receiving an apportionment for, or required by the board to be contributed for the purposes of, the grade level being considered, plus those amounts required for the annual repayment of apportionments made under Chapter 4 (commencing with Section 15700) of this part for the grade level. It is hereby declared that this paragraph is not intended as a change in the present law but rather as a declaration of existing law.

There shall be computed the amount which would be produced by a tax of forty-five cents ($0.45) on each one hundred dollars ($100) of assessed valuation of the district during the year, to be known as the "45-cent tax amount," except beginning with the 1981–82 fiscal year, the amount shall be produced by a tax of 0.1125 percent of the full value. The amount of the annual repayment to be deferred during the fiscal year in which the annual repayment is due shall be the amount, if any, by which the basic tax amount exceeds the 45-cent tax amount. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

On or before the last day of July of each fiscal year, the Controller shall request the Director of General Services to, and the Director of General Services shall, determine and certify to the Controller the amount of bonded debt service included in the "basic tax amount." On or before the third Monday in August of each fiscal year, the Controller shall request the county auditor of each county to, and the county auditor of each county shall, determine and certify to the Controller the current assessed valuation of property within each district which has filed a request for a deferment under this section.

Before the date on which the board of supervisors makes the levy of taxes for county purposes, the Controller shall make the deferment determination required by this section for each district requesting a deferment, and, for each district which is entitled to a deferment, shall notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the amount of the repayment of the district which is to be deferred under this section.

For the purposes of this section the "annual repayment" means the amount of the annual repayment of the district due in a fiscal year as determined pursuant to Section 15733 and Section 16075, plus the then unpaid deferred amount of any annual repayment due in any previous fiscal years. Any repayments by a district of a deferred

amount shall be first applied to loans granted under Chapter 4 (commencing with Section 15700) of this part.

Notwithstanding any other provision of this chapter, if, at the end of the 30-year period provided in Section 15738 or Section 16083, as the case may be, there are any deferred amounts due in any previous fiscal year remaining unpaid, repayments shall continue to be made in the manner provided by this section during each fiscal year thereafter until the amounts are paid, or for an additional period of 10 years, whichever first occurs. At the expiration of the additional 10-year period the unpaid portion of the deferred amounts shall be canceled on the books of the Controller, and the provisions of Section 15738 or Section 16083, as the case may be, shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 15739 or 16087, whichever is applicable.

16085. For purposes of computing, under Section 16084, the portion of the annual repayment to be deferred in the case of a unified school district which has applied for and received an apportionment under Section 16003, the "45-cent tax amount" shall be the amount produced by a tax of ninety cents ($0.90) on each one hundred dollars ($100) of assessed valuation of the district during the year, except beginning with the 1981–82 fiscal year the tax shall be 0.225 percent of the full value.

16086. The provisions of this section shall apply: (1) to any school district which has succeeded to and become vested with all duties, powers, purposes, jurisdiction, and responsibility with respect to a portion of an apportionment determined or redetermined to have been expended, or to be expendable, for property acquired or to be acquired by it, and which has become liable for a portion of the annual repayment of a portion of an apportionment, as provided in Section 16159; and (2) to any state-aided district a portion of the territory of which was transferred to a district described in (1), above, and in connection with which territory a portion of an apportionment made to such state-aided district has or will be expended for property acquired or to be acquired.

If, on or before June 30 of any fiscal year, the governing board of the school district files a request with the Controller for a deferment of the annual repayment due from such district during the next succeeding fiscal year for an apportionment received by the district pursuant to this chapter, and it is determined, in accordance with this section, that the district is entitled to a deferment of all or part of the annual repayment, the deferment shall be made in accordance with the determination. The request for deferment, once filed with the Controller, shall remain in effect in each ensuing year, and the Controller shall continue to compute and allow the deferment in accordance with this section each year, until the time as the governing board of the school district files a written request with the Controller to discontinue the deferment.

The portion of the annual repayment to be deferred under this section shall be determined as follows:

There shall be computed the amount required to be raised by taxes on property within the district during the fiscal year in which the annual repayment is to be deducted pursuant to Section 16080, for the payment of principal and interest on: (a) that portion of the annual repayment and all other payments due the state under Section 16075 and other provisions of this chapter with respect to the portion of the apportionment for which the district has been determined to be liable under Section 16159; (b) any bonded indebtedness incurred for school purposes prior to the first conditional apportionment to the school district under this chapter; (c) any bonded indebtedness which was incurred as a condition to any apportionment under this chapter; and (d) any bonded indebtedness incurred, the proceeds of which were required to be contributed for the purposes for which an apportionment was made under this chapter. To this amount shall be added the amount required during the fiscal year, for the annual repayment of school building apportionments under this chapter. The total of these amounts shall constitute the "basic tax amount."

If the applicant district is a unified district, the amount to be deferred shall be separately considered for each grade level thereof. For this purpose, the basic tax amount shall only include the amounts specified in the preceding paragraph required to be raised for the repayment of principal and interest on bonded indebtedness which was incurred for, or as a condition to receiving an apportionment for, or required by the board to be contributed for the purposes of, the grade level being considered, plus those amounts required for the annual repayment of apportionments made under this chapter for the grade level.

There shall be computed the amount which would be produced by a tax of forty cents ($0.40) on each one hundred dollars ($100) of assessed valuation of the district during such year, to be known as the "40-cent tax amount," except beginning with the 1981–82 fiscal year, the amount shall be produced by a tax of 0.10 percent of the full value of the district during such year. The amount of the annual repayment to be deferred during the fiscal year in which the annual repayment is due shall be the amount, if any, by which the basic tax amount exceeds the 40-cent tax amount. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

On or before the last day of July of each fiscal year, the Controller shall request the Director of General Services to, and the Director of General Services shall, determine and certify to the Controller the amount of bonded debt service included in the "basic tax amount." On or before the third Monday in August of each fiscal year, the Controller shall request the county auditor of each county to, and the county auditor of each county shall, determine and certify to the Controller the current assessed valuation of property within each district which has filed a request for a deferment under this section.

Before the date on which the board of supervisors makes the levy of taxes for county purposes, the Controller shall make the deferment determination required by this section for each district requesting a deferment, and, for each district which is entitled to a deferment, shall notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the amount of the repayment of the district which is to be deferred under this section.

For the purposes of this section the "annual repayment" means the amount of the annual repayment of the district due in a fiscal year as determined pursuant to Section 16075, plus the then unpaid deferred amount of any annual repayment due in any previous fiscal years.

Notwithstanding any other provision of this chapter, if, at the end of the 30-year period provided in Section 16083 there are any deferred amounts due in any previous fiscal year remaining unpaid, repayments shall continue to be made in the manner provided by this section during each fiscal year thereafter until the amounts are paid, or for an additional period of 10 years, whichever first occurs. At the expiration of the additional 10-year period the unpaid portion of the deferred amounts shall be canceled on the books of the Controller, and the provisions of Section 16083 shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 16087.

16086.5. Notwithstanding any other provision of this chapter, where an election is or has been held after March 1, 1979, and prior to December 1, 1979, for the purpose of forming a new unified school district, coterminous with an existing elementary school district, and such reorganization becomes effective for all purposes on July 1, 1980, such unified school district shall be eligible for a deferment of annual repayment as set forth in Section 16086, except that the "basic tax amount" shall be computed as the sum of (a) that portion of the original high school repayment for which the new district is liable and (b) that portion of the original high school eligible debt service computed pursuant to Section 16072 for which the new district is liable, as provided in Section 4147.

16087. The Controller shall certify to the board the cancellation of the unpaid balance of the principal amount of the apportionment. Upon receipt of the certification, the board shall, in the name of the state, convey to the district all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to, from money provided by the apportionment covered by the cancellation.

16088. The Controller shall determine and maintain a record of the amount due the state in connection with each apportionment made to each grade level of a district under the provisions of this chapter. He or she shall compute interest, at the rate fixed by the

board, on each amount disbursed by the state pursuant to the apportionment, from the date of issuance of the Controller's warrant covering the payment to the county treasurer of the amount until the first day of July of the fiscal year next succeeding that in which the warrant was issued. Thereafter, interest shall accrue to and be compounded as a part of the principal amount due the state pursuant to the apportionment, through the 30th day of the following June of each year, until the principal and interest have been paid, or until the interest ceases to accrue, as provided in this chapter. Interest on unpaid school building aid apportionments shall be computed as if the annual repayment were credited on the first day of July of the fiscal year in which the repayment is withheld.

16089. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the succeeding fiscal year, the Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

16090. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money to be withheld by the Controller during the fiscal year in which the tax is levied. Effective July 1, 1988, that tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of a separate fund of the district to be known as the Tax Override Fund.

16091. The board shall prescribe in the detail that it deems necessary, the purposes for which moneys apportioned by it or which it requires the district to contribute toward, or in reduction of the cost of a project, may be expended, and the prescription shall be binding upon the governing board of the district, save as it may be changed or modified by the board for any cause that it sees fit. In determining funds which can be contributed by the district, the board may require the district to contribute unexpended balances of funds earmarked or encumbered by the district for furniture, equipment, or any other lawful purpose. However, the changes or substitutions in the purposes for which the funds were earmarked or encumbered, with respect to the requirement under any apportionment heretofore or hereafter made, may be authorized by the board, or pursuant to its delegation, by the Director of General Services.

16092. Unless the board has received the certificates of the county superintendent of schools required by Section 16061 within nine months from the date of the conditional apportionment, it shall, at

the expiration of the nine months' period, void the conditional apportionment and shall certify this fact to the Controller. Each final apportionment made by the board under this chapter shall be certified by it to the Controller who shall from time to time draw his or her warrant on the Treasurer in favor of the county treasurer of the county having jurisdiction over the district in accordance with the terms of the final apportionment. The warrant shall be exempt from the provisions of Division 4 (commencing with Section 16100) of Title 2 of the Government Code and shall be paid by the Treasurer from the State School Building Aid Fund.

16093. A state school building fund is hereby created in the county treasury in each county for each school district in the county. The county treasurer of each county shall pay into the state school building fund of each school district, exactly as apportioned by the board, all moneys received by him or her under this chapter with respect to each school district.

16094. Interest earned on those portions of deposits in a state school building fund representing allocations from the proceeds of state school construction bonds received by the county treasurer for the benefit of a school district under this chapter shall be paid into the state school building fund created by Section 16093. The interest which prior to the 1964–65 fiscal year was deposited in the general fund of the school district for which the state school building fund was established shall remain the property of that general fund.

16095. The governing board of each school district to which an apportionment is made under this chapter is authorized to, and shall, transfer to the state school building fund of the district from all other funds of the district in which the moneys may be, all moneys of the district which under, or pursuant to, this chapter are required to be expended for the project for which the apportionment was made.

16096. A fund in the State Treasury is hereby created, to be known as the State School Building Aid Fund. All money in the State School Building Aid Fund, including any money deposited in the fund from any source whatsoever after November 12, 1952, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under the provisions of this chapter.

16096.5. From any moneys in the State School Building Aid Fund available for the purposes of this chapter, the board shall make available to the Director of General Services any amounts that it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

16097. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the state school building fund of the school district exactly as apportioned by the board and only for the purposes for which the moneys were apportioned to the district, and for no other purpose,

and shall make the reports relating to the expenditure of the moneys that the board and the Controller shall require.

16098. A complete detailed report of expenditure of funds allocated pursuant to this chapter shall be made by the board annually to the Legislature. The report shall contain a detailed statement of facilities provided, type of construction, square footage provided and all other items which will enable the Legislature fully to understand the nature of the construction performed by the school districts.

16099. It shall be the duty of the Controller to make the audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, as he or she may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes and under the conditions authorized by this chapter.

16100. Whenever the Controller determines that any money apportioned to a school district has been expended by the school district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by Section 16024 to be paid therefrom, the Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of the unauthorized expenditures, or the amount of the excess apportionment, as the case may be. Upon receipt of the notice, the governing board shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the State School Building Aid Fund, to be reapportioned by the board.

It shall be the duty of the governing body and the county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

If, upon petition of the district, the Controller determines that the amount to be included in the county settlement is in excess of the amount that may be paid out of taxes levied at the maximum rate authorized by law (increased by any increase in the rate authorized by the electors of the district pursuant to Section 42202), without impairing essential district services, he or she may provide for the payment of the entire amount or any unpaid balance thereof in not exceeding three consecutive annual payments, commencing with the next school year. Each payment shall be an equal portion of the principal amount, plus accrued interest, and shall be paid not later

than January 31st of each school year in which a payment is due. If the district fails to make the payment as specified, the Controller shall deduct the amount thereof from the February payment made to the district under Section 14041.

Deferred payments under this section shall bear interest at the same annual rate of interest as the apportionment from which the unauthorized expenditures or the amounts of excess apportionment were made.

16101. Notwithstanding any provision of law to the contrary, if an apportionment is or has been made at any time after October 1, 1953, to meet a construction low bid and if the State Allocation Board after approving the apportionment revises the apportionment, and the apportionment finally approved reveals that an applicant school district receives excess construction area to what they are entitled to pursuant to Section 16044, and if a judgment for the collection of the excess apportionment has not been rendered by a court prior to September 11, 1957, the excess apportionment shall be computed by the Controller and shall be repaid pursuant to this section. The district shall repay the amount of excess apportionment, and the interest thereon, in equal annual installments within 20 years from the date it receives the excess apportionment. The rate of interest shall be the same rate as that fixed for the approved apportionment. The district may at any time before the end of the 20-year period for repayment elect to repay, and repay, the balance of the excess apportionment then unpaid, plus interest computed to the date of repayment of such balance.

16102. If the board, between April 5, 1963, and July 1, 1963, approves an application for an apportionment and makes a conditional apportionment to the district making the application and if after the approval it is determined that the projected enrollment of the district is less than that upon which the district's application was based, any apportionment made by the board under the application is hereby ratified and confirmed and payments shall be made to the district pursuant to the apportionment. The board shall as a condition to any apportionment made under the application require the district to repay in full that portion of the apportionment which it determines to be attributable to the excess projected enrollment upon which the application was based and the district shall be empowered and obligated to comply with the requirement if it accepts the portion of the apportionment. The repayment shall be in equal annual installments made within 20 years from the date the district receives the apportionment. The repayment shall be in addition to any other repayment required by this chapter. The rate of interest shall be the same rate as that fixed for the remainder of the apportionment.

If at any time the board determines that the amount of actual enrollment of the district attains the amount of the projected enrollment upon which the district's application, referred to above,

was based, the board may, if it determines that the inclusion of the excess projected enrollment in the application occurred inadvertently, provide that the district shall not be required to pay any further installments for full repayment of that portion of the apportionment attributable to the excess projected enrollment and the unpaid balance of the portion and interest thereon shall thereafter be repaid under the same terms and in the same manner as the balance of the apportionment made under the application.

16103. If a school district entered into an agreement at any time beginning on October 1, 1954, and ending on December 31, 1954, whereby it agreed to lease a site and facilities situated thereon, for the purpose of constructing administrative facilities on the site in accordance with plans prepared by or for the district, the State Allocation Board may make an apportionment to the district for the acquisition of the site and facilities; provided, (1) that the district at the time of receiving the apportionment would otherwise be eligible to receive an apportionment for square footage of building area equal to or exceeding that of the facilities to be constructed; (2) the Department of Education approves of the acquisition on the basis that it is necessary to provide needed administrative facilities for the district; and (3) the board finds that the acquisition and the consideration being paid therefor is economically feasible and constitutes sound financial practice.

16104. Any portion of an apportionment paid to a school district under this chapter shall be available for expenditure by its governing board for not less than one year nor more than three years, as the board shall determine, after the date on which the warrant covering that portion of the apportionment was issued by the Controller, provided that no limitation on expenditure shall be applicable with respect to any items the payment or reimbursement of which is required to be made by special resolution pursuant to Section 16057, whether the special resolution is adopted prior or subsequent to the termination of the period of availability herein specified. For the purposes of this chapter, an apportionment shall be deemed to be expended at the time and to the extent that the amount thereof on deposit in the county treasury has been encumbered by the creation of a valid obligation on the part of the school district. Upon the expiration of its period of availability, the unencumbered balance of any apportionment made under this chapter shall become due and payable to the State of California; and the governing board of the school district and the county treasurer shall pay the amount of the unencumbered balance to the Treasurer, out of the funds, and in the manner specified in Section 16100 of this code. The payment shall, on order of the Controller, be deposited in the State School Building Aid Fund in the State Treasury, to be reapportioned by the board.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on

behalf of the state, provided that notwithstanding the above duties shall not be deemed to exist with respect to any amount heretofore or hereafter due the state occasioned by the termination of the period of availability of expenditure provided by this section where the period of availability of expenditure for the items representing the amount is subsequently made inapplicable by the adoption of a special resolution pursuant to Section 16057.

16105. Whenever a school district receives or has received an apportionment for or toward the purchase or improvement of realty or personalty (hereafter referred to as "property") and within five years from the date of the written authorization from a duly authorized representative of the board for the expenditure therefor from state funds or from contributable district funds, sells, leases, exchanges or otherwise disposes of the property or any portion thereof without the consent of the board, the board may demand the return of the state apportionment or the portion thereof it deems proper, plus accrued interest at the prescribed rate, less any repayment made prior to the demand by the district on account of the apportionment. A district may not at any time while an apportionment remains unpaid or noncanceled, dispose of any property acquired therefrom without the consent of the board, excepting transfers provided for by Article 15 (commencing with Section 17556) of Chapter 3 of Part 23 and existing improvements on an acquired site. The consent may be subject to the conditions as may be imposed, which may include the application of the consideration received in reduction of any apportionments previously made to the district. Any property into which the consideration from the disposition is converted shall be and remain the property of the state as if an apportionment had originally been authorized therefor.

Whenever, in the judgment of the board, a district fails to use property for the purpose or purposes for which an apportionment has been made, within not less than one nor more than five years from the aforesaid authorization, as the board shall determine, the board may demand back the return of the apportionment, or portion thereof, with interest, as specified in the preceding paragraph. The board's interpretation of the "use" in any instance, and whether or not the district has complied therewith, shall be conclusive upon the district affected after a hearing and finding of the board. In addition to the foregoing, the board may at any time subsequent to the expiration of the last mentioned period, while an apportionment remains unpaid or uncanceled, determine that a site or portion thereof, purchased in whole or in part with the apportionment is not being used for the purpose or purposes for which the apportionment was made, which determination shall be conclusive upon the district after a hearing and finding of the board. Pursuant to that determination, the board may direct the sale or other disposition of the site or portion thereof by the state or by the district and apply the proceeds, after deducting expenses it determines necessary to

facilitate the disposition, in reduction of the apportionment, plus accrued interest. Any excess shall be applied in reduction of any other unpaid or noncanceled apportionments, plus interest, as the board shall direct, any remaining proceeds thereafter being payable to the district. For the purposes of the determination of disposition, the district shall, whenever directed by the board, convey record title to the site or portion thereof to the state or do any other acts deemed necessary by the board to facilitate the disposition or implement the terms thereof. Any disposition authorized to be made hereunder by the district shall be made in accordance with the procedure prescribed by this code for the disposition of unneeded school property, otherwise as directed by the board, provided that the consideration to be received shall be subject to the approval of the board or its delegate for that purpose.

Written notice of any demand prescribed by this section, setting forth the amount due the state pursuant thereto, shall be furnished by the board to the governing board of the school district, the county superintendent of schools, the county auditor, the county treasurer of the county whose county has jurisdiction over the school district, and the Controller. Upon receipt of the notice and demand, the governing board of the school district shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the State School Building Aid Fund, to be reapportioned by the board.

Whenever a school district receives or has received an apportionment under this chapter for the purchase of a site which contains existing improvements, the board may require the district to dispose of the existing improvements as a condition of receiving an apportionment in the manner as the board deems proper, and contribute the net proceeds therefrom or the value of any consideration received therefor, in reduction of any apportionment. In the event that the district is not so required to dispose of the existing improvements but after receiving the apportionment subsequently disposes thereof, the net proceeds therefrom or the value of the consideration received therefor, shall be contributed by the district in reduction of any remaining indebtedness to the state under this chapter or Chapter 4 (commencing with Section 15700).

Where a district has been unable to use any building site acquired by an apportionment under this chapter because of the delay of the board in acting upon its application for an apportionment for the planning and construction of school buildings on the site, the board may withhold demand for repayment of the apportionment for the building site for a period of not less than one or more than three years after approval of the apportionment for planning and construction.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and

it shall be the duty of the Controller to enforce the collection on behalf of the state.

Whenever the consent of the board is required in this section, it may be given by written authorization of its authorized representative for that purpose. The provisions of this section, including the term "apportionment" or "apportionments," shall be deemed to be applicable to apportionments heretofore or hereafter made under this chapter or Chapter 4 (commencing with Section 15700).

Article 2. School Housing Aid for Reorganized Districts

16150. (a) As used in this article:

(1) "State-aided district" means a district to which a conditional or final apportionment has been made under this chapter.

(2) "Acquiring district" means a district in which all or a part of, a state-aided district or an applicant district has been included.

(3) "Original district" means a state-aided or applicant district included in whole or in part in an acquiring district.

(b) For the purposes of this article as it applies to an acquiring district, the effective date of any change of boundaries, annexation, formation of a new district, or other reorganization shall be:

(1) For granting conditional apportionments: the date the action became effective for the purposes of Sections 4062 and 4063.

(2) For making conditional apportionments final: the date the action became effective for the purposes of Sections 4062 and 4063.

(c) For the purposes of this article as it applies to an original district, the effective date of any change of boundaries, annexation, formation of a new district, or other reorganization in which the original district is included in whole or in part in an acquiring district shall be:

(1) For granting conditional apportionments: the date the action becomes effective for all purposes as specified in Section 4064.

(2) For making conditional apportionments final: the date the action became effective for all purposes as specified in Section 4064.

(3) No conditional apportionment may be made to any original district affected by any reorganization after the date such action became effective for the purposes of Sections 4062 and 4063 except upon an application that has the approval of the governing board of the acquiring district.

16151. On the date an acquiring district becomes effective for all purposes, as specified in Section 4064, the authority to accept a state loan voted by an original district pursuant to this chapter whose boundaries are coterminous with the boundaries of the acquiring district shall become authority of the acquiring district to accept a state loan. However, when the proceeds of bonds authorized and sold by the acquiring district are applied toward the reduction of apportionments made to an original district which is included in

whole in the acquiring district pursuant to Section 16058, the amount of bond proceeds shall be excluded in determining the amount chargeable against any apportionment authorized to be accepted by the electorate of the original or acquiring district.

16152. Notwithstanding any other provision of this chapter, where an election is or has been held after April 1, 1972, in two elementary districts for the purpose of forming a new elementary district from the territories of the districts, which reorganization would become effective for all purposes on July 1, 1973, and where one of the districts has prior to April 1, 1972, voted to accept, expend, and repay apportionments under this chapter but no apportionments pursuant to the authorization has been made to the district as of April 1, 1972, the consent of the electors in the districts to the reorganization shall be deemed to constitute a consent on behalf of the newly formed district to accept, expend, and repay apportionments under this chapter to the extent that the former authorization for apportionments had not been utilized.

Further, the ballot for the election held for the purpose of forming the new elementary school district shall contain a statement to the effect that approval of reorganization shall be deemed to constitute a consent on behalf of the newly formed district to accept, expend, and repay apportionments under this chapter to the extent that the former authorization for apportionments has not been utilized.

16153. Whenever, prior to the date on which a conditional apportionment is made by the board to an applicant district, (1) if an applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no apportionment shall be made to the applicant district; (2) if less than the whole of an applicant district is included in a district which is ineligible for an apportionment under this chapter, the board may reconsider the application of the applicant district and make such determinations and take the action with respect thereto, including the making, subject to Article 1 (commencing with Section 16000) of this chapter, of a conditional apportionment to the district, as the board may deem necessary because of such inclusion of less than the whole of the applicant district in the acquiring district; (3) if an applicant district is annexed to or otherwise included in whole or in part in a district which is eligible for an apportionment under this chapter and has made or does make an application for the apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make the determinations and take the action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter, of conditional apportionments to the districts, as the board may deem necessary because of the annexation or other inclusion in the acquiring district of the applicant district in whole or in part.

16154. Whenever, subsequent to the date on which a conditional apportionment is made by the board to an applicant district, but prior to the date on which the conditional apportionment becomes final, (1) if an applicant district is annexed to or otherwise included in whole in a district which is not eligible for an apportionment under this chapter, the conditional apportionment shall, notwithstanding any other provisions of this chapter, become void and the board shall promptly notify the Controller in writing thereof and the date on which the apportionment became void; (2) if the district to which an applicant district is annexed or in which it is otherwise included in whole is eligible for an apportionment, has made or does make an application for such an apportionment under this chapter, the conditional apportionment made to the applicant district shall, notwithstanding any other provisions of this chapter, become void but the board may reconsider the application of the acquiring district and make the determinations and take such action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter except as hereinafter provided, of additional conditional apportionments to the acquiring district, as the board may deem necessary as a result of such annexation or other inclusion in the acquiring district of the applicant district; (3) if less than the whole of an applicant district is included in another district, the conditional apportionment shall, notwithstanding any other provisions of this chapter, become void, but the board may reconsider the application and make such determinations and take such actions with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter except as hereinafter provided, of new conditional apportionments to the applicant district, as the board may deem necessary as a result of such inclusion of a portion of the applicant district in the acquiring district.

Notwithstanding anything in the first sentence of Section 16058 to the contrary, additional conditional apportionments made to a district under (2), or new conditional apportionments made to a district under (3) of the first paragraph of this section may, with the approval of the board, become final if the total amount of the bonds of the district outstanding and unpaid is within twenty-five thousand dollars ($25,000) of the amount required under Section 16058.

16155. If an annexation or other inclusion of a portion of an applicant district in another district comprises less than 5 percent of the assessed valuation of the applicant district on the effective date of the change, no annexation or other inclusion shall be deemed to have taken place for the purposes of Sections 16154 and 16156.

16156. Whenever, prior to the date on which conditional apportionments have been made to an applicant district for the full amount of state aid approved for the district under Section 16035, (1) if the applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this

chapter, no further apportionment shall be made to the applicant district; (2) if the applicant district is annexed to or otherwise included in whole in a district which is eligible for an apportionment under this chapter and which has made or does make an application for the apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make any determinations and take any action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter, of a conditional apportionment or apportionments to the acquiring district that the board may deem necessary because of the annexation or other inclusion in the acquiring district of the applicant district; (3) if a portion of the applicant district is annexed to or otherwise included in another district, the board may reconsider the application of the applicant district and may, within two years after the first apportionment made under the approval, make the additional apportionments as it sees fit to the applicant district, but not in excess of the amount in which the application was originally approved, without requiring the district to issue additional bonds.

16157. Whenever, subsequent to the date on which a conditional apportionment made to a district becomes final, the state-aided district is included in whole in another district, the acquiring district shall, on the effective date of the inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to the apportionment and the property acquired or to be acquired from funds provided thereby, and all funds in the state school building fund of the state-aided district shall be transferred to the state school building fund of the acquiring district. All amounts which would, after the effective date of the inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to the apportionment, shall be paid to the acquiring district. In addition, the acquiring district shall, on the effective date of the inclusion of the state-aided district in the acquiring district as fixed by Section 4064, become liable for the annual repayments and other payments due the state under Section 16075 and other provisions of this chapter with respect to the apportionment or the property acquired or to be acquired therewith.

16158. Whenever one or more state-aided districts are included in whole in an acquiring district, and the acquiring district applies for and receives an apportionment, then after the effective date of the inclusion and upon the approval of the application of the acquiring district, the governing board of each component state-aided district shall immediately transfer to the acquiring district all moneys of the component district which are required to be, or have been, earmarked for a project or projects of the district. The acquiring district, upon the transfer to it of the funds, may expend the funds for

any projects of the acquiring district as to which its application was approved.

16159. Whenever, subsequent to the date on which a conditional apportionment made to a state-aided district becomes final, less than all of the district is included in another district, the Director of General Services shall determine what portion of the apportionment was expended or will be expended for property acquired or to be acquired by the acquiring district. Any determination made by the Director of General Services under this section may be redetermined by him or her, from time to time, until the project for which the apportionment was made has been completed, and the final cost thereof determined and the final determination has been made pursuant to the final cost. The Director of General Services shall promptly notify the Controller, the governing board of the state-aided district and of the acquiring district, the superintendent of schools, the auditor and the treasurer of the counties having jurisdiction over the districts of each determination and redetermination made by him or her under this section. No redetermination shall be retroactive nor affect the liability of any school district for any payment or annual repayment, or portion thereof, previously made by or on behalf of the district to the state under this chapter.

On and after the date of the change of boundaries, the acquiring district succeeds to and is vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to that portion of the apportionment which the Director of General Services has determined or redetermined under this section was expended, or will be expended, for property acquired or to be acquired by the acquiring district, and the unexpended part of the portion of the apportionment in the state school building fund of the state-aided district shall be transferred to the state school building fund of the acquiring district. In addition, and at the same time, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other payments due the state under Section 16075 and other provisions of this chapter with respect to that portion of the apportionment which the Director of General Services has determined or redetermined was expended, or will be expended for property acquired, or to be acquired by the acquiring district, or, in the event the portion of the apportionment is a lower percentage of the apportionment than the percentage that the assessed valuation in the territory of the state-aided district which was transferred to the acquiring district is of the total assessed valuation of the state-aided district immediately preceding the effective date of the transfer, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other repayments due the state under Section 16075 and other provisions of this chapter with respect to the apportionment which is equal to the percentage of assessed valuation

in the territory transferred to the acquiring district. "Annual repayment," as used in this section, refers to repayment computed under Sections 16070 to 16075, inclusive, and excludes amounts for which the state-aided district is liable under the provisions of Section 16039. Whenever a site for which repayments are being made under Section 16039 is transferred to an acquiring district the acquiring district shall be liable for the repayments required under Section 16039.

Notwithstanding the foregoing, the liability of the acquiring district for the repayment of any portion of the apportionment made to the state-aided district shall not exceed the product of the highest percentage referred to above (whether relating to assessed valuation or to the portion of the apportionment expended in the property acquired), multiplied by the balance due on the apportionment made to the state-aided district at the time of the withdrawal on the effective date specified in Section 4064 (Sec. 1, Ch. 95, Stats. 1964, 1st Ex. Sess.) of the territory referred to. The limited liability is hereinafter referred to as "the maximum." It is the intent of the Legislature that the maximum shall be applied by the Controller, both retroactively and prospectively, provided that as a result of the application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than the maximum, assuming this paragraph had been in effect at that time, the excess shall be credited by the Controller against any apportionment balances for which the district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from other districts by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 16080 prior to January 1, 1966.

If any subdivision clause, sentence, or phrase of this section is for any reason held to be unconstitutional the decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section and each subdivision, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences, or phrases be declared unconstitutional.

16160. Notwithstanding the provisions of Sections 16159 and 16161, in situations where an applicant district at the elementary grade level under this chapter is divided into three parts, each of which is included in a newly formed unified school district, each part shall be excluded in determining the state loan repayment liability for any apportionment made to the original district subsequent to the date the unification is effective for purposes of Section 4062 (Sec. 1, Ch. 873, Stats. 1972), provided:

(a) The assessed valuation of the part is less than 4 percent of the original district in the fiscal year immediately preceding the fiscal year the change is made effective for all purposes.

(b) The average daily attendance in the part is excluded in determining projected enrollment of the original district for additional state aid during the period after the change is effective for purposes of Section 4062 (Sec. 1, Ch. 873, Stats. 1972) and prior to the effective date for all purposes.

(c) The part contains no sites, plans, or school facilities, which were acquired under this chapter or under Chapter 4 (commencing with Section 15700) of this part.

16161. Notwithstanding any change in the boundaries of a state-aided district or the annexation to, or the inclusion in, another district of a state-aided district, the state-aided district as it existed immediately prior to the effective date of the action shall be continued in existence for the determination of the assessed valuation of the property therein and for the purposes of the computations provided by Sections 16070, 16072, 16074, 16075 and 16084; and all the computations required to be made pursuant to those sections shall be made exactly as if there had been no such change of boundaries, annexation, or inclusion, except as otherwise provided in Sections 16163 and 16164. However, that if a state-aided district shall be included entirely in another school district which subsequently becomes state aided, then the unpaid balances of the apportionments made to the original district shall be added to the balances of the apportionments made to the newly aided district. In those cases, no further computations as aforesaid, or repayments, shall be made with respect to the original district, but the computations and repayments shall thenceforth be based solely upon the territory and assessed valuation of the newly aided district, in the manner provided by Sections 16070, 16072, 16074, 16075 and 16084.

16162. If a unified school district, after the effective date of this section, applies for and is granted an apportionment under this chapter on the basis of grade levels as defined in Section 16003, all unpaid balances of prior apportionments made to the district, subject to Section 16161, shall be added to the balances of the apportionments made on the basis of Section 16003. In those cases, no further computations or repayments under Sections 16070, 16072, 16074, 16075 and 16084 shall be made with respect to the prior apportionments alone, but the computations and repayments shall thenceforth be based solely upon the combined apportionments, and shall be made as provided in Sections 16071, 16072, 16074, 16075 and 16084.

16163. Whenever, subsequent to the date on which a conditional apportionment becomes final, territory is withdrawn from a state-aided district and no portion of the apportionment was expended for school property acquired by the acquiring district:

(1) If the acquiring district is a state-aided district, the assessed valuation in the territory acquired shall be included in determining assessed valuation of the property in the acquiring district, and shall thereafter be excluded in determining assessed valuation of the property in the state-aided district, for purposes of the computations under Sections 16070 to 16075, inclusive;

(2) If the acquiring district is not a state-aided district, the Controller shall determine the percentage relationship, at the time of the withdrawal, between (a) the assessed valuation in the territory acquired, together with the current assessed valuation in all other territory theretofore acquired by the acquiring district from the state-aided district since the date of its first conditional apportionment under this chapter, and (b) the current assessed valuation of the state-aided district as it was territorially constituted on the latter date.

If the percentage of assessed valuation in acquired territory is, in the aggregate, less than 10 percent, the assessed valuation in all the acquired territory shall be excluded, until the next withdrawal of territory from the state-aided district to the acquiring district, in determining the assessed valuation of the state-aided district for the purposes of the computations under Sections 16070 to 16075, inclusive.

If the percentage of assessed valuation in acquired territory is, in the aggregate, a percentage equal to or greater than 10 percent, the Controller shall, by deducting the percentage from 100 percent, obtain the "complement percentage." Until the next withdrawal of territory from the state-aided district to the acquiring district, the assessed valuation of the state-aided district for purposes of the computations under Sections 16070 to 16075, inclusive, shall be determined by dividing the current assessed valuation of the state-aided district as territorially constituted immediately subsequent to the last withdrawal, by the complement percentage.

Whenever, pursuant to this section, the assessed valuation of the state-aided district is adjusted for repayment computation purposes by use of the complement percentage, liability for the annual repayment computed shall be apportioned between the state-aided district and the acquiring district by multiplying the annual repayment by the complement percentage, the product representing the liability of the state-aided district, and the remainder of the computed repayment representing the liability of the acquiring district.

Notwithstanding the foregoing, the liability of the state-aided district shall not exceed the product of any "complement percentage" (as it may from time to time exist) times the balance due on the aforesaid final apportionment at the time the complement percentage is established; and the liability of the acquiring district (while a complement percentage remains unchanged) shall not exceed the remainder of the balance of the final apportionment at

the time complement percentage is established. The maximum liability on the part of either the state-aided or acquiring districts established as above (and until the time that the liability be altered by altering the "complement percentage") shall be hereinafter referred to in this section with respect to each such district as "the maximum."

(3) In the event that two or more non-state-aided districts acquire territory from the state-aided district, the Controller shall determine the formulae for apportioning liability for the annual repayment between the districts affected (including the formulae for determining what assessed valuations shall be used within the affected districts or territories withdrawn, and the dates of determination thereof), as will in his or her opinion best comply with the principles set forth above, irrespective of whether the formulae are in literal compliance therewith. The same percentage of annual repayment for which a district is liable at the time the liability apportionment is made shall (unless and until the liability apportionment is subsequently changed pursuant to this paragraph) be deemed applicable to the liability of the district for the balance (as of the date the liability apportionment is made) due on the final apportionment to the state-aided district. The liability for the balance shall, with respect to any affected district, be hereinafter referred to as the "maximum" for the district.

(4) It is the intent of the Legislature that the foregoing "maximums" shall be applied by the Controller both retroactively and prospectively, provided that as a result of the application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than its "maximum," assuming this paragraph and others to which it is referable had been in effect at that time, the excess shall be credited by the Controller against any apportionment balances for which the district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from any other district by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 16080 prior to January 1, 1966.

If any subdivision, clause, sentence, or phrase of this section is for any reason held to be unconstitutional the decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section and each subdivision, sentence, clause, or phrase thereof irrespective of the fact that any one or more subdivisions, clauses, sentences, or phrases be declared unconstitutional.

16164. Whenever, subsequent to the date on which a conditional apportionment becomes final, any territory is withdrawn from a non-state-aided district and annexed to the state-aided district, the

assessed valuation in the territory so annexed shall be included with the valuation of the state-aided district for the purposes of making the computations provided by Sections 16070 to 16075, inclusive.

16165. The Controller shall compute, in accordance with Sections 16161, 16163 and 16164, the amount of the annual repayment due the state on account of the apportionment or apportionments to each state-aided district and shall deduct from the respective apportionments made from the State School Fund under Sections 46304, 46305, and 92 or 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, to the state-aided district and an acquiring district the portion thereof for which each is liable under this article (Sections 16150 to 16166, inclusive).

16166. When, after any application is filed, the applicant district is annexed to, or, by change of boundaries or otherwise, is included in whole or in part in another district or districts, the superintendent of schools of the county having jurisdiction over the applicant district shall, within 10 days after the effective date of the annexation, inclusion, or change of boundaries, file a certificate with the board, in writing, in the form that the board shall prescribe, setting forth (1) the effective date of the annexation, inclusion, or change of boundaries; (2) identification of the area of the school district affected by the change and the name of the school district or districts in which the area is included as a result thereof; and (3) any additional information in any form that the board may require.

The board shall, upon receiving the appropriate certificate from a county superintendent of schools as provided herein, promptly notify the State Controller, in writing, of (1) the effective date of annexation or other inclusion of a state-aided district by an acquiring district; (2) the name of the state-aided district; (3) the name of the acquiring district; and (4) the number and other identification of the apportionment affected.

Article 3. School Housing Aid for Exceptional Children

16190. The board may make apportionments from any sum appropriated by the Legislature at the 1952 Second Extraordinary Session and from any state bonds heretofore or hereafter authorized by the electorate for state school building aid, including the proceeds of bonds authorized by Section 2 of Article XVI of the California Constitution, for assistance to school districts in providing necessary housing and equipment for the education of exceptional children. All the provisions of Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, except Sections 16007 and 16044, shall apply to this article unless otherwise provided herein.

16191. As used in this article, "exceptional children" means physically handicapped pupils, mentally retarded pupils, educationally handicapped pupils, multihandicapped pupils, or

pupils enrolled in development centers for the handicapped required or allowed to be educated pursuant to Part 30 (commencing with Section 56000).

16192. Allocations under this article for assistance to school districts in providing necessary housing and equipment for the education of pupils enrolled or to be enrolled in development centers for the handicapped may be made only to those school districts that are authorized to operate development centers pursuant to Article 1 (commencing with Section 56800) of Chapter 6 of Part 30, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976.

16193. The State Allocation Board, in cooperation with the State Department of Education, shall develop standards to be complied with in the construction of housing facilities for development centers for the handicapped with allowances provided pursuant to this article.

16194. The State Allocation Board shall establish guidelines and procedures to be utilized in determining the eligibility of school districts for allowances provided pursuant to this article with respect to facilities and equipment for the education of pupils enrolled in development centers for the handicapped. The guidelines and procedures shall provide that in order to be eligible to receive the allowance the school district has no existing facilities which could be utilized for a development center for the handicapped.

16195. Allocations under this article may be made in the amount as may be necessary, and in the manner as to distribute the available funds equitably among school districts, giving consideration to the needs of each district and the number of children within each district who are blind, partially seeing, aphasic, deaf, hard of hearing, mentally retarded, or orthopedic or who are health impaired, multihandicapped, speech handicapped, educationally handicapped, or enrolled in development centers for the handicapped.

In computing the number of those children, there shall be included all of the following:

(a) The number of them residing in the district.

(b) The number of handicapped minors who are actually living within the district five or more days a week, although their legal residence may be outside the district and who are educated pursuant to Section 56708, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976.

(c) The number of them who reside outside of the district, except those described in subdivision (b), and who are to be educated by the district, excluding mentally retarded minors within Section 56501, as amended by Section 58 of Chapter 1247 of the Statutes of 1977, who reside within a district having an average daily attendance of 900 or more and which does not meet the requirements of Section 16058 concerning outstanding bonded indebtedness.

Allocations for housing and equipment for minors having speech defects or disorders shall be allowed in new schools constructed after July 1, 1968, and in existing schools constructed between July 1, 1933, and July 1, 1968. The housing and equipment shall be designed and provided to permit their utilization for remedial and other special services including speech therapy, speech reading (lipreading), and auditory training for the speech and hearing handicapped, screening and testing for speech and hearing defects, or both, psychological testing of exceptional children, subject matter tutoring of exceptional children, and other specialized activities required by these children. In addition to the maximum building area allowances provided in Sections 16047, 16052, 16053, and 16054, not more than an additional 200 square feet of building area shall be allowed for each new school so planned and constructed.

Each existing school, constructed between July 1, 1933, and July 1, 1968, shall be allowed not more than an additional 200 square feet of building area only for construction thereon of a new speech facility. At the option of the applicant district, the board may allocate funds to convert existing facilities or to provide a combination of new construction and conversion of existing facilities to provide housing for minors having speech defects or disorders, provided the cost of the conversion or combination of new construction and conversion does not exceed the computed cost for 200 square feet of new classroom construction based upon cost standards adopted by the board. At the further option of the applicant district, and in lieu of new building construction or conversion, the board may allocate funds for the acquisition of mobile speech therapy facilities, provided the cost of the mobile facilities does not exceed the combined computed cost for 200 square feet of new classroom construction, based upon cost standards adopted by the board, at all schools which will be served by the mobile facility.

16196. Notwithstanding any provisions of this article to the contrary, apportionments for the construction of facilities and the purchase of essential furniture and equipment for the education of exceptional children may, subject to the approval of the State Department of Education, be made to any school districts not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, for the education of blind, partially seeing, aphasic, deaf, hard-of-hearing, mentally retarded, orthopedic or other health-impaired, multihandicapped, and educationally handicapped minors, pupils having speech defects or disorders, or pupils enrolled in development centers for the handicapped.

The State Department of Education may approve applications in those situations where the facilities will be used by a county superintendent of schools required to educate physically handicapped minors pursuant to Section 1850, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, and mentally retarded

minors pursuant to Section 1880, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976. A school district may educate these minors by agreement with a county superintendent of schools required to educate these minors. Priority in the use of the facilities shall be given to pupils from districts other than the applicant district.

Except as otherwise provided in this section, not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Fifty percent of the amount of the apportionment shall be repaid in full with interest by the district, in the annual amounts and at the interest rate over the period as the State Allocation Board may determine, not to exceed 20 years from the date the apportionment became final. In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by the facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if the district had been required to repay 100 percent of the apportionment over that period.

The county board of supervisors of the county whose superintendent of schools conducts classes in the facility during any fiscal year shall at that time or times within the fiscal year that may be agreed upon between the county and the school district, but in any case not later than the end of the fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the construction of the facility, an amount equal to 80 percent of the amount the district is required to repay in the fiscal year with respect to the apportionment described above.

The county board of supervisors shall raise the amount required through a general tax levy on the property within the participating districts, or through a tuition charge not to exceed one hundred sixty dollars ($160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility other than the district having the obligation to repay, or through a combination of these.

The county superintendent of schools shall notify the county board of supervisors of his or her intention to approve a school district's application for an allocation under this article before he or she approves the application.

16197. Notwithstanding any other provisions of this article to the contrary, apportionments for the purchase of mobile classrooms for the education of physically handicapped pupils enrolled in integrated programs, as set forth in Section 56702, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, and for the education and therapy of speech-handicapped pupils may, subject to the approval of the State Department of Education, be made to any school district not otherwise eligible to receive apportionments

under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) for that purpose.

The State Department of Education may approve applications in those situations where mobile classrooms will be used by a county superintendent of schools required to educate physically handicapped minors pursuant to Sections 1850 and 56701, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976. Mobile classrooms shall be used pursuant to an agreement authorized by Section 41308.

Except as otherwise provided in this section, not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Fifty percent of the amount of the apportionment shall be repaid in full with interest by the district, in annual amounts and at an interest rate over the period as the State Allocation Board may determine, not to exceed 20 years from the date the apportionment became final. In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by the facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if the district had been required to repay 100 percent of the apportionment over that period.

The county board of supervisors of the county whose superintendent of schools uses mobile classrooms during any fiscal year shall at the time or times within the fiscal year as may be agreed upon between the county and the school district, but in any case not later than the end of the fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the purchase of mobile classrooms, an amount equal to 100 percent of the amount the district is required to repay in the fiscal year with respect to the apportionment described above.

The county board of supervisors shall raise the amount required through a general tax levy on the property within the participating districts, or through a tuition charge not to exceed one hundred sixty dollars ($160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility including the district having the obligation to repay, or through a combination of these.

The county superintendent of schools shall notify the county board of supervisors of his or her intention to approve a school district's application for an allocation under this article before he or she approves the application.

The State Department of Education shall prepare specifications or regulations for the construction of mobile classrooms to provide for a useful life of no less than 20 years.

The use of mobile classrooms shall meet specifications described by the State Department of Education as they relate to the needs of the

physically handicapped pupils being served, as set forth in Section 56701, as enacted by Section 2 Chapter 1010 of the Statutes of 1976.

16198. Notwithstanding any provision of law to the contrary, the board shall control the amount of apportionments made for facilities for exceptional children. In so controlling these apportionments the board shall establish allowable building areas and cost standards comparable to the building areas and costs of similar facilities constructed by school districts which are not applicants under this chapter.

16199. The State Department of Education may accept applications by school districts for the construction of facilities and the purchase of essential furniture and equipment, under a pilot project to maintain regional programs for physically exceptional children.

The Superintendent of Public Instruction shall establish standards with respect to the regional programs for the pilot project which shall include, among other things, the curriculum to be offered, the area to be served, and the supervision and instruction with respect to the programs. Of the school district applicants which meet the standards established, the State Department of Education may designate not more than four school districts to receive apportionments as part of the pilot project to maintain regional programs for physically exceptional children.

The pilot project pursuant to this act shall begin with the 1972–1973 school year and shall terminate at the end of the 1974–1975 school year. The State Department of Education shall provide for state evaluation of the pilot project.

With respect to school districts selected as part of the pilot project, the State Allocation Board may approve applications and make apportionments pursuant to Section 16196, notwithstanding that the school district is serving a district or districts with an average daily attendance in excess of 8,000.

In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by the facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if the district had been required to repay 100 percent of the apportionment over that period.

The districts participating in a pilot project may include in interdistrict attendance agreements the cost of making repayments in the same proportion to the total repayment as the number of pupils enrolled from each district bears to the total number of pupils enrolled.

16200. Notwithstanding any provisions of this article to the contrary, the board may make apportionments to school districts not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with

Section 16150) for the construction of special education facilities and the purchase of essential furniture and equipment for the purpose of either or both (1) educating those physically handicapped, mentally retarded, and educationally handicapped pupils who regularly reside in an established, licensed children's institution or family home and are being educated pursuant to Section 42902, as amended by Section 1 of Chapter 1173 of the Statutes of 1977, and (2) educating handicapped pupils in development centers for handicapped pupils pursuant to Article 1 (commencing with Section 56800) of Chapter 6 of Part 30, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976.

Only 50 percent of any amounts allocated and disbursed to a district under this section shall be repaid by the district. Each disbursement shall be repaid in 20 equal annual installments, including interest as determined by the board, and shall be computed and withheld by the Controller. The first computation of repayment of any disbursement shall be made in the fiscal year following the disbursement and shall during the next fiscal year be deducted in equal amounts from the February, March, April, and May installments of the apportionment made to the district from the State School Fund under Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive.

16201. Notwithstanding the provisions of Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, the obligation of any district receiving an apportionment under this article to repay the apportionment shall not extend to more than one-half of the amount of the apportionment.

16202. With the approval of the county superintendent of schools, a school district may make application for an allocation under this article. Facilities for which an apportionment is made under this section shall be made available for use by the county superintendent of schools until he or she ceases to conduct the classes therein or until the superintendent of schools of a county other than the county whose superintendent of schools approved the application made under this section acquires jurisdiction over the location of the facility, whichever first occurs. Not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Ten percent of the amount of the apportionment shall be subject to repayment by the district to the extent, and in the manner prescribed in Article 1 (commencing with Section 16000) of this chapter for apportionments other than those made pursuant to Section 16039. Forty percent of the amount of the apportionment shall be repaid in full with interest by the district, in the annual amounts and over the period as the board may determine, not to exceed 20 years from the date the apportionment became final. The county board of supervisors of the county whose superintendent of schools conducts

classes in the facility during any fiscal year shall at the time or times within the fiscal year as may be agreed upon between the county and the school district, but in any case not later than the end of the fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the construction of the facility, an amount equal to the amount the district is required to repay in that fiscal year with respect to the 40 percent of the amount of the apportionment described above.

The county board of supervisors may raise the amount required through a general tax levy or through a tuition charge not to exceed one hundred sixty dollars ($160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility other than the district having the obligation to repay or through a combination of these.

Upon application of a school district and written approval of the county superintendent of schools the board may amend any apportionment previously received by a district for exceptional children by providing that the same shall be deemed to have been made with reference to this section, in which event all the incidents of this section shall be deemed applicable thereto, except that only the unpaid balance of the apportionment at the time of the amendment of the apportionment with interest accrued to that date shall be repaid as prescribed in this section.

The county superintendent of schools shall notify the county board of supervisors of his or her intention to approve a school district's application for an allocation under this article before he approves the application.

16203. Not later than July 10th of each year the county superintendent of schools of each county in which there is a school district maintaining facilities for the education of exceptional children which have been constructed with funds apportioned to the district under this article shall certify to the board of supervisors and to the county auditor of the county the total number of units of average daily attendance of pupils enrolled in the facilities during the next preceding fiscal year who reside in a district other than the district maintaining the facilities. On or before July 10th of each year the county superintendent of schools shall notify the governing board of each affected school district of the total number of units of average daily attendance of pupils residing in that district who were in attendance at the facilities maintained by another district.

16204. On or before July 20th of each year, the governing board of a school district which has received a notification pursuant to Section 16203, shall determine, and notify the county board of supervisors and the county auditor, whether the amounts required to be paid on behalf of the district under Section 16207 shall be provided from the general fund of the district or by a special district tax levied by the county board of supervisors.

In the event that the district notification specifies that the amounts so required shall be provided by a special district tax, or if no notification is made, the board of supervisors with whom the certificate prescribed by Section 16203 is filed shall, at the time of making the tax levy for that year for county purposes, levy a special tax upon all taxable property in the district of residence of each pupil enrolled in the facilities other than the district maintaining the facilities, sufficient in amount to raise, for the use of the facilities, the sum of one hundred sixty dollars ($160) per unit of average daily attendance, less any amounts per unit of the average daily attendance remaining in the county school building aid fund from levies and collections made in any prior year and not paid to the state pursuant to Section 16207.

16205. If the board of supervisors fails to make a district tax levy required under Section 16204, the auditor shall make the levy.

In the event the governing board of a school district has elected to provide from the district general fund the amounts required to be paid on behalf of the district from the county school building aid fund under Section 16207, the county superintendent of schools shall order the payment to be made in the amount required from the general fund of the district.

16206. In the event that the governing board of a school district determines, subject to the approval of the county superintendent of schools, that the amounts collected within the district by special taxes levied pursuant to Section 16204 or Section 16205 and credited to the district in the county school building aid fund are substantially in excess of amounts required of the district for purposes of Section 16207 for the ensuing three-year period, the county superintendent may order the payment to the district from the county school building aid fund of so much of the excess moneys that he or she may deem appropriate.

16207. The county auditor shall, not later than the last Monday in December and the last Monday in May of each year, notify the superintendent of schools of the amount in the county school building aid fund. Thereupon the superintendent shall draw his or her order on the county auditor in favor of the Treasurer for the amount in the county school building aid fund of the county, except that the total of the orders for any year may be limited to an amount not to exceed the total of one hundred sixty dollars ($160) for each unit of average daily attendance during the next preceding fiscal year of students residing in a district other than a district maintaining the facilities. The amount shall be paid by the county treasurer and, upon order of the Controller, shall be deposited in the State Treasury to the credit of the State School Building Aid Fund. All money paid to the State School Building Aid Fund under the provisions of this section shall be available only for transfer to the General Fund under Section 16403, as amended by Section 2 of Chapter 1373 of the Statutes of 1992, and

shall be credited to the repayment of the apportionment of funds to the school district maintaining the facilities.

Article 4. School Housing Aid for Compensatory Education Purposes

16210. Not to exceed thirty-five million dollars ($35,000,000) of the proceeds of the sale of bonds authorized by the State School Building Aid Bond Law of 1966 may be expended pursuant to this article as grants to assist school districts.

Allocations and grants under this article shall be made by the State Allocation Board, upon application of an eligible school district, for the purposes and projects designated by the district and approved by the Director of Compensatory Education. The purposes and projects shall be provided for pupils in any kindergarten or any of grades 1 to 9, inclusive, and for children participating in preschool programs. The Director of Compensatory Education may establish priorities for purposes of allocations and grants under this article based upon comparative needs of school districts and the urgency thereof. No interest shall be charged to a school district for an allocation or grant made under this article to the school district.

16211. Grants may be made pursuant to this article to districts which have been determined to be eligible for an apportionment under Article 5 (commencing with Section 54480) of Chapter 4 of Part 29, or districts maintaining schools for kindergarten, or any of grades 1 to 6, inclusive, in areas designated pursuant to Section 54482 which have reduced the number of pupils to full-time equivalent classroom teachers in kindergarten and any of grades 1 to 6, inclusive, in those schools to a ratio of 25 to 1, or better. The grants shall be made for the purposes, and subject to the conditions, following:

For expenditure by the district in areas designated pursuant to Section 54482 for any of the following:

(a) Acquisition, by purchase or lease, and the installation and equipping of portable classrooms for classroom instructional purposes.

(b) Acquisition of land for schoolsites.

(c) Construction and equipping of permanent school buildings and facilities.

(d) Reconstruction, renovation or remodeling of existing school buildings and facilities.

(e) Any combination of the above.

16212. In lieu of grants to districts pursuant to subdivision (a) of Section 16211 for the purpose of acquisition of portable buildings or other facilities and equipment, the board may expend moneys available for grants under this article for the acquisition of portable buildings and facilities and equipment by the state, and thereafter convey the same to the eligible districts. The conveyance to eligible

districts may take the form of sale, lease, outright grant, or other suitable form of conveyance, as determined by the board.

16213. In formulating recommendations to the board under this article, the State Department of Education, through the Director of Compensatory Education, shall be subject to standards established by rules and regulations of the State Board of Education.

16214. For each school district which receives a grant or allocation pursuant to this article, commencing with the fiscal year next succeeding the fiscal year in which the grant or allocation was received, and for each fiscal year thereafter, the Controller shall compute an amount equal to one cent ($0.01) on each one hundred dollars ($100) of the assessed valuation of property within the district. The Controller shall, during the next fiscal year following that in which he or she makes the computation pursuant to the preceding sentence of this section, deduct the amount so computed in equal amounts from each of the February, March, April, and May installments of the apportionments made to the district from the State School Fund under Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive; and, on order of the Controller, the amount so deducted shall be transferred to the State School Building Aid Fund. All money transferred to the State School Building Aid Fund under this section shall be available only for transfer to the General Fund under Section 17204, as enacted by Section 2 of Chapter 1010 of the Statutes of 1978.

The Controller shall make the computations and deductions required by this section for 30 fiscal years or until the time as the total of the amounts so deducted equal 50 percent of the amount of the grant or allocation which was made to the school district, whichever first occurs.

Notwithstanding any provision of law to the contrary, for each fiscal year for which a computation is made pursuant to the section, the maximum rate of school district tax for the school district for which the computation is made shall be increased by one cent ($0.01) per each one hundred dollars ($100) of the assessed value of property within the district and shall be in addition to any amount of tax otherwise authorized to be levied, and amounts raised through the levy of the tax may be used to offset any reduction in equalization aid resulting from the deductions made pursuant to this section.

The increase in the maximum school district tax provided by this section shall be deemed to be for bonded debt service or current capital construction. If the one cent ($0.01) rate of school district tax levied by the district causes the tax levied by the district for bonded debt service and for current capital construction in the same year to exceed the forty-cent ($0.40) tax amount, as that term is defined by Section 16070 or 16071, whichever is applicable, for each grade level maintained by the district, the Controller shall not make the deduction otherwise required by this section for the fiscal year.

16215. Sections 16000 to 16006, inclusive, Sections 16009, 16018, and 16021, and Sections 16091 to 16100, inclusive, shall be applicable to the administration of this article, unless the context of this article, as determined by the board, requires otherwise.

Article 5. School Housing Aid for Districts Impacted by Seasonal Agricultural Employment

16230. Not to exceed one million five hundred thousand dollars ($1,500,000) of the amount of the proceeds of bonds issued under the State School Building Aid Bond Law of 1966 which are reserved pursuant to Section 17214, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, may be expended pursuant to this article.

Nothing in this article shall be construed to sanction, perpetuate or promote the racial or ethnic segregation, or the segregation by economic class, of pupils in the public schools.

The funds shall be expended by the State Allocation Board, for the acquisition of portable school and classroom buildings, and for the expenses incurred in the administration of this article.

The portable school and classroom buildings may be made available by the board, upon the recommendation of the Director of Compensatory Education, to any school district which, because of the influx for temporary periods in the school year of large numbers of persons employed in seasonal agricultural work, experiences emergency increases in school enrollments of such magnitude as to make it impossible or impractical to accommodate the additional pupils in existing school buildings and facilities available to the district.

16231. The portable school and classroom buildings acquired pursuant to this article shall be made available to a school district irrespective of whether the district is otherwise in receipt of or eligible for assistance under any other provisions of this chapter.

The use of the portable school and classroom buildings may be made available to a school district by letting the same to the district free of charge, or by lease, or by conveying the same to the district under lease-purchase agreement, sale, or outright grant, as determined by the State Allocation Board upon consultation with, and the advice of, the Director of Compensatory Education. In addition the use of the portable school and classroom buildings may be made available to a school district by any of the means specified by Section 16041, as determined by the State Allocation Board upon consultation with, and the advice of, the Director of Compensatory Education.

16232. The use of the portable school and classroom buildings under this article shall be based upon application therefor submitted by the governing board of the school district to the Director of Compensatory Education, who shall review the same, make any modifications he or she deems appropriate, and transmit the

approved application to the State Allocation Board with his or her recommendations as to the action to be taken thereon.

16233. If at any time the State Allocation Board shall determine that the need of the district for particular portable buildings which are made available to the district pursuant to this article has ceased, the board may take possession of the buildings on behalf of the state, and may dispose of the buildings to public or private parties in any manner and under any terms that it deems to be in the best interests of the state.

16234. Sections 16000 to 16006, inclusive, Sections 16009, 16018, and 16021, and Sections 16091 to 16100, inclusive, shall be applicable to the administration of this article, unless the context of this article, as determined by the board, requires otherwise.

16235. All moneys received from the rental, lease, or sale of portable school and classroom buildings pursuant to this article shall be deposited in the State Treasury and, on order of the Controller, shall be credited to and in augmentation of the appropriation made by Section 16230.

All moneys shall be available without regard to fiscal years for repairing, renovating, installing, moving, or maintaining the buildings or for acquiring additional portable school and classroom buildings for the purposes of this article.

Article 6. School Housing Aid for a Regional Occupational Center

16250. Not to exceed two million four hundred twelve thousand two hundred thirty-three dollars and forty-nine cents ($2,412,233.49) of the amount of the proceeds of bonds issued under the State School Building Aid Law of 1966 may be expended pursuant to this article. The funds shall be allocated by the State Allocation Board to a joint powers board of education for the construction of a permanent campus for a newly created regional occupation center school to be located in the south bay area of Los Angeles County, having a population in excess of 1,070,000, and a potential average daily attendance in excess of 10,000 persons. Not to exceed four hundred thousand dollars ($400,000) of such sum shall be allocated and expended for architectural and engineering services in connection with the construction.

Sections 16000 to 16006, inclusive, Sections 16009, 16018 and 16021, inclusive, shall be applicable to the administration of this article, unless the context of this article, as determined by the board requires otherwise.

16251. The allocation of funds to the entity pursuant to this article shall be conditioned upon the prior approval of the proposed facilities and subject matter of the educational program by the Superintendent of Public Instruction.

16252. It is the intent of the Legislature in enacting this article to finance the capital expenditures involved in the construction,

equipping, and establishment, to serve an area in great need of occupational preparation, of a regional occupational center school to be maintained by a Joint Powers Board of Education and entity. It is the further intent of the Legislature to improve the employment opportunities of persons residing in areas of need for the training, by providing educational programs of a nature that will serve the social and economic needs of that area. The program will also serve to upgrade the cultural and intellectual as well as the economic life of the area to be served.

The Legislature finds that the federal government has made available in the south bay area of Los Angeles County land to be used for a regional occupation center school, provided a permanent campus can be established on the land within 18 months. For this reason, it is essential that the money made available for purposes of this article be allocated to the establishment of a permanent campus for a regional occupational center school in the south bay area of Los Angeles County.

16253. (a) Any amounts allocated and disbursed to the Joint Powers Board of Education and entity pursuant to this article shall be a loan by the state to the entity and shall be fully repaid by the entity to the state within 10 years after the date of disbursement to the entity. Interest shall be paid at a rate determined by the board. Any loan shall be repaid by the entity from proceeds of a tax under provisions of Section 52317, as amended by Section 1 of Chapter 267 of the Statutes of 1977, for sites, buildings and equipment, by a maximum tax levy of the assessed valuation of the entity not to exceed five cents ($0.05) on each one hundred dollars ($100) of assessed valuation in that entity.

(b) The annual repayment shall be determined by agreement between the Director of Finance and the Superintendent of Public Instruction. The tax revenue referred to in subdivision (a) above shall be transferred by the County Auditor of Los Angeles County to the General Fund of the state in accordance with established regulations and procedures.

Article 7. Children's Center Construction Law of 1968

16260. This article shall be known as the Children's Center Construction Law of 1968.

16261. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to school districts and to county superintendents of schools for the construction of children's center facilities. Children's centers are of general concern and interest to all the people of the state, and the education and care of children of working parents are a joint obligation of both the state and local agencies operating children's centers.

In enacting this article, the Legislature considers that the greatest need is to provide children's center facilities for the education and care of children during the time the sole parent is at work making the family economically self-sufficient, or is in school or in training to gain economic self-responsibility. The Legislature recognizes the need to encourage the provision of additional children's center facilities to permit more families to become economically self-sufficient.

16262. The following terms, whether used or referred to in this article, have the following meanings, unless a different meaning clearly appears from the context:

(a) "Local agency" means a school district or a county superintendent of schools operating or authorized to operate a children's center pursuant to this chapter.

(b) "Board" means the State Allocation Board.

(c) "Project" means the purposes for which a local agency has applied for assistance. A project may include the acquisition and improvement of sites, the planning and construction of permanent facilities, and the acquisition of equipment for children's centers.

(d) "Construction of facilities" means construction of permanent facilities which may include leased portable buildings.

16263. This article shall be administered by the State Allocation Board. The board shall adopt any rules and regulations that it deems necessary to carry out the purposes of this article. The rules and regulations of the board shall establish a system of priorities to determine the relative necessity to establish children's center facilities by a local agency. In establishing priorities with regard to the outlay of capital funds for the construction of new children's centers, or with regard to the rental or leasing of facilities for new centers, the board shall give special consideration to school districts as described under subdivision (a) of Section 54425 which are also certified by the State Department of Health as containing substantial numbers of families who are recipients of aid to families with dependent children or who are former or potential recipients of the aid and who might reasonably be expected to improve their ability to be self-supporting if child care services are made available. The Department of Benefit Payments shall provide the State Department of Health with any information in its possession necessary for the administration of this section.

16264. No local agency shall receive an initial allocation from any appropriation made for the purposes of this article more than an amount to be known as the local agency entitlement. This amount shall be computed as follows:

(a) Determine the percentage that the amount apportioned to the local agency in the previous fiscal year for operation purposes pursuant to Section 8380, as amended by Section ____ of Chapter _____ of the Statutes of _____, bears to the total amount allocated to all local agencies under the same section.

(b) Determine the percentage that the statewide modified assessed valuation per average daily attendance for the grade level involved in the previous fiscal year bears to the assessed valuation per unit of average daily attendance of the local agency. Local agencies other than school districts shall use a percentage of 1.00.

(c) Determine the local agency eligibility factor by multiplying the percentage derived in (a) by that derived in (b).

(d) Determine the local agency entitlement by multiplying the district eligibility factor derived in (c) by the amount appropriated for this purpose.

Amounts of the appropriation initially unallocated may be allocated subsequently without regard to the limitation of the local agency entitlement. Amounts of local agency entitlement not applied for within 90 days of the notification of entitlement, and amounts approved pursuant to Section 16268 but not allocated pursuant to Section 16269, and not made available on an extended basis after one year from the date of the original approval, may also be allocated without regard to the limitation of local agency entitlement.

16265. Any local agency operating or authorized to operate a children's center may apply for assistance under this article to undertake one or more projects. Any local agency not operating a children's center in the prior fiscal year shall have its eligibility and other factors determined by a method similar to that in Section 16264. Reasonable estimates may be used.

16266. Applications for assistance under this article shall be made on forms prescribed and furnished by the board. The applications shall include, but not be limited to, all of the following data and information:

(a) An outline and general description of the project to be undertaken.

(b) An estimate of the cost of the project to be undertaken and the anticipated source of funds to complete the project.

(c) The estimated number of children to be served by the project.

(d) The waiting list of the local agency for children's centers.

(e) The amount expended by the local agency from local sources during the past five years for the provision of children's center facilities.

16267. Not more than 25 percent of any funds available under this article for allocation to local agencies under this article shall be allocated for the reconstruction or rehabilitation of existing children's center facilities. Not less than 75 percent of the funds shall be allocated for the planning and construction of new permanent facilities, including acquisition and improvement of sites and acquisition of equipment for the facilities.

16268. The board shall notify a local agency when a preliminary approval of project has been given, and shall reserve from the appropriation made a sum in the amount of the approval given.

16269. Funds allocated for a project shall be disbursed to the local agency upon certification to the Controller when the executive officer of the board has determined both of the following:

(a) All required approvals of the projects have been granted.

(b) The local agency has subsequent to the effective date of this section, committed the expenditure through the granting of a contract or the authorization of an agreement which requires the payment of funds.

16270. In administering this article, the board shall approve the application. The executive officer of the board shall (a) prescribe and furnish application forms and (b) certify to the Controller the allocation of funds to which a local agency is eligible.

16271. All sites, plans, and specifications of the proposed facilities shall be approved by the State Department of Education. Prior to the approval, the local agency shall certify to the State Department of Education the unavailability of adequate, alternate facilities in the area to be served by the proposed facilities. The facilities shall include but not be limited to vacant classrooms, auditoriums, multipurpose rooms, church or recreation facilities.

16272. For each one dollar ($1) of money allocated to a local agency which is expended for a project, the local agency shall expend local funds for the project in an amount which bears the same percentage to the one dollar ($1) as the modified assessed valuation per unit of the average daily attendance of the local agency bears to the statewide modified assessed valuation per average daily attendance of all local agencies. Local agencies other than school districts shall use a percentage of 1.00.

Article 7.5. Regional Occupational Center of Kern

16280. Not to exceed six million dollars ($6,000,000) of the amount of the proceeds of bonds issued under the State School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1974 shall be allocated by the State Allocation Board to the Regional Occupational Center of Kern for the construction and equipping of a new regional occupational center to be located in Kern County. The funds shall be available for allocation to the entity for a period of not more than four years from the effective date of this article and during such period the entity shall apply for the funds as are necessary to accomplish the purposes of this article. Funds shall be expended after the four-year period with respect to allocations made during the four-year period.

Only Sections 16000, 16001, 16003, 16005, and 16006, and Sections 16009, 16018, 16019, 16021, 16089, 16093, 16094, 16097, and 16099 of Article 1 (commencing with Section 16000) of this chapter shall be applicable to the administration of this article unless the context of this article as determined by the State Allocation Board requires otherwise.

16281. The Legislature finds that the Regional Occupational Center of Kern is comprised of three school districts in Kern County and it provides vocational training in areas of social and economic need. The Legislature further finds that the entity is in need of school building facilities and the participating school districts have levied the permissive override tax authorized by Education Code Section 52317 to meet the cost of that construction. Inflation dictates that construction must begin at the earliest possible time to minimize the overall cost. The Legislature intends, therefore, in enacting this article to make available the necessary funds for immediate construction of the needed school facilities. The Legislature intends, however, that the funds shall be paid back in full with interest as provided by this article so that the taxpayers of this state shall not be required to pay for the support of the facilities.

16282. Any amounts allocated and disbursed to the Regional Occupational Center of Kern pursuant to this article shall be fully repaid with interest by the entity to the state in 20 equal annual payments commencing with the second fiscal year after the date of disbursement to the entity. Interest shall be paid at a rate determined by the State Allocation Board. Amounts allocated pursuant to this article shall be repaid by the entity from the proceeds of the tax levied by the participating school districts pursuant to Section 52317 and the payments shall be transferred by the County Auditor of Kern County to the State Treasury for the credit of the State School Building Aid Fund in accordance with established regulations and procedures.

16283. If at the time of considering the entity's application the State Allocation Board determines that the revenue to be received from the tax permitted by Section 52317 will be insufficient to pay the principal and interest of the loan in 20 equal annual payments, the board shall approve the application and allocate the funds therefor only upon condition that an election be called by the governing board of the entity and that two-thirds of the qualified electors of the entity voting on a proposition therefor, authorize the governing board to accept, expend and repay as provided in this article the allocation or apportionment. The election shall be called, held, and conducted in the same manner as are elections to authorize the issuance of school district bonds, except that the ballot shall contain substantially the following words:

"Shall the Governing Board of the Regional Occupational Center of Kern, for the purpose of providing permanent facilities for a regional occupational center, be authorized to accept, expend, and repay an apportionment from the State of California under and subject to the provisions of Article 7.5 (commencing with Section 16280) of Chapter 8, Part 10, Division 1, Title 1 of the Education Code, in an amount not to exceed $_____. Yes____

No____"

16284. On or before the first day of January of each fiscal year the Controller shall determine the annual repayment due.

Article 8. School Housing Aid for a Regional Occupational Center in San Joaquin County

16300. Not to exceed two million dollars ($2,000,000) of the amount of the proceeds of bonds issued under the State School Building Aid Bond Law of 1966 shall be expended pursuant to this article. The funds shall be expended under the administrative direction of the State Allocation Board in cooperation with the Board of Education of the Stockton Unified School District for the construction of a permanent campus for a newly created regional occupational center school to be located in San Joaquin County. Not to exceed two hundred fifty thousand dollars ($250,000) of the sum shall be allocated and expended for architectural and engineering services in connection with the construction.

Sections 16000 to 16006, inclusive, and Sections 16009, 16018 and 16021, shall be applicable to the administration of this article, unless the context of this article, as determined by the board, requires otherwise. Except to the extent and for the purposes expressly provided herein, the provisions of other articles in this chapter shall not be applicable hereto.

16301. (a) It is the intent of the Legislature in enacting this article to finance the capital expenditures involved in the construction, equipping, and establishment of a regional occupational center to be maintained by the Stockton Unified School District, to serve an area in great need of occupational preparation. It is the further intent of the Legislature, by this article, to improve the employment opportunities of persons residing in areas of need for the training by providing educational programs of a nature that will serve the social and economic needs of that area. The program provided will also serve to upgrade the cultural and intellectual life, as well as the economic life, of the area to be served.

(b) The governing board of any school district maintaining a high school may, pursuant to Section 52301, cooperate with the Stockton Unified School District in the establishment and maintenance of the regional occupational center.

(c) In conjunction with the regional occupational center, regional occupational programs may be established in the Stockton Unified School District and in participating school districts.

(d) The cooperation in the establishment and maintenance of a regional occupational center pursuant to subdivision (b) and the establishment and maintenance of regional occupational programs pursuant to subdivision (c), may be undertaken pursuant to Article

1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

(e) Notwithstanding subdivisions (b), (c), and (d), the Stockton Unified School District has the sole duty to the state to operate and manage the regional occupational center and any regional occupational program authorized by this article.

(f) The amount computed for the Stockton Unified School District pursuant to subdivision (a) of Section 42233 shall be deemed to have been increased by the amount raised within the Stockton Unified School District for the support of a regional occupational center and program, except capital outlay expenditures, maintained during the 1972–73 fiscal year by the county superintendents of schools. The other computations required by Article 2 (commencing with Section 42230) of Chapter 7 of Part 24 shall be adjusted to appropriately reflect the increase. The revenue limit applicable to the county superintendent of schools shall be reduced by an amount equal to the increase in the revenue limit of the Stockton Unified School District made pursuant to this subdivision.

Article 9. School Housing Aid for Rehabilitation and Replacement of Structurally Inadequate School Facilities

16310. Not to exceed forty million dollars ($40,000,000) of the proceeds of the sale of bonds authorized by the State School Building Aid Bond Law of 1966 may be expended pursuant to this article.

16311. Not to exceed two hundred fifty million dollars ($250,000,000) of the proceeds of the sale of bonds authorized by the School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1972 may be expended pursuant to this article.

16312. The Legislature hereby declares that it is in the interest of the state and the people thereof to provide assistance to school districts in rehabilitating or replacing structurally unsafe school facilities inasmuch as the education of children is an obligation of the state, and the obligation carries with it a corresponding responsibility for the physical safety of children while attending school.

16313. It is the intent of the Legislature in enacting this article to provide a means through repayable state loans for school districts not otherwise eligible for assistance under this chapter (consisting principally of school districts in the urban centers of the state), to house their pupils in facilities that are structurally safe.

16314. The following terms, as used in this article, shall have the following meanings, unless the State Allocation Board finds a different meaning is essential for properly carrying out the purposes of this article, or finds that a different meaning clearly appears from the context:

(a) "Board" means the State Allocation Board as defined in Article 1 (commencing with Section 16000) of this chapter.

(b) "Director" means the Director of Education.

(c) "District" means an elementary, high school, or unified school district.

(d) "Project" means the purposes for which a district has applied for assistance in the rehabilitation or replacement of unsafe school facilities at a given attendance center.

(e) "Apportionment" means an apportionment made under this article, and unless the context otherwise requires, it shall be deemed to include funds of a district required by the board to be contributed toward the cost of a project.

(f) "Attendance center" means a school maintained or to be maintained at a given location within a district.

16315. The State Allocation Board shall administer this article. The Director of General Services shall provide the assistance to the board as it may require.

16316. In addition to any other powers and duties granted to the board by Article 1 (commencing with Section 16000) of this chapter, the board shall:

(a) Establish the qualifications that it deems will best serve the purposes of this article for determining the eligibility of districts to apportionments under this article.

(b) Establish the procedures and policies in connection with the administration of and expenditure of funds made available for the purpose of this article that it deems necessary.

(c) Adopt the rules and regulations for the administration of this article, requiring the procedure, forms, and information as it may deem necessary.

16317. The board, by the adoption of rules, shall give priority in allocating funds to districts which will benefit most from the reconstruction or replacement of schoolhouse facilities. This priority may be based on the age and structural safety of existing buildings at the school or schools where the construction or reconstruction will occur, acuteness of overcrowding and density of population in the attendance areas affected, or any other factors that will insure that the greatest need will be served in allocating funds under this article.

16318. The board shall prescribe instructions specifying the manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the apportionment. The net proceeds derived from the disposition shall be contributed in reduction of any apportionment proportionate to the state's participating in the project. Any school district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state by any instruments deemed appropriate by the board, title to the property, whereupon, the board shall dispose of the property in any manner it deems appropriate to insure the highest return to the state, and apply the applicable proceeds therefrom in reduction of apportionments to the

district. The district affected shall do all things deemed necessary by the board to implement the disposition.

16319. Apportionments under this article from the State School Building Aid Fund shall be made for the sole purpose of reconstructing or replacing existing substandard buildings that present a potential threat to the safety of schoolchildren and which do not comply with the requirements of Article 3 (commencing with Section 17280) of Chapter 2 of Part 10.5 or for the purpose of restoring facilities damaged by an earthquake after February 1, 1971, and for which there are no other state or federal funds available for the restoration. The apportionments shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board for the following purposes, all of which purposes are declared to be, and are, public works:

(a) The reconstruction, renovation, or remodeling of existing school buildings and facilities.

(b) The construction of permanent or temporary school buildings and facilities for replacement purposes.

(c) The acquisition, by purchase or lease, and the installation of classrooms for replacement purposes.

(d) The acquisition and development of schoolsites necessary for construction of buildings approved under this article.

(e) The construction, repair, attachment, or development of offsite facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made.

(f) The acquisition of additional furniture and equipment as is deemed necessary by the board to make the rehabilitated or replaced facilities properly function.

(g) Any combination of the above.

Except as is provided in Section 16320, apportionments shall not be made under this article for the purpose of reconstructing or replacing existing substandard buildings which have already been reconstructed or replaced using funds made available under Chapter 1575 of the Statutes of 1947, as amended, or Chapter 7 (commencing with Section 16500), Chapter 4 (commencing with Section 15700), and Chapter 8 (commencing with Section 16000) of this part.

As a part of the purposes, where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction, or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering the insurance. However, in other respects the apportionments are eligible for payment under this chapter.

16320. Notwithstanding the provisions of Section 16319, apportionments under this article from the proceeds of bonds

remaining from the authorization provided in the State School Building Aid Bond Law of 1966 may be made for the purpose of (1) reconstructing or replacing existing substandard school buildings or high school dormitories that present a potential threat to the safety of schoolchildren and which were not previously constructed or reconstructed in accordance with the requirements of Article 3 (commencing with Section 17280) of Chapter 2 of Part 10.5 or which if previously reconstructed to comply with the provisions of Article 3 no longer meet the standards of structural safety prescribed under the authority of Article 3 in effect on April 10, 1933, or (2) reconstructing or replacing existing structures utilized by a school district as school buildings originally designed to house the United States Cavalry and used as World War II prisoner-of-war camp structures or an existing structure utilized by a school district as a school building which was originally designed as a mess facility for the United States Army Air Corps without regard to conditional or provisional structural approvals received by the district with respect to the buildings prior to the enactment of Chapter 500 of the Statutes of 1972.

Apportionments for the reconstruction or replacement of a dormitory shall only be made when the use and occupancy of the dormitory will be by resident pupils of the district who are in attendance at the high school of the district and when in the judgment of the board the pupils cannot be reasonably expected to travel by vehicle to the school on a daily basis.

16321. Notwithstanding the provisions of Section 16319, apportionments under this article from the proceeds of bonds remaining from the authorization provided in the State School Building Aid Bond Law of 1966 may be made for the purpose of replacing school buildings severely damaged by an earthquake in Sonoma County subsequent to September 30, 1969, and subsequently demolished by the school district in the interest of safety to the children, but not yet replaced by permanent facilities.

16321.7. Notwithstanding the provisions of Section 16319, apportionments may be made to a school district for the purpose of replacing an existing substandard building which formerly housed the district's high school, and which was subsequently replaced by a new high school building using an apportionment received under this chapter, but which continued to be used by the district for elementary school purposes from the time of completion of the new high school in the 1958–59 school year until November 1971, when the pupils were transferred from the unsafe school building to temporary structures.

16322. The State Department of Education shall provide the following services to school districts making applications for apportionments under this article:

(a) It shall assist school districts in organizing a comprehensive planning effort. It shall guide a planning process through its

appropriate steps and, when requested by a school district, it shall provide the school district with sources of expertise, either public or private, which may be able to contribute to the development of plans to find solutions for specific problems a school district may have.

(b) It shall provide continuing research in relation to all phases of educational programs and the school facilities that are required to implement these educational programs.

(c) It shall provide a review and evaluation service to school districts to assure the effectiveness of the facilities that have been provided in accommodating educational programs.

(d) It shall provide communication media through publications and seminars, and prepare planning guides and procedures containing recommendations, which guides shall be used to disseminate educational planning information to all school districts.

Unless specifically exempted by the State Allocation Board, each school district which files an application for an apportionment of funds under this article after July 1, 1973, shall prepare and submit to the board either, (1) a long-range comprehensive master plan justifying the application, prepared in accordance with acceptable planning procedures, or (2) a certification to the effect that replacement school buildings for which application has been made will all be located on existing schoolsites containing a school building or buildings, or (3) a certification that the applicant school maintains only one school. Specific information relating to the following factors must be included in the master plan:

(a) A statement of the educational programs and goals of the district in relation to its programs, both current and future.

(b) A comprehensive evaluation and report of the utilization of the school facilities now existing in the district together with preliminary plans of the facilities to be reconstructed or replaced under this article, prepared in accordance with the requirements of Section 17302 or 81138.

(c) A comprehensive demographic study of the district, as it currently exists and as projected into the future.

(d) A policy statement regarding actual or potential human problems.

(e) A policy statement as to the priority in which the district proposes to solve its school housing problems.

(f) A policy statement regarding cooperation with other local public agencies to achieve total community development.

(g) A policy to insure continuous review so that plans will be kept up to date and changing conditions will be reviewed and accommodated by appropriate revision of plans.

The director shall review the long-range master plan and project development plan and shall report his findings and recommendations thereon to the board. The board shall in no instance approve an application or make an apportionment therefor until it has determined to its satisfaction that the facility for which the

apportionment is sought is justified by an appropriate estimate of average daily attendance and location within the district.

16323. Each school district which desires an apportionment shall submit through its governing board to the board an application therefor in the form and number of copies as the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project for which the district desires an apportionment.

Estimates of costs for new construction or equipment appearing in an application shall conform to cost standards adopted by the board under Section 16024.

A school district shall not let any contract for new construction included in an application for a construction project which has been approved by the board if the cost exceeds the construction cost standards fixed by the board under Section 16024 for the new construction by more than 2 percent or except as otherwise provided in Section 16332. The amount, if any, by which the contract cost exceeds the construction cost standards fixed by the board shall be borne by the school district and shall not be included in the apportionment.

A school district may at any time amend or supplement its application.

Each construction project for which a district applies for an apportionment shall be applied for on a separate application and shall be considered separately by the board. If a district applies for more than one construction project, at the same time or at different times, the priority points of the district shall be recalculated after the approval of each separate construction project and before a subsequent construction project is approved.

The board shall require any changes in the plans which an applicant school district submits with its application that the board determines is necessary or desirable to reduce the cost of the project.

16324. A school district may at any time file an application or amend or supplement an application. Upon receipt of any application, the Director of General Services shall as promptly as possible prepare a report and recommendation with respect to the application after having received recommendations from the director in respect to any matter which is subject to the jurisdiction or approval of the director or State Department of Education. The board shall, subject to the provisions of this article, approve, in whole or in part, or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the State School Building Aid Fund the amount applied for, or any portion thereof that the board may determine appropriate. However, it may order that the apportionment or any part thereof shall be paid in progressive installments at any times and

under any conditions that it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 16327 is favorable and if the county superintendent of schools furnishes a certificate satisfactory to the board certifying that there is on deposit in the state school building fund of the district the amount of district funds which, when added to the apportionment computed under Section 16330, will equal the estimated cost of the project approved under Section 16323.

Unless the board has received the certificates of the county superintendent of schools required by this section within nine months from the date of the conditional apportionment, it shall, at the expiration of the nine-month period, void the conditional apportionment and shall certify this fact to the Controller. Each final apportionment made by the board under this article, shall be certified by it to the Controller who shall from time to time draw his or her warrant on the Treasurer in favor of the county treasurer of the county having jurisdiction over the district in accordance with the terms of the final apportionment. The warrant shall be exempt from the provisions of Division 4 (commencing with Section 16100) of Title 2 of the Government Code and shall be paid by the Treasurer from the State School Building Aid Fund.

16325. The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount approved for the application from the State School Building Aid Fund for such portion or portions of the project for which the board determines the district is ready to proceed. If the board has approved an application and made an apportionment as to a portion or portions of a project, the board may approve the remaining portion or portions of the project and make an additional apportionment or apportionments as it deems appropriate.

If the board determines that the actual cost is in excess of the estimated cost of the specific school plant facilities or sites for which an apportionment to a district has been made, or for which a district's application has been approved in whole or in part pursuant to this section, the board may make an additional apportionment to any district in an amount equal to the excess even though the additional apportionment will result in the total apportionments to the district exceeding the amount of the application originally approved by the board.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

16326. The amount of new building area for which an apportionment may be made for the purpose of replacing unsafe school buildings shall be computed in accordance with regulations

adopted by the board. Such regulation shall be based upon the number of units of average daily attendance which were housed in the unsafe buildings being replaced and the building area limitations contained in Sections 16047, 16052, 16053, 16054 and 16055 together with any adjustments necessary to alleviate hardships occurring as a result of only partial replacement of an entire attendance center. In no event shall an apportionment be made for new building area the chargeable area of which exceeds the chargeable area of the unsafe buildings being replaced. The chargeable area of any school building shall be computed in the uniform manner prescribed by the board.

16327. No payment of funds may be made pursuant to an apportionment unless the district holds an election at which the electorate of the district approve the acceptance, expenditure, and repayment of at least the amount apportioned pursuant to this article. The election may be held prior to or subsequent to an apportionment. If the electors voting at the election fail to approve the proposition by the same majority required at a district bond election, within nine months from the date of the apportionment, the apportionment and the board's approval of the application become null and void.

Notwithstanding the foregoing, an election held prior to the effective date of Article 9 (commencing with Section 16310) of this chapter, pursuant to Section 16058, is valid for the purposes of the foregoing paragraph, provided that the district is not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000), Article 2 (commencing with Section 16150), and Article 3 (commencing with Section 16190) of this chapter.

16328. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment.

16329. Payment shall be made in accordance with the terms of an apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to the effective date of this article for any items approved by the board in such apportionment. However, where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of the district containing the item was received by the board, payment or reimbursement for the item, either with state funds or with district funds which the district is required to contribute by the apportionment, shall be made only upon authorization of the board by special resolution citing this section.

16330. The amount of the apportionment to a school district from the State School Building Aid Fund shall initially be computed by the board as follows:

(a) Determining the ratio which the school district's assessed valuation per pupil for the grade level of the project application bears to the statewide assessed valuation per pupil in that grade level, for the preceding fiscal year.

(b) Subtracting the amount computed under (a) from four.

(c) Dividing the amount computed under (b) by four plus the ratio which the school district's assessed valuation per pupil for the grade level of the project application bears to the statewide assessed valuation per pupil for that grade level, for the preceding fiscal year, which computation shall be denoted the "basic computed state matching ratio of assistance."

(d) The computation prescribed by subdivisions (a), (b), and (c) may be diagrammed as follows, with "A.V." representing the words "assessed valuation," and "a.d.a." representing the words "average daily attendance."

$$\text{Basic computed state matching ratio of assistance} = \frac{4 - \dfrac{\text{District A.V. per a.d.a.}}{\text{Statewide A.V. per a.d.a.}}}{4 + \dfrac{\text{District A.V. per a.d.a.}}{\text{Statewide A.V. per a.d.a.}}}$$

(e) The basic computed state matching ratio of assistance for a grade level of a school district shall not be less than 25 percent nor more than 80 percent of the cost of any specific project.

(f) When the final eligible costs of a project have been determined pursuant to the audit prescribed in Sections 16340 and 16099, the amount of the basic computed state matching ratio of assistance to the district shall be adjusted accordingly.

16330.5. Notwithstanding former Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, or anything to the contrary in this article, whenever the State Allocation Board determines that state funds are not available to make an apportionment for an otherwise eligible project in the amount computed pursuant to Section 16330, an application may be approved and an apportionment made for one dollar ($1) only. In any instances the project may be financed by the applicant district using funds derived from a twenty-cent ($0.20) tax levy provided by Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, together with any other funds available to the district for those purposes. The tax levy shall be twenty cents ($0.20) per one hundred dollars ($100) of assessed value for years prior to the 1980-81

fiscal year and beginning in the 1981–82 fiscal year shall be 0.05 percent of the full value.

16331. A school district may obtain local funds to match the state assistance with any combination of funds available as follows:

(a) Through the issuance of school district bonds.

(b) Through the levy and collection of school district taxes. The proceeds of any increase in the maximum tax rate shall be used exclusively for projects for which an apportionment or apportionments have been made under this article.

(c) Through the levy and collection of school district taxes as authorized by Section 39230.

(d) From any other fund available for capital outlay purposes.

16332. Whenever a school district determines that it is in its best interest to provide facilities on a given schoolsite in addition to those contained in the approved application, it may do so, with any excess funds it has available for capital outlay purposes, beyond those required under this article, by adding the excess funds to the total cost of the project. There shall be no penalties imposed under this article as a result of the expenditures.

16333. Whenever a school district has received an apportionment or apportionments of funds pursuant to Chapter 6 (commencing with Section 15700) or Chapter 8 (commencing with Section 16000) of this part, and, through the issuance of bonds, uses the bond proceeds as its source of funds to match its share of the eligible project cost of any project for which an apportionment of funds is made under this article, the amount of the bond funds shall be considered eligible bonded debt service in the computations made by the Director of General Services prescribed in Sections 15729 and 15730 and in Sections 16070 to 16090, inclusive.

16334. The interest on apportionments made under this article shall be established by the board, with the approval of the Director of General Services, as follows:

(1) The interest rate applicable to apportionments made pursuant to Article 1 (commencing with Section 16000) and determined in accordance with Section 16065 shall be established as of June 30 of each year.

(2) The applicable interest rate on June 30 shall apply to apportionments made under this article in the ensuing fiscal year, July 1 through June 30.

(3) Interest on the apportionment shall be compounded annually through the 30th day of June of each year.

16335. Each district to which an apportionment or apportionments has been made under this article shall repay the principal amount of such apportionment or apportionments and the accrued interest thereon in 20 equal annual payments. The first payment shall be made in the second fiscal year following the year in which the apportionment is made. In any year prior to the 1980–81 fiscal year in which the equal annual repayment exceeds that amount

which seventeen and one-half cents ($0.175) per one hundred dollars ($100) of assessed valuation for each grade level (i.e. elementary or high school) operated by the district would raise during the year of the computation, the repayment shall be reduced to the amount which the seventeen and one-half cents ($0.175) for each grade level would so raise. In any year, beginning in the 1981–82 fiscal year, in which the equal annual repayment exceeds that amount which 0.04375 percent of the full value for each grade level operated by the district would raise during the year of the computation, the repayment shall be reduced to the amount which the 0.04375 percent of the full value for each grade level would so raise. The amount of the reduction in computed repayment shall be canceled on the books of the Controller. If more than one apportionment is made the annual amount payable shall be the sum of the amounts which would be payable on each amount if computed separately.

On or before the first day of January of each fiscal year the State Controller shall determine the annual repayment, if any, to be due from each district during the next succeeding fiscal year. The computation and collection procedures shall be in accordance with Sections 16080, 16089, and 16090.

16335.1. Any apportionment made to the Marysville Joint Unified School District under Section 16339.8 shall be repaid through the continuance of the seventeen and one-half cents ($0.175) per one hundred dollars ($100) of assessed valuation per grade level tax rate set forth in Section 16335, after such time as the maximum repayment under Section 16335 becomes less than seventeen and one-half cents ($0.175) per one hundred dollars ($100) of assessed valuation per grade level. When the Controller has determined that the entire apportionment including interest, but less any amount paid by the district pursuant to Section 16339.8 has been completely repaid, this section shall cease to be operative.

16336. Notwithstanding any provisions of this article, any school district which has levied the entire amount permitted under former Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, and has declared the entire proceeds therefrom available as local matching funds for a particular project, but lacks sufficient matching funds for the project as required under this article, may file an application thereunder prior to January 1, 1974. Under the circumstances the board may increase the basic computed state matching ratio of assistance in the amount, which, when added to the sum of the entire proceeds of the levy permitted under former Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1997, and any other funds which in the opinion of the board is or can be made currently available for the project, including funds authorized by the electors from bonds or otherwise, would be necessary to construct minimum essential facilities for the project as determined by the board. Not more than forty-five million dollars ($45,000,000) available for the purposes of this article may be

apportioned for increases in the basic computed state matching ratio pursuant to this section. The source of the forty-five million dollars ($45,000,000) apportioned for this purpose shall be thirty million dollars ($30,000,000) previously appropriated for this purpose from the School Building Safety Fund by Chapter 500 of the Statutes of 1972, plus an additional fifteen million dollars ($15,000,000) of bond funds remaining from the State School Building Aid Bond Law of 1966.

16337. Notwithstanding any provisions of this article, where less than thirty million dollars ($30,000,000) has been apportioned or otherwise reserved by the board pursuant to Section 16336 on January 1, 1973, the board shall apportion as grants the remainder thereof under this section for matching purposes pursuant to this article to districts which the board determines has the greatest need. The apportionments under this section may be made only to those districts (1) which would not have been eligible to apply under Section 16336 if they had levied the entire twenty cent ($0.20) tax rate specified therein, and (2) which have filed an application by January 1, 1973, and received an apportionment under this article from the board by February 28, 1973.

16339. Notwithstanding any provisions of this article or Section 16336 thereof to the contrary, any school district which lacks sufficient matching funds for a particular project or projects, as required under this article, may file an application and the board may approve a project or projects conditioned upon the district levying, in the 1974–75 fiscal year, the entire twenty cent ($0.20) tax rate per one hundred dollars ($100) of assessed valuation permitted under former Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1997, or Section 81180 and applying the proceeds of such levy as local matching funds for such project or projects. Beginning in the 1981–82 fiscal year, the tax shall be 0.05 percent of full value.

Under those circumstances, provided the applicant district was not eligible to receive a grant under Section 16337, the board may increase the basic computed state matching ratio of assistance in that amount, which, when added to the sum of the entire proceeds of the twenty cent ($0.20) tax rate, except beginning in the 1981–82 fiscal year, the tax shall be 0.05 percent of full value, and any other funds which in the opinion of the board are or can be made currently available for the project or projects, would be necessary to construct minimum essential facilities for the project or projects as determined by the board. Not more than nineteen million dollars ($19,000,000) of the proceeds of the sale of bonds authorized by Section 16310, may be apportioned pursuant to this section and in augmentation of the forty-five million dollars ($45,000,000) made available under Section 16336.

16339.5. Notwithstanding any provisions of this article to the contrary, any district which does not have sufficient matching funds for a particular project as required under this article may file an

application under Section 16339, and the board may approve the project conditioned upon the district levying in the 1975–76 fiscal year the entire twenty cent ($0.20) tax rate per one hundred dollars ($100) of the assessed valuation permitted under Section 39230.1 in lieu of the tax authorized by Section 16339 and applying the entire proceeds of the levy as local matching funds for the project providing:

(a) The district has levied a tax at the rate of at least ten cents ($0.10) per one hundred dollars ($100) of assessed valuation of the tax permitted under Section 39230 for the 1973–74 fiscal year and of at least nine cents ($0.09) per one hundred dollars ($100) of assessed valuation of the tax permitted under Section 39230 for the 1974–75 fiscal year.

(b) The district has sold the facilities to be replaced to a county prior to June 1972, but continued to use the facilities after the sale until June 1972.

16339.6. Notwithstanding any provisions of this article or Sections 16336 and 16339 thereof to the contrary, any school district, which has issued at least thirty-seven million dollars ($37,000,000) in bonds for the purpose of replacing structurally unsafe buildings and which lacks sufficient matching funds for a particular project or projects, as required under this article, may apply and the board may approve, a project or projects conditioned upon the district having levied or being required to levy, in the fiscal years 1974–75, 1975–76, and 1976–77, the entire twenty cent ($0.20) tax rate per one hundred dollars ($100) of assessed valuation permitted under Section 39230 and applying the entire proceeds therefrom as local matching funds to an eligible project or projects.

Under those circumstances, the board may increase the basic computed state matching ratio of assistance in the amount which, when added to the sum of (1) the entire proceeds which have been collected from the aforementioned twenty cent ($0.20) tax levies at the time of the application and not yet applied as matching funds to previously approved projects and (2) any other funds which in the opinion of the board are or can be made currently available for the project or projects, would be necessary to construct minimum essential facilities for the project or projects as determined by the board. Not more than six million dollars ($6,000,000) of the proceeds of the sale of bonds authorized by Section 16310, may be apportioned pursuant to this section.

16339.8. Notwithstanding any provisions of this article to the contrary, the State Allocation Board may appropriate to the Marysville Joint Unified School District a sum not to exceed seven hundred thousand dollars ($700,000) for costs incurred in repairing damage at Lindhurst High School, which was constructed pursuant to this article as a replacement of facilities not complying with earthquake safety requirements. The need for the repair of Lindhurst High School may have been caused by improper construction or design. Therefore, the proceeds received from any

insurance or arbitration award, or any other action, shall be paid by the district to the board as a direct reduction in the apportionment made under this section.

16340. Sections 16006, 16017, 16021, 16066, 16088, 16091, and 16093 to 16100, inclusive, shall be applicable to the administration of this article unless the context of this article as determined by the board, requires otherwise.

16341. Whenever a school district receives or has received an apportionment under this article for the purchase of a site which contains existing improvements, the board may require the district to dispose of any existing improvements that a condition of receiving an apportionment in any manner that the board deems proper. Whenever a district sells, leases or disposes of any site acquired under an apportionment or any improvements appurtenant to any site so acquired it shall contribute a portion of the net proceeds therefrom or the value of any consideration received therefor, in reduction of any apportionment, such portion being proportionate to the state's participation in the project.

16342. To determine the effect of school housing aid for reorganized districts, the applicable portions of Article 2 (commencing with Section 16150) of this chapter shall apply.

16343. Whenever a conditional apportionment has, prior to January 1, 1980, been made to an applicant school district pursuant to this chapter and thereafter the county superintendent of schools of the county having jurisdiction over such district has certified to the board and the Controller that at an election called, held and conducted in the district for that purpose, the qualified electors of the district voting thereat authorized the governing board of the applicant school district, by the same majority vote required at a district bond election, to accept, expend and repay an apportionment under the provisions of this chapter, and whenever thereafter said county superintendent of schools has certified to the board and the Controller that the required contribution of the district has been placed on deposit in the state school building fund of the district and the board has certified to the Controller that the apportionment to the applicant school district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the State School Building Aid Fund or the School Building Safety Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

Notwithstanding any provision to the contrary, no funds authorized by any bond act for the purpose of this chapter shall be made available for expenditure without specific authority of the board or its delegated representative.

16344. Notwithstanding the provisions of Section 16319, if a school district otherwise eligible to receive an apportionment under this article operates sufficient continuous school programs (as defined in Chapter 5 (commencing with Section 37600) of Part 22) to provide

housing for students displaced from structurally inadequate facilities, the costs of modifying any existing facilities necessary for the implementation of any continuous school programs shall be eligible, upon the review and recommendation of the State Department of Education, for an apportionment under this article from the proceeds of bonds remaining from the authorization provided in the State School Building Aid Law of 1966.

CHAPTER 7. SCHOOL CONSTRUCTION LAW OF 1957

Article 1. General Provisions

16500. This chapter may be cited as the "State Project Area School Construction Law."

16501. In recognition of the impact which certain major state construction projects have on local school district building needs in the areas in which the projects are constructed, the Legislature declares that it is the policy of the state to bear a proportionate share of the construction costs of school buildings in the area affected in the manner and to the extent provided by this chapter.

16502. As used in this chapter:

(a) "State project" means any construction project undertaken by the state, or the state and federal government jointly, which will cause a sudden influx of people into the area affected and where sufficient housing, schools, and other community facilities are not available. For the purposes of this subdivision, the Governor is hereby empowered to proclaim any major construction project undertaken by the state as a "state project" and define the area affected or likely to be affected thereby if both of the following conditions are satisfied:

(1) The Governor finds that the construction project will cause a sudden influx of people into the area.

(2) The Governor is requested to do so by the county board of supervisors.

The proclamation shall be in writing and shall take effect immediately. As soon thereafter as possible it shall be filed in the office of the Secretary of State.

(b) "Board" means the State Allocation Board.

(c) "Director" means the Director of Education for kindergarten and grades 1 to 12, inclusive.

(d) "Project" means the purposes for which a school district has applied for an apportionment.

(e) "Construction project" means the purposes for which a school district has applied for an apportionment at a given location.

(f) "Grade level maintained by a district" means any of the following:

(1) The kindergarten, if any, and grades 1 to 6, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district.

(2) Grades 7 to 12, inclusive, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, maintained by a high school district or unified school district, but not more than one grade level shall be claimed by any district under any one of the paragraphs of this subdivision.

(g) "Apportionment" means an apportionment made under this chapter unless the context otherwise requires.

(h) "Project children" means children of parents who have come to the district subsequent to the start of the state project and who are employed by the State of California or the federal government in connection with a state project and children of parents employed by any contractor or subcontractor of a state project.

(i) "Indirect project children" means children of parents who have come to the district subsequent to the start of the state project and who are not employed by a contractor or subcontractor of a state project but who are children in the area in addition to those which would be expected as a result of normal development and growth of the area as determined pursuant to regulations of the director which he or she is hereby authorized to adopt.

(j) "Parent" includes a legal guardian or other person standing in loco parentis.

(k) "Department" means the State Department of Education.

16503. The Director of General Services shall administer this chapter and shall provide any assistance to the board that it may require.

16504. A fund in the State Treasury is hereby created, to be known as the State School Construction Fund. All money in the State School Construction Fund, including any money deposited in the fund from any source whatsoever after September 11, 1957, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under this chapter.

Article 2. Apportionments

16520. Apportionment from the State School Construction Fund to school districts shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board, for any of the following purposes:

(a) The purchase and improvement of schoolsites which have been approved by the department.

(b) The purchase of desks, tables, chairs, and equipment, as approved by the department.

(c) The planning and construction, reconstruction, alteration of, and addition to, school buildings for facilities that are approved by the department as essential, all of which purposes are hereby declared to be, and are, public works.

Where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction or

alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering the insurance. However, in other respects the apportionments are eligible for payment under this chapter.

16521. In addition to the purposes for which apportionments may be made to school districts under Section 16520, apportionments may also be made to school districts for the construction, repair, attachment or development of offsite facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

16522. In making applications for, and in expending, apportionments of funds under this chapter, a district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state. Upon the payment by the district of the amounts required to be paid by it to the state under this chapter, the board shall, in the name of the state, convey the property to the district.

16523. The board may require school districts to insure for the benefit of the state all sites, equipment, and buildings which are the property of the state, against any risks and in any amounts that the board may deem necessary to protect the interests of the state. No state funds apportioned under this chapter shall be used to pay the premiums on the insurance.

16524. A district shall be eligible to an apportionment under this chapter if the estimated number of project children and indirect project children who will be in average daily attendance in the schools of the district during the period of the state project is at least 25 and is at least 5 percent of the estimated number of all children who will be in average daily attendance in the schools of the district during the current fiscal year.

16525. Any eligible school district may make application for an apportionment for a grade level which it maintains by submitting through the governing board an application therefor in a form and number that the board shall prescribe. The application shall be addressed to the board and shall set forth a project for the construction of school facilities for the district in accordance with this section.

(a) Each application and copy thereof shall contain and be supported by:

(1) A description of the project and the site therefor, preliminary drawings of the school facilities to be constructed thereon, and any other information relating to the project that the board may require.

(2) A statement of the estimated cost of the project certified by an architect or structural engineer.

(3) Evidence that the district has or will have title to the site upon which the facilities as specified in the application will be constructed.

(4) Assurance that the district will cause the work on the project to be commenced within a reasonable time and prosecuted to completion with reasonable diligence.

(b) The board shall require any changes in the plans which an applicant school district submits with its application that the board determines is necessary or desirable to assure completion of the project with available funds of the district and the amount of the apportionment to which the district is entitled under this chapter. For that purpose the board may delegate to the director or the Director of General Services, according to whether the subject matter of the revision of the plans is subject to the jurisdiction and approval of the director or the Director of General Services, the authority to require any revision in the plans that the board deems necessary or desirable to accomplish the purposes of this subdivision.

(c) Upon submission of an application for an apportionment under this chapter the Director of General Services shall do each of the following:

(1) Transmit a copy of the application to the director who shall as promptly as possible prepare a report and recommendation with respect thereto. Thereupon the director shall transmit his or her report and recommendation to the Director of General Services who shall refer them to the board if he or she finds them in proper form and otherwise sufficient. If the Director of General Services finds the documents to be lacking in any respect as to any matter subject to the jurisdiction of the director or the department, he or she shall refer them to the director who shall take any action that may be necessary.

(2) Determine the applicant district's financial ability with funds apportioned under this chapter and funds devoted by the district to the project to meet the cost of the project and submit his or her report thereon as promptly as possible to the board.

16526. At the next regular meeting of the board following the submission of the reports and recommendations required by Section 16525, the board shall, subject to this chapter, approve or reject the application. If the board approves the application, it shall by resolution adopted by it, apportion to the district from the State School Construction Fund the amount applied for, or any portion thereof that the board determines proper. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 16527 is favorable. The conditional apportionment shall remain in effect for a period of nine months from the date of the resolution of the board. If the apportionment does not become final within the time prescribed, it shall become void and the money so apportioned shall again become available for apportionment pursuant to this chapter.

16527. No apportionment to a school district under this chapter shall become final, nor shall any agreement authorized by Section 16528 be entered into, unless at an election called by the governing board of the district, two-thirds of the qualified electors of the district voting thereat have authorized the governing board to accept, expend, and repay an apportionment as provided in this chapter or, with respect to an agreement authorized by Section 16528, to obligate the district in an amount equal to or in excess of the maximum amount which the district could be obligated by the agreement, or by any act of its governing board, or for which it is responsible, contemplated, or permitted under the agreement. The election shall be called, held, and conducted in the same manner as are elections to authorize the issuance of district bonds, except that the ballot shall contain substantially the following words:

"Shall the governing board of the district be authorized (1) to accept and expend an apportionment from the State of California under and subject to the provisions of the State Project Area School Construction Law, a portion of which amount is subject to repayment as provided by that law, or (2) to enter into an agreement or agreements with the state pursuant to Section 16528 of the Education Code, which will at the time of the agreement or agreements (or at the time of any subsequent act of the governing board, or for which it is responsible, contemplated or permitted thereby) commit the district to a total expenditure in connection with all of these agreements of not more than _____ dollars, or both. Yes ____ No ____."

16528. (a) In addition to the powers granted the board under this chapter, the board shall have authority to do each of the following:

(1) Make apportionments to districts for the purchase of sites only, or for the construction or purchase of temporary or portable buildings, and for the cost of site preparation, including any necessary utility costs, in connection with their utilization.

(2) Establish standards in conjunction with the State Department of Education pertaining to the sites and buildings as a condition for making the apportionment. In addition the board may also expend moneys from the State School Construction Fund directly for the construction, acquisition, storage, maintenance, and repair of the buildings, including administrative costs related thereto. In the latter event the board may lease, sell, or transfer under a lease-purchase agreement the buildings to school districts eligible for aid under this chapter, under the terms as it deems fit. Agreements pertaining thereto may provide for the payment by the state of site preparation costs, including any necessary utility costs, sufficient to permit their utilization.

(b) Whenever the board deems it economically desirable to do so the board may dispose of any facilities acquired or constructed

directly by it under this section to any public or private parties under the terms and in the manner as the board deems fit, save insofar as the disposal is inconsistent with any agreement under this section between the board and an affected district. The board is authorized to do any and all things necessary to effectuate the purposes of this section, and any eligible school district is authorized to enter into an agreement with the board to carry out the purposes hereof.

(c) Any buildings leased for placement on the school property or under a purchase or a lease-purchase agreement shall be deemed the construction or alteration of a school building as those terms are defined in Sections 17280 to 17313, inclusive.

(d) The consideration provided by any agreement between the state and districts pursuant to this section shall as nearly as possible reflect an amount which would return to the state a fair pro rata proportion of its capital investment and expenditures connected therewith in the light of the benefits conferred by the agreement. The consideration shall be paid by the districts promptly when due, and Section 16573 shall not be deemed applicable to reduce the consideration, provided that the amounts so repaid shall be redeposited in the State School Construction Fund.

(e) No agreement shall be entered into under this section unless the department has, with respect thereto, or as a condition of making the agreement, approved each of the following items:

(1) The property to be transferred, including any incidental construction pertaining thereto.

(2) Whether the agreement shall be by lease or sale.

(3) The term of the transfer, if less than a sale, including any contingent or indefinite term.

"Sale" as used in this subdivision includes a lease-purchase transaction. The jurisdiction of the department shall not otherwise extend to the terms of the agreement.

Article 3. Apportionments, Computation

16540. The board shall compute for each applicant school district the amount to which the district is entitled under this chapter in the manner prescribed by this article. The amount so computed shall be reduced by the amount received or to be received by the district under Public Law 815 of the 81st Congress, as amended, or any similar provisions of any other act of Congress, solely on account of the participation of the federal government in the state project or shall be reduced by the percentage of the cost of the project (as that term is defined in Section 41930) borne by the federal government, whichever is the greater amount.

16541. In the computation of the apportionments to applicant school districts, the board may utilize the facilities and services of any department or agency of the state and may delegate the performance of any duties or functions, except those specifically delegated by this

chapter to the director or department, to any officer or employee thereof as the board deems necessary and proper.

16542. The board shall multiply:

(a) The estimated number of project children in the district by the current construction cost per pupil in the area of the state project.

(b) The estimated number of indirect project children in the district by the current construction cost per pupil in the area, multiplied by 55 percent.

(c) "Current construction cost per pupil" as used in this section means the average per pupil cost of constructing complete school facilities for the grade level maintained by the district for which application for an apportionment is made under this chapter.

(d) The total of the amounts computed pursuant to subdivisions (a) and (b) shall be apportioned to the district.

16543. (a) The average per pupil cost of constructing complete school facilities in the area of the state project for the purposes of this article shall be determined by the board, after consultation with the department and the Department of General Services, on the basis of information obtained thereby and any other information that may be available to the department.

(b) Estimates of the number of project children and indirect project children for the purpose of this article shall be made by the applicant school district in accordance with rules prescribed by the director and shall be made as of the time the greatest number of such children will attend the schools of the district as a result of the state project. The estimates shall be made on the basis of the best information available to the district at the time of the application. Approval of the estimates by the director, in whole or in part, shall be on the basis of the best information available to the director at the time of the approval. In the approval of estimates of the number of project children and indirect project children for the purposes of this article the director may utilize the facilities and services of any department or agency of the state as he or she deems necessary and proper. No estimate shall be used as a basis of an apportionment that has not been approved by the director.

Article 4. Apportionments, Payment

16550. Immediately after the result of the election required by Section 16527 has been determined, the county superintendent of schools shall make a certificate in duplicate stating whether the district has authorized the acceptance and expenditure of the apportionment. One copy of the certificate shall be sent to the board and one copy to the Controller. Upon the receipt by the board of the certificate, the apportionment shall become final.

16551. The election by a school district upon the acceptance, expenditure, and repayment of an apportionment prescribed by

Section 16527 may be called and held either before or after the making of an apportionment.

16552. Payment shall be made in accordance with the terms of a final apportionment, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to the date of the proclamation of the Governor proclaiming a state project in the area including the district, for any items approved by the board in the apportionment. However, if expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of the district containing the item was received by the board, payment or reimbursement for the item shall be made only upon authorization of the board by special resolution citing this section.

16553. The board shall prescribe in the detail that it deems necessary, the purposes for which moneys apportioned by it to a district under this chapter may be expended and the prescription shall be binding upon the governing board of the district except that it may be, for good cause, modified by the board.

16554. Each apportionment made by the board under this chapter shall be certified by it to the Controller who shall thereupon draw his or her warrant on the State Treasury in favor of the county treasurer of the county having jurisdiction over the district. The warrant shall be paid by the Treasurer from the State School Construction Fund and is not subject to the provisions of Section 925.6 of the Government Code.

16555. The county treasurer of each county shall pay all moneys received by him or her under this chapter into the county treasury to the credit of the state school construction fund of the district, which fund is hereby created, exactly as apportioned by the board.

16556. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the state school construction fund of the district only for the purposes for which the moneys were apportioned to the district and for no other purpose and shall make any reports relating to the expenditure of the moneys that the board and the Controller shall require.

16557. It shall be the duty of the Controller to make any audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, that he or she may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes authorized by this chapter.

Article 5. Apportionments, Repayment

16570. Each school district to which an apportionment is made under this chapter shall repay the principal amount of the apportionment in the manner prescribed by this article.

16571. For purposes of computing the repayment, the state project shall be deemed completed on June 30th of the fiscal year in which the state project is completed and accepted by the state.

16572. The principal amount of the apportionment shall be computed and repaid in the manner prescribed in this article.

(a) On or before the first day of January succeeding the completion of the state project, the Controller shall compute the annual repayment of each apportionment for each grade level maintained by the district, as follows:

(1) He or she shall determine from the certification of the director the total amount of average daily attendance of project children, and the total amount of average daily attendance of indirect project children, in attendance in the grade level maintained by the district for the period commencing with the date of the proclamation of the Governor proclaiming the existence of a state project in the area including the district and ending on June 30th of the fiscal year in which the state project is completed.

(2) He or she shall divide the average daily attendance of the project children by 30 and multiply the quotient by the amount determined by the board pursuant to Section 16543 as the average per pupil cost of construction in the area of the state project.

(3) He or she shall multiply the average daily attendance of the indirect project children by 55 percent. The product shall be divided by 30 and the quotient multiplied by the amount determined by the board pursuant to Section 16543 as the average per pupil cost of construction in the area of the state project.

(4) The total of the amounts computed pursuant to paragraphs (2) and (3) shall be subtracted from the amount of the apportionment to the district. The remainder shall be divided by 30 and the quotient shall constitute the amount of the annual repayment of the apportionment.

(5) Upon application of the district and approval by the board, the total amount of the repayment may be paid in a lump sum or in fewer than 30 years.

16573. If on June 30th of the fiscal year in which the state project is completed there is classroom space constructed with funds apportioned under this chapter, that is not being used by the district, the board shall, upon application of the district, reduce the total amount to be repaid by the district on a proportionate basis until the time that the classroom space is used by the district. No payment shall be required by the district for the period during which the classroom space is not used by the district.

16574. The Controller shall, during the fiscal year in which he or she determines the annual repayment as provided in Section 16572, and for each subsequent fiscal year not exceeding 30, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to the district from the State School Fund under Sections 46304, 46305, and 92 or 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, and, on order of the Controller, the amount so deducted shall be transferred to the General Fund of the state.

16575. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the fiscal year, the Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

16576. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the next levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money withheld by the Controller during the fiscal year preceding that in which the tax is levied. The tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

16577. Notwithstanding Section 16572 to the contrary, if on or before June 30th of the fiscal year in which the state project is completed the district has received a final apportionment under Sections 16000 to 16207, inclusive, or if at any time thereafter the district receives a final apportionment under Sections 16000 to 16207, inclusive, the amount of the apportionment to the district under this chapter then remaining unpaid shall, upon request of the district, be added to the principal amount of the apportionment made to the district under Sections 16000 to 16207, inclusive. Thereupon the apportionment made to the district under this chapter shall be deemed to be an apportionment made to the district under Sections 16000 to 16207, inclusive, and subject to repayment in the manner therein prescribed, except that no interest shall be charged or collected upon the amount which is added to the principal amount of the apportionment made to the district under Sections 16000 to 16207, inclusive. For the purposes of Section 16083, any amount added to the principal amount of an apportionment pursuant to this section shall be deemed to have become final and disbursed to the

district on the date the state project is deemed completed pursuant to Section 16571.

Article 6. Miscellaneous

16590. In addition to any other powers and duties as are granted the board by this chapter, the board shall do each of the following:

(a) Establish any procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter that it deems necessary and which are not in conflict with the powers and duties of the State Department of Education or of the director granted or imposed by this chapter.

(b) Adopt any rules and regulations for the administration of this chapter, requiring any procedure, forms, and information, that it may deem necessary.

16591. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the State School Construction Fund.

16592. Whenever the Controller determines that any money apportioned to a school district under this chapter has been expended by the district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by this chapter to be paid therefrom, the Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of the unauthorized expenditures, or the amount of the excess apportionment, as the case may be. Upon receipt of the notice, the governing board shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the State School Construction Fund, to be reapportioned by the board.

The governing body and county treasurer shall make the payments to the Treasurer as provided in this section, and the Controller shall enforce the collection on behalf of the state.

CHAPTER 8. URBAN SCHOOL CONSTRUCTION AID LAW OF 1968

Article 1. General Provisions

16700. This chapter may be cited as the "Urban School Construction Aid Law of 1968."

16701. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to aid urban school districts of the state in reconstructing, modernizing, or replacing schoolsites and buildings for pupils of the public school system who are now housed in substandard schools constructed prior to 1943.

16702. As used in this chapter:

(a) "Board" means the State Allocation Board.

(b) "Director" means the Director of Education.

(c) "Project" means the purpose or purposes for which a school district has applied for an apportionment or apportionments.

(d) "Apportionment" means an apportionment made under this chapter unless the context otherwise requires.

(e) "Urban district" means any school district, the boundaries of which are substantially identical to or which encompass the boundaries of a city having a population in 1960 of not less than 50,000 persons.

16703. The Director of General Services shall administer this chapter and shall provide any assistance to the board that it may require.

16704. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the Urban School Construction Aid Fund.

16705. The board by the adoption of rules shall give priority in allocating funds to urban districts to those districts where the children will benefit most from schoolhouse facilities. This priority shall be based upon the age of existing buildings and the acuteness of overcrowding at the school or schools where the construction or reconstruction will occur, the density of population in the attendance areas affected, or any other factors that will insure that the greatest need will be served.

16706. In addition to any other powers and duties that are granted the board by this chapter, the board shall:

(a) Establish any qualifications not in conflict with other provisions of this chapter that it deems will best serve the purposes of this chapter for determining the eligibility of school districts to apportionments of funds under this chapter.

(b) Establish any procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter that it deems necessary.

(c) Adopt any rules and regulations for the administration of this chapter, requiring any procedure, forms, and information, that it may deem necessary.

16707. The board shall prescribe instructions specifying the manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the apportionment. The net proceeds derived from the disposition shall be contributed in reduction of any apportionment. Any school district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state, by any instruments deemed appropriate by the board, title to the replaced property, whereupon, the board shall dispose of the property in any manner it deems appropriate to insure the highest return to the state, and apply the proceeds therefrom in reduction of apportionments to the district. The district affected shall do all things deemed necessary by the board to implement the disposition.

16708. Apportionments from the Urban School Construction Aid Fund created by Section 16728 shall be limited to urban districts and shall be made for the sole purpose of reconstructing or replacing existing substandard buildings constructed prior to 1943. The apportionments shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board for the following purposes:

(1) The acquisition, by purchase or lease, and the installation and equipping portable classrooms for instructional purposes.

(2) The acquisition and development of schoolsites.

(3) The construction and equipping of permanent school buildings and facilities.

(4) The reconstruction, renovation, or remodeling of existing school buildings and facilities.

(5) Any combination of the above.

As a part of these purposes, where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction, or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering the insurance, provided that in other respects the apportionments are eligible for payment under this chapter.

A leasehold or use permit interest held by a school district in land owned in fee simple by the government of the United States may, for all purposes of this chapter, be deemed a purchase of land by the district and to vest title and ownership in the district.

16709. The board shall not make any apportionment with respect to an application for replacing inadequate school facilities unless it has first investigated and made a finding that it would not be economical or good practice to rehabilitate the facilities.

16710. In addition to the purposes for which apportionments may be made to school districts under Section 16708, apportionments may also be made to school districts for the construction, repair, attachment, or development of offsite facilities, utilities, or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

16711. (a) In making applications for, and in expending apportionments of funds under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state.

(b) The Director of General Services shall file with the county recorder of the county in which any site purchased or improved through the expenditure of funds apportioned under this chapter is located a certificate, properly acknowledged, indicating the state's interest in real property of the district by virtue of this section, without the necessity of particularizing the real property. The recorder shall record and index the certificate in the same manner as abstracts of judgments and the certificate shall constitute constructive notice of the state's interest in the particular real property affected. The certificate shall as to any party thereafter acquiring real property or any interest therein in the county from the school district have the same force, effect and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution. That effect shall commence upon recordation and continue until the certificate is discharged or released as provided herein.

(c) Upon request, the Director of General Services shall issue either of the following:

(1) A release of the state's interest in any real property or a portion thereof that the district has been authorized by the board to dispose of under this chapter, provided that delivery of the release may be subject to any conditions that may be prescribed by the board to protect the state's interest.

(2) A disclaimer of the state's interest in any real property or a portion thereof of the district, the disposition of which the board is not required to consent to under this chapter, provided that the delivery of the disclaimer may be subject to any conditions that the board deems appropriate to protect the interests of the state, including conditions relating to the amount of consideration to be

received from the disposition if the board asserts an interest in the proceeds of the disposition under other provisions of this chapter.

The release or disclaimer shall conclusively protect any third party relying upon the same and shall be acknowledged to permit recordation by the county recorder.

(d) Upon payment by the district of all amounts required to be paid by it or on its behalf to the state under this chapter both of the following shall occur:

(1) The Director of General Services shall file with the recorder a release of any certificate. The release shall be recorded and indexed in the same index as the certificate.

(2) The title to personal property purchased by such school district with funds apportioned under this chapter shall revert thereto without further action by the state.

16712. A school district shall not expend money apportioned under this chapter unless the contracts under which the funds are expended have been let after competitive bids thereafter pursuant to this code.

16713. Each school district which desires an apportionment shall submit through its governing board to the board an application therefor in the form and number of copies as the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project for which the district desires an apportionment.

Estimates of costs for new construction or equipment appearing in an application shall not exceed typical current costs of comparable new construction or equipment by school districts in the same area not receiving an apportionment under this chapter, as determined by the Director of General Services, or if there has been no new construction by school districts in the area, the estimates of costs shall not exceed the reasonable current cost of similar construction or equipment in the area as determined by the Director of General Services.

A school district may at any time file an application or amend or supplement an application. Upon receipt of any application, the Director of General Services shall as promptly as possible prepare a report and recommendation with respect to the application after having received recommendations from the director in respect to any matter which is subject to the jurisdiction or approval of the director or State Department of Education. The board shall, subject to the provisions of this chapter, approve, in whole or in part, or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the Urban School Construction Aid Fund the amount applied for, or a portion thereof as the board may determine appropriate. However, it may order that the apportionment or any part thereof shall be paid

in progressive installments at times and under conditions as it may then prescribe.

16714. The board may approve, in whole or in part, an application submitted by a school district under Section 19263 and in any amount, not exceeding the amount applied for, that the board may deem appropriate.

The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount approved in the application of the district by the board to the applicant school district from the Urban School Construction Aid Fund for any portion or portions of the project that the board determines the district is ready to proceed with. If the board has approved an application and made an apportionment as to a portion or portions of a project, the board may approve the remaining portion or portions of the project and make an additional apportionment or apportionments as it deems appropriate.

If the board determines that the actual cost is in excess of the estimated cost of the specific school plant facilities or sites for which an apportionment to a district has been made, or for which a district's application has been approved in whole or in part pursuant to this section, the board may make an additional apportionment to the district in an amount equal to the excess even though the additional apportionment will result in the total apportionments to the district exceeding the amount of the application originally approved by the board.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

16715. No apportionment shall be made for new construction, the area of which exceeds the area of the unsafe buildings being replaced under Section 16708. The area of school buildings shall be computed in a uniform manner as prescribed by the board.

16716. Payment shall be made in accordance with the terms of an apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to the effective date of this chapter for any items approved by the board in the apportionment. However, if expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of the district containing the item was received by the board, payment or reimbursement for the item, either with state funds or with district funds which the district is required to contribute by the apportionment, shall be made only upon authorization of the board by special resolution citing this section.

16717. Notwithstanding any provision to the contrary, the board, with the approval of the Director of General Services, shall, pursuant

to this section, fix the rate of interest to be paid by the districts on the sums apportioned during that fiscal year. Beginning each fiscal year the board shall compute the average of the rates of interest which the state pays upon the state school reconstruction and replacement bonds, sold at the three sales of state school reconstruction and replacement bonds occurring immediately prior to that fiscal year, or, if the board so determines, at all of the sales of the bonds occurring in the two years immediately prior thereto, giving effect to the price at which the state school reconstruction and replacement bonds sold at the sales, and the premium, if any paid, thereon. If an apportionment is made prior to the sale of state school reconstruction and replacement bonds, the board shall use the computed average rate of interest which the state paid on the last sale of state school building bonds. The average rate shall be adjusted to the next highest one-tenth of 1 percent to cover the cost of sale and issuance of the bonds and costs of administration. The adjusted average rate shall be the rate paid by districts on apportionments received during that fiscal year, and shall be compounded annually through the 30th day of June of each year.

16718. Apportionments may be made irrespective of whether there is on deposit at the time thereof a sufficient amount in the Urban School Construction Aid Fund to permit the payment of the apportionments. Disbursements may be made under any apportionment from any funds in the Urban School Construction Aid Fund irrespective of whether there exists at the time of the disbursement a sufficient amount in the fund to permit the payment in full of all apportionments previously made. However, no disbursements shall be made from any funds in the Urban School Construction Aid Fund required by law to be transferred to the General Fund, or from any moneys therein which the Controller deems necessary to satisfy appropriations from the fund for purposes other than apportionments.

16719. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment.

16720. Each district to which an apportionment or apportionments has been made under this chapter shall repay a portion or all of the principal amount of such apportionment or apportionments and the accrued interest thereon in 30 equal annual payments, as shall be determined by the Controller pursuant to this section. If more than one apportionment is made the annual amount payable shall be the sum of the amounts which would be payable on each apportionment if computed separately.

The Controller shall determine the portion of the principal amount of the apportionment or apportionments made to each district to be

repaid by the district by diminishing the principal amount by the product of the ratio which the assessed valuation of the district per unit of average daily attendance of pupils in the grades maintained by the district during the preceding fiscal year bears to the assessed valuation per unit of average daily attendance in the same type of districts in the state and one-half of the principal amount of the apportionment or apportionments, except that the amount to be repaid shall not exceed the amount of the principal apportionment or apportionments.

The Controller shall make the computation to determine the annual repayment due in the next fiscal year following the fiscal year in which the apportionment is made. In any year prior to the 1980–81 fiscal year in which the annual repayment exceeds the amount which may be raised by a three-cent ($0.03) tax rate per one hundred dollars ($100) of assessed valuation in the district, the governing board of the school district shall so certify to the Controller whereupon the Controller shall grant a deferment of the annual repayment which is in excess of the amount that would be produced by a tax rate of three cents ($0.03) per one hundred dollars ($100) of assessed valuation of the district. In any year, beginning with the 1981–82 fiscal year, in which the annual repayment exceeds the amount which may be raised by a levy of 0.0075 percent of the full value in the district, the governing board of the school district shall so certify to the Controller whereupon the Controller shall grant a deferment of the annual repayment which is in excess of the amount that would be produced by a tax of 0.0075 percent of the full value of the district. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

16721. The Controller shall, during the next fiscal year following that in which he determines the annual repayment as herein provided, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to the district from the State School Fund and, on order of the State Controller, the amount so deducted shall be transferred to the Urban School Construction Aid Fund. All money transferred to the Urban School Construction Aid Fund under this section shall be available only for transfer to the General Fund.

16722. The Controller shall determine and maintain a record of the amount due the state in connection with each apportionment made to a district under this chapter. He or she shall compute interest, at the rate fixed by the board, on each amount disbursed by the state pursuant to the apportionment, from the date of issuance of the Controller's warrant covering the payment to the county treasurer of the amount until the first day of July of the fiscal year next succeeding that in which the warrant was issued. Thereafter, interest shall accrue to and be compounded as a part of the principal amount due the state pursuant to the apportionment, through the 30th day

of the following June of each year, until the principal and interest have been paid.

16723. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the succeeding fiscal year, the Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

16724. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money to be withheld by the Controller during the fiscal year in which the tax is levied. The tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

16725. The board shall prescribe in the detail that it deems necessary, the purposes for which moneys apportioned by it or which it requires the district to contribute toward, or in reduction of the cost of a project, may be expended, and the prescription shall be binding upon the governing board of the district, except that it may be changed or modified by the board for any cause that it sees fit.

16726. An urban school construction fund is hereby created in the county treasury in each county for each school district in the county. The county treasurer of each county shall pay into the urban school construction fund of each school district, exactly as apportioned by the board, all moneys received by him or her under this chapter with respect to each school district.

16727. Interest earned on those portions of deposits in an urban school construction fund representing allocations from the proceeds of state school reconstruction and replacement bonds received by the county treasurer for the benefit of a school district under this chapter shall be paid into the Urban School Construction Fund created by Section 16728.

16728. A fund in the State Treasury is hereby created, to be known as the Urban School Construction Aid Fund. All money in the Urban School Construction Aid Fund, including any money deposited the fund from any source whatsoever is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under the provisions of this chapter.

16729. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the urban school construction fund of the school district

exactly as apportioned by the board and only for the purposes for which the moneys were apportioned to the district, and for no other purpose, and shall make the reports relating to the expenditure of the moneys that the board and the Controller shall require.

16730. A complete detailed report of expenditure of funds allocated pursuant to this chapter shall be made by the board annually to the Legislature. The report shall contain a detailed statement of facilities provided, type of construction, square footage provided and all other items which will enable the Legislature fully to understand the nature of the construction performed by the school districts.

16731. It shall be the duty of the Controller to make any audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, that he or she may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes and under the conditions authorized by this chapter.

16732. Whenever the Controller determines that any money apportioned to a school district has been expended by the school district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by this chapter to be paid therefrom, the Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of the unauthorized expenditures, or the amount of the excess apportionment, as the case may be. Upon receipt of the notice, the governing board shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the Urban School Construction Aid Fund, to be reapportioned by the board.

It shall be the duty of the governing body and the county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

If the district fails to make the payment specified within one year after written notice of the amount due, the Controller shall deduct the amount thereof with interest from date of the notice from the February payment made to the district under Section 14041 in the next succeeding fiscal year.

16733. (a) As used in this chapter:

(1) "State-aided district" means a district to which an apportionment has been made under this chapter.

(2) "Acquiring district" means a district in which all or a part of, a state-aided district or an applicant district has been included.

(3) "Original district" means a state-aided or applicant district included in whole or in part in an acquiring district.

(b) For the purposes of this article as it applies to an original district or to an acquiring district, the effective date of any change of boundaries, annexation, formation of a new district, or other reorganization shall be the date the action became effective for the purposes of Section 4060.

16734. Whenever, subsequent to the date of an apportionment to a district, the state-aided district is included in whole or in part in another district, the acquiring district in which a state-aid project is located shall, on the effective date of the inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to any apportionment or apportionments for such project and the property acquired or to be acquired from funds provided thereby, and all funds in the urban school construction fund of the state-aided district shall be transferred to the urban school construction fund of the acquiring district. All amounts which would, after the effective date of the inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to the apportionment, shall be paid to the acquiring district. In addition, the acquiring district shall, on the effective date of the inclusion of the state-aided district in the acquiring district become liable for the annual repayments and other payments due the state under this chapter.

CHAPTER 12. STATE SCHOOL BUILDING LEASE-PURCHASE LAW OF 1976

Article 1. General Provisions

17000. This chapter may be cited as the "Leroy F. Greene State School Building Lease-Purchase Law of 1976."

17001. (a) The Legislature hereby declares that it is in the interest of the state and the people thereof for the state to reconstruct, remodel, or replace existing school buildings that are educationally inadequate or that do not meet present-day structural safety requirements, and to acquire new schoolsites and buildings for the purpose of making them available to local school districts for the pupils of the public school system, that system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

(b) In order to expedite the elimination of the use of nonconforming school buildings that are used or designed to be used for instructional purposes or intended to be entered by pupils, the State Allocation Board may establish criteria that considers special circumstances under which funds may be allocated for the

reconstruction of nonconforming buildings. The funds allocated in accordance with this section shall not exceed 75 percent of the cost of facility replacement.

(c) It is the intent of the Legislature that all construction projects be designed and constructed to maximize the use of educational technology, as set forth in subdivision (b) of Section 17002.

17002. The following terms wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Board" means the State Allocation Board.

(b) "Cost of project" includes, but is not limited to, the cost of all real estate property rights, and easements acquired, and the cost of developing the site and streets and utilities immediately adjacent thereto, the cost of construction, reconstruction, or modernization of buildings and the furnishing and equipping, including the purchase of educational technology hardware, of those buildings, the supporting wiring and cabling, and the technological modernization of existing buildings to support that hardware, the cost of plans, specifications, surveys, and estimates of costs, and other expenses that are necessary or incidental to the financing of the project. For purposes of this section, "educational technology hardware" includes, but is not limited to, computers, telephones, televisions, and video cassette recorders.

(c) The term "lease" includes a lease with an option to purchase.

(d) "Project" means the facility being constructed or acquired by the state for rental to the applicant school district and may include the reconstruction or modernization of existing buildings, construction of new buildings, the grading and development of sites, acquisition of sites therefor and any easements or rights-of-way pertinent thereto or necessary for its full use including the development of streets and utilities.

(e) "Property" includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this chapter.

(f) "Apportionment" means a reservation of funds necessary to finance the cost of any project approved by the board for lease to an applicant school district.

17002.1. As used in this chapter, construction shall include, but not be limited to, reconstruction, modernization, and replacement of facilities, and the performance of deferred maintenance activities on facilities pursuant to rules and regulations regarding those activities as may be adopted by the board. Funding for deferred maintenance activities for a facility may be approved under this chapter without regard to whether project funding for the reconstruction, modernization, or replacement of the facility is prohibited under Section 17021.

17003. The Director of General Services shall administer this chapter and shall provide such assistance to the board as it may require.

17004. The State Allocation Board is continued in existence for the purpose of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid as an administrative expense referred to herein.

17005. In addition to all other powers and duties as are granted the board by this chapter, other statute, or the Constitution, the board shall have power to:

(a) Establish any qualifications not in conflict with other provisions of this chapter, as it deems will best serve the purposes of this chapter, for determining the eligibility of school districts to lease projects under this chapter.

(b) Establish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(c) Adopt any rules and regulations for the administration of this chapter, requiring any procedure, forms, and information, as it may deem necessary.

(d) Construct and control any project.

(e) Fix rates, rents, or other charges for the use of any project acquired, constructed, rehabilitated, equipped, furnished, or for services rendered in connection with that project, and to alter, change, or modify the same at its pleasure, subject to any contractual obligation that may be entered into by the board with respect to the fixing of the rates, rents, or charges.

17005.1. On or before June 30, 1981, and on or before June 30 of each year thereafter, the board shall approve a plan specifying (a) the amount of funds to be allocated in the forthcoming fiscal year for the purposes of deferred maintenance activities and (b) the manner in which such funds shall be allocated to applicant districts.

17005.3. (a) Any school district with an average daily attendance of less than 2,501 pupils may apply to the board for a loan to cover the project activities of the first or second phase, as those phases were defined on July 1, 1993, of a project funded under this chapter. The loan shall not be utilized for the purchase of real property and shall be repaid by the school district either through a dedication of fees or charges levied pursuant to Section 17620 until the loan is repaid or upon receiving the project funding at the construction phase, but, in any event, the loan shall be repaid within five years from the date on which the board makes the loan. In addition to the other methods of repayment specified in this subdivision, the board may also notify the Controller if a school district is 90 days late in making loan repayments, in which case the Controller shall reduce the apportionments to which the school district is otherwise entitled

under Section 42238 as necessary to recover past due payments and any current payments.

(b) The board may make loans under this section to the extent that the board determines that funds are available for that purpose. The total annual maximum funds that may be loaned under this section is ten million dollars ($10,000,000) per fiscal year.

(c) The board may make loans under this section only for those projects and phases that have met all of the eligibility standards of the board and receive approval for an apportionment, but for which apportionment funds are not available. In any event, the amount of the loan shall not exceed the amount that would have been eligible for apportionment.

17005.5. The board may provide a loan to any school district from the proceeds of the sale of bonds pursuant to the School Facilities Bond Act of 1992, and the 1992 School Facilities Bond Act, to provide aid for school districts in accordance with this chapter, when those proceeds are available in the State School Building Lease-Purchase Fund. In order to provide a loan, both of the following conditions shall be met:

(a) The amount of the loan shall not exceed the amount set forth in legislation enacted that specifies the loan amount.

(b) The loan shall be repaid pursuant to a schedule set forth in legislation enacted that specifies a loan repayment schedule.

17006. (a) The board shall not enter into any lease with respect to an application for replacing inadequate school facilities unless it first has investigated and made a finding, or the governing board of a self-certifying district, as applicable, first certifies that it has investigated and made a finding, consistent with guidelines adopted by the board, that one or both of the following conditions exists:

(1) It would not be economical or good practice to rehabilitate those facilities.

(2) The school facilities are inadequate due to their susceptibility to repeated flooding. The board shall develop and adopt regulations that define inadequacy of school facilities on the basis of susceptibility to repeated flooding. The building area of any facility found to be inadequate pursuant to this subdivision shall be excluded, for the purposes of any application for the replacement of any facility, from the calculation under this chapter of the area of adequate school construction existing in the applicant school district.

(b) The self-certifying district shall maintain documentation of each investigation and finding it conducts pursuant to subdivision (a) as may be required by the board, and the investigation and finding shall be subject to subsequent audit as the board may direct.

(c) For purposes of this chapter, a "self-certifying district" as to any project to be funded under this chapter, is an applicant district that provides 50 percent or more of the cost of the project from funding sources other than any state program administered by the board.

17007. The State School Building Finance Committee, created by Section 15909 and composed of the Governor, Controller, Treasurer, Director of Finance, and Director of Education, all of whom shall serve thereon without compensation and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker, shall meet with and advise the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature.

For purposes of this chapter the Members of the Legislature shall constitute an interim investigation committee on the subject of this chapter and as an interim investigating committee shall have the powers and duties imposed upon interim investigating committees by the Joint Rules of the Senate and the Assembly. The Director of General Services shall provide any assistance to the committee that it may require. The Attorney General shall be the legal adviser of the committee.

17008. A fund is hereby created in the State Treasury to be known as the State School Building Lease-Purchase Fund. All money in the State School Building Lease-Purchase Fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated for expenditure pursuant to this chapter.

The State Allocation Board may apportion funds to school districts for the purposes of this chapter from funds transferred to the State School Building Lease-Purchase Fund from any source.

17008.3. (a) The board may establish a revolving loan account within the State School Building Lease-Purchase Fund, and may allocate from the fund to that account those amounts it determines to be necessary for the purposes of this section.

(b) The board may apportion to any school district that submits to the board a statement of its intent to subsequently file a project application under this chapter, a loan for the purpose of advance planning and related administrative costs pursuant to the preparation of that application. The loan amount shall not exceed 3 percent of the estimated project cost, as determined pursuant to the building cost standards established under this chapter.

(c) If, within a period of 24 months following the receipt of any loan amounts under this section, the project for which those advance planning funds were provided has not been found by the board to be qualified for funding under this chapter, the board shall so notify the Controller, who shall reduce the apportionments to which the district is otherwise entitled under Section 42238 as necessary to repay the amount of all loans provided under this section, over such period of time as the board finds to be reasonable. The Controller shall transfer the amount of all apportionment reductions imposed under this

subdivision to the revolving loan account established under this section.

(d) The repayment of loan amounts received under this section by school districts other than those described under subdivision (c) shall be accomplished by the withholding, as determined by the board, of apportionment funds that would be available to the district for purposes of the project for which the district received funding approval under this chapter.

17008.5. The board may approve projects and make apportionments in amounts not exceeding those funds on deposit in the State School Building Lease-Purchase Fund plus any amount of bonds authorized by the State School Building Finance Committee but not yet sold by the Treasurer.

Disbursements may be made under any apportionment made from any funds in the State School Building Lease-Purchase Fund, irrespective of whether there exists at the time of the disbursement a sufficient amount in the State School Building Lease-Purchase Fund to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

17009. (a) The county superintendent of schools or county office of education shall be eligible to receive any funds from the portion of the proceeds of the sale of any state bonds that are set aside for the construction, reconstruction, or modernization of, or deferred maintenance on facilities to house special education pupils who are defined as severely handicapped and eligible pursuant to Section 17047.

(b) Subdivision (a) is only applicable if the county superintendent of schools or county office of education has filed with the State Allocation Board a regionalized facility plan, as developed and approved by the State Department of Education, that covers the county or special education local planning agency area of responsibility.

Article 2. Projects

17010. The board may construct any project, and may acquire all property necessary therefor, on any terms and conditions as it may deem advisable. When any part of the work is to be done or performed by any public body or the United States jointly or in conjunction with the board, the portion of the cost of the project to be borne by the board may be turned over to the government of the United States or to any other public body, to be expended by it in the acquisition, construction or completion of the project.

17011. The board may use for the payment of the costs of acquisition, construction or completion of any project any funds made available to the board by the State of California or any other funds provided by the board from any source, to be expended for

accomplishing the purposes set forth in this chapter, together with the proceeds of bonds issued and sold pursuant to the State School Building Lease-Purchase Bond Law of 1976.

17012. The board has full charge of the acquisition, construction, completion, and control of all projects authorized by them and may proceed with such work forthwith.

17013. Title to all property acquired, constructed, or improved by the board and the revenues and income therefrom, is in the State of California. All such property, and the income therefrom are exempt from all taxation by the State of California or by any county, city and county, city, district, political subdivision or public corporation thereof.

17014. (a) The board shall require the school district to make all necessary repairs, renewals, and replacements to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose will be borne by the school district.

(b) In order to ensure compliance with subdivision (a) and encourage applicants to maintain all buildings under their control, the board shall require the applicant to do all of the following prior to the approval of a project:

(1) Establish a restricted account within the district's general fund for the exclusive purpose of providing moneys for regular maintenance and routine repair of school buildings, according the highest priority to funding for the purpose set forth in subdivision (a).

(2) Agree to deposit into the account established pursuant to paragraph (1), in each fiscal year for the term of the lease agreements of all projects constructed under this chapter, a minimum amount equal to or greater than 2 percent of the applicant's General Fund budget for that fiscal year. This paragraph is applicable only to the following districts:

(A) High school districts with average daily attendance greater than 300.

(B) Elementary school districts with average daily attendance greater than 900.

(C) Unified school districts with average daily attendance greater than 1,200.

17015. The board shall require the school district to insure against public liability or property damage in connection with any project.

17016. The board, by the adoption of rules, may establish priorities for the construction and leasing of projects to those school districts the pupils of which will benefit most. The board may make exceptions from established priorities when it determines that to do so will benefit the pupils affected.

17017. Each school district that desires to lease a project for a grade level maintained by it, shall submit through its governing board an application therefor to the board in the form and number of copies that the board may prescribe. Immediately upon receipt of

an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the Director of General Services.

Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project.

Before the board approves an application for a construction project, it shall establish cost standards for all new construction included therein. The cost standards shall not exceed typical comparable new construction by school districts in the same area, or if there has been no new construction by school districts in the area, the cost standards shall not exceed the reasonable current cost of similar construction in the area. The board shall determine such typical current costs or such reasonable current costs. In applying cost standards the board shall take into account the size and type of the construction proposed and may make any deviations that in its judgment are justified. When a standard has been set by the board to cover any individual apportionment, no project shall be approved by the board in excess of the standard, unless the board shall find that in view of a subsequent increase in building costs an adjustment is warranted. No contract shall be let for a construction project which has been approved by the board if the cost exceeds the construction cost standards fixed by the board under this section for the new construction.

17017.1. (a) The West Contra Costa Unified School District shall be ineligible for any state school facilities funding for a period of five years from June 30, 1993, or until the date of the final payment on its entire debt to the state, including both principal and interest, whichever is later.

Notwithstanding the above, the school district may continue to receive funding for deferred maintenance activities and for those purposes specified in subdivision (b).

(b) The State Allocation Board shall approve funding for only those Richmond Unified School District State School Building Lease-Purchase Program projects which were approved for Phase II apportionments on or before April 1, 1993. All West Contra Costa Unified School District projects may be considered for funding by the State Allocation Board either in five years or after the complete repayment of the loan established under Section 41471, whichever is later.

(c) In the event that the State Allocation Board approves the replacement of the existing Belding Elementary School with funds currently allocated for the modernization of the Harry Ells Middle School and the Samuel Gompers Middle School, that approval shall be considered allowable exemption under subdivision (b). Authority for this exemption is repealed on November 1, 1993, if approval of

Phase III construction apportionment for the replacement of the existing Belding Elementary School has not occurred.

In allowing for the possibility of this exemption, it is not the intent of the Legislature to interfere in any way with the decisionmaking authority and process of the State Allocation Board. It is the intent of the Legislature that a proposal to replace the existing Belding Elementary School with funds currently allocated to the modernization of the Harry Ells Middle School and the Samuel Gompers Middle School be submitted to the State Allocation Board under its existing procedures and policies. The State Allocation Board's decision shall be based on the merits of the proposal, not this exemption authority. Specifically, this subdivision may not be used as justification for approval of a project to replace the Belding Elementary School.

(d) Any properties or facilities designated by the school district to be used for other than school purposes to generate capital to repay the outstanding debt shall be ineligible for deferred maintenance funding. Should any facilities receive funding for those purposes after the enactment of this legislation, and later be declared available for purposes intended to repay the debt, the value of state funding received for deferred maintenance at that facility shall be deducted from ongoing or future deferred maintenance projects in the district.

If no projects are available for offset of apportionments, the value of the deferred maintenance performed will be added to the outstanding loan balance.

17017.5. (a) The board may approve, in whole or in part, an application submitted by a school district under Section 17017 or 17020 in an amount not exceeding the amount applied for as the board may deem appropriate.

(b) The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make apportionments of project funding not exceeding in the aggregate the total amount determined by the board under subdivision (a) for the portion or portions of the project for which the board determines the district is ready to proceed. Subsequent to the board's approval of a project, any requirement imposed by the board that the compliance of the project with building cost or area standards and related guidelines adopted by the board be established as a condition of the apportionment of funds under this chapter shall be satisfied, as to a project for a self-certifying district, by the certification by the district of that compliance. In addition, the board shall not require that estimates of average daily attendance be updated as to that project more often than once every 12 months subsequent to the board's approval of the project. The self-certifying district shall maintain documentation of the compliance certified pursuant to this subdivision as may be required by the board, and that compliance shall be subject to subsequent audit as the board may direct.

(c) Whenever a district files an application, the board shall require the district to submit to the board and the State Department of Education a five-year plan for construction and rehabilitation of school facilities, and to obtain the written approval of the department that the plan complies with standards that are established by the department for this purpose to ensure that the applicant district has adequately anticipated its school facilities needs and identified funding sources as necessary to meet those needs. The plan may be adjusted to reflect adjusted growth targets.

(d) The board shall not approve any application under this chapter after January 1, 1990, unless accompanied by a study examining the feasibility of implementing in the district a year-round multitrack educational program that is designed to increase pupil capacity in the district or in overcrowded high school attendance areas by at least 20 percent.

(e) The board may waive subdivision (d) or the requirements of Section 17017.7, or both, if a school district demonstrates that these requirements will result in a particular educational or financial hardship to the district. Further, the board shall waive subdivision (d), if it finds that there is clear hardship to a district due to declining enrollment or no growth.

17017.6. Notwithstanding Section 17017.7, the definition of "substantial enrollment" set forth in that section shall apply only to elementary and unified school districts. For a high school district, "substantial enrollment in multitrack year-round schools," for the purposes of Section 17017.7, means that at least 30 percent of the pupils enrolled in the high school district are enrolled in multitrack year-round schools, or that 40 percent of the pupils enrolled in public school in kindergarten and grades 1 to 12, inclusive, within the boundaries of the high school attendance area for which the school district is applying for new facilities are enrolled in multitrack year-round schools. In addition, a high school district shall be deemed to have a substantial enrollment in multitrack year-round schools for purposes of Section 17017.7 if, at the option of the district, the entire high school to be constructed is to operate on a multitrack year-round basis.

17017.7. (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 17041.2, 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.

17017.9. (a) Notwithstanding any other provision of law, a project shall be accorded, subject to subdivision (b), the priority status that otherwise is accorded under Section 17017.7 to a project for which state funding is requested for only 50 percent of the cost, if both of the following conditions are met:

(1) The applicant district documents to the satisfaction of the board that it has incurred bonded indebtedness in an amount not less than 95 percent of the bonding capacity of the district.

(2) The applicant district agrees that all of the following local resources of the district existing on or after the date of the district's first application for project funding pursuant to this section shall apply toward the cost of projects for which the district requests state funding pursuant to this chapter, not to exceed 50 percent of the cost of any project:

(A) Any unexpended bonding capacity of the district.

(B) Funding that is made available to the district from local sources expressly for school facilities purposes, including, but not limited to, funding provided under Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 of the Government Code and developer fees or other charges imposed pursuant to Section 17620, or Title 7 (commencing with Section 65000) of the Government Code.

(b) An applicant district qualifying for the priority status described in subdivision (a) as to any project shall continue to be accorded that status for all subsequent projects under this chapter until the time that the bonding capacity of the district determined for purposes of that subdivision increases by 20 percent.

(c) The condition set forth in paragraph (2) of subdivision (a) shall apply until either the applicant district's eligibility under this section terminates pursuant to subdivision (b), or funding for the district is approved and apportioned under this chapter for a project for which 50 percent or more of the cost is provided by the district from funding sources other than any state program administered by the board, whichever occurs first.

(d) Notwithstanding any other provision of law, as to any project for which priority status is accorded pursuant to subdivision (a), the estimate of average daily attendance for the applicant district may be calculated, upon request of the district, in the manner set forth in subdivision (a) of Section 17040.3.

17018. In approving applications pursuant to this chapter, the board shall encourage the design and construction of facilities which will conserve unreplenishable energy resources by consideration of alternate design and insulation concepts as well as unconventional energy sources. In so doing, the board may increase cost allowances to reflect the difference between conventional and unconventional

concepts when the board is satisfied that the life cycle cost of the project is not expected to exceed the life cycle cost of a conventionally designed project.

17018.5. (a) The Legislature intends for the board to encourage school districts to utilize alternative methods to fund school facilities.

(b) The board shall approve applications pursuant to the requirements of this section that request the board to share a portion of the cost of projects constructed pursuant to the Mello-Roos Community Facilities Act of 1982, as set forth by Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code. The board shall disregard the fact that structures have been constructed in accordance with that act, and neither consider nor approve any application for cost sharing until the time that the applicant school district would have become eligible for approval of its application during the normal process established for considering and approving applications.

(c) The board shall approve applications for cost sharing based on both of the following factors:

(1) Estimates of average daily attendance at the time the application is considered.

(2) The amount of cost sharing requested.

(d) The costs shared by the board shall be an amount equal to the cost that would have been allowed for the project had it been originally approved pursuant to this chapter less 5 percent per year depreciation, exclusive of land, for each year that the project was constructed in advance of the application approval, but no more than the lesser of an amount equal to 75 percent of the allowable cost of the project or the principal amount of any outstanding callable bonds and other debts incurred to finance the project under the Mello-Roos Community Facilities Act of 1982.

(e) If the board utilizes a point system to prioritize applications for funding, the computation of priorities for an application pursuant to this section shall be increased by 4 percent for each year from the date of construction of the project to the date of approval of the cost-sharing application.

17019. Before the board approves any project that includes the acquisition of furniture or equipment, it shall establish current cost and quality standards for furniture and equipment, including, but not limited to, educational technology hardware. The standards shall not exceed the cost and quality of furniture and equipment for comparable facilities purchased by school districts in the same area. The standards shall consist of furniture and equipment costs for each type of classroom or pupil station having different cost criteria. The standards shall be reviewed quarterly by the board and adjustments made in accordance with actual current costs. When cost and quality standards have been adopted by the board, the standards shall not be exceeded unless a subsequent increase in actual current costs warrants an adjustment.

Before the board approves a project for the replacement, reconstruction, or alteration of, or addition to, a school building, full consideration shall be given to all usable furniture and equipment existing in the applicant district. The board may approve all or a portion of the amount applied for.

17019.3. (a) Any applicant school district may contract with a firm, as defined in Section 4525 of the Government Code, for construction project management services to assist in the development or implementation of a project for which the district has applied for funding under this chapter, subject to the requirement that a performance bond be required from all building contractors hired to construct the project in order to ensure the completion of performance under the contract.

(b) That portion of any contract, as described in subdivision (a), concerning the final phase of construction of the project, shall be submitted by the applicant district to the board for approval. If the board does not approve, reject, or recommend modifications to, that contract portion within 15 business days after receiving that contract information, that portion of the contract shall be deemed to be approved by the board.

(c) From the amount of funding approved by the board under this chapter for any project, the board shall authorize the expenditure of funds for the costs of construction project management services provided to the project, as described in subdivision (a), where the board finds that the contracting for those services was necessary and appropriate to the school district's development or implementation of that project.

17019.5. For a school district having an average daily attendance of 2,500 or less for the prior fiscal year, the board may approve, subject to the building cost standards established under this chapter, a supplemental apportionment up to five thousand five hundred dollars ($5,500) for any new construction project, and up to one thousand three hundred twenty dollars ($1,320) for any other project approved under this chapter, as reimbursement for administrative expenses incurred by the district in filing the application for the project. The amount of the supplemental apportionments shall be adjusted in 1990, and every two years thereafter, by the board at its January meeting, which adjustment shall be in an amount equal to the amount of the adjustment for inflation set forth in the statewide cost index for class D construction.

17020. (a) Notwithstanding other provisions of this chapter, in order to expedite a total school facility a school district may first apply for a project which includes only the advance purchase of the land and preparation of plans and specifications. The acquisition of the site and the plans preparation shall be based on the justification documents for the total school facility. The school district may apply for a subsequent project or projects to complete the total school facility.

(b) Any application filed pursuant to this section shall be subject to all provisions of this chapter generally applicable to project applications, to the extent not in conflict with this section.

(c) Any estimate of average daily attendance made by an applicant district for the purpose of justifying an application pursuant to this section may be made for up to and including two years longer than the period of time permitted by Section 17040.

(d) Beginning in the fifth fiscal year following the fiscal year in which any apportionment is made to a school district pursuant to this section, the district shall repay the apportionment, with interest, in 10 equal annual installments, unless and until the district has qualified for an apportionment pursuant to an application for utilization of the site under this chapter. These repayments shall constitute rent, and shall be in addition to any other rents or fees for which the district is obligated under Section 17032. The board may waive any obligation of repayment under this subdivision to the extent that the board finds that the obligation will result in an extreme hardship upon the district.

(e) The school district may apply for a subsequent project or projects to complete the total school facility.

17021. No project shall be approved for the reconstruction, modernization, or replacement of any school building that was constructed or reconstructed less than 30 years, or, in the case of any portable classroom, as defined in subdivision (e) of Section 17042.5, less than 20 years, prior to the date of approval of the project applied for under this chapter.

17021.3. (a) For purposes of this chapter, "modernization" or "renovation" means any modification of an existing structure, the costs of which do not exceed 25 percent of the replacement cost of that structure.

(b) No project shall be approved for the modernization of any school facility unless and until both of the following are demonstrated to the satisfaction of the board:

(1) The project will enhance the capacity of the facility to achieve one or more educational purposes.

(2) The resulting pupil capacity of the facility, as measured in units of average daily attendance, will equal or exceed 80 percent of the facility's maximum capacity as determined under the board standards established under this chapter.

(c) No project shall be approved for the modernization of any school facility that was constructed less than 30 years prior to the date of the approval of the project applied for under this chapter.

(d) The State Allocation Board may waive the requirement in subdivision (c) if the building has been declared by the Office of the State Architect to be, or is in imminent danger of becoming, a health or safety hazard to the pupils. This determination may only be made in the case of a natural disaster, for example, fire, flood, or

earthquakes, or as a result of a determination by a qualified engineer, and agreed to in writing by the Office of the State Architect.

17021.4. Notwithstanding the limitation set forth in subdivision (a) of Section 17021.3, the costs of a modernization or renovation project funded under this chapter may exceed 25 percent of the replacement cost of an existing structure where the costs in excess of that amount are funded by the district exclusively from sources other than any state program administered by the board. For each project, the total costs of the modernization or renovation project, as supplemented pursuant to this section, may not exceed 50 percent of the replacement cost of the existing structure except to the extent of those costs funded by the district, from sources other than any state program administered by the board, that are expended to conform that structure to current building standards, in which event the total costs of the project may not exceed 75 percent of the replacement cost of the structure.

17022. Except as provided in Section 17041, the board shall not approve any new school facilities for any applicant school district or county superintendent of schools until it first has made a determination that the applicant will utilize all existing facilities and sites to the extent economically and practically feasible. The board may also require the applicant to explore cooperative efforts with adjacent districts or, in the case of county superintendents of schools, with adjacent county superintendents of schools, in order that all existing or planned facilities in the general area of need shall be utilized.

17022.7. (a) The funding for any reconstruction project approved by the board pursuant to this chapter that meets the requirements set forth in subdivision (b) shall include all of the following, not to exceed the total cost of the reconstruction project or 75 percent of the replacement cost of the facility to be reconstructed, whichever is less:

(1) Twenty-five percent of the replacement cost of the facility.

(2) A funding entitlement to the extent that the reconstruction will result in an increased capacity of the facility to house pupils, calculated pursuant to the cost standards for new construction established by the board under Section 17017.

(3) Any costs incurred by the district as required to ensure that the facility, as reconstructed, complies with applicable structural safety standards for school buildings pursuant to Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 2 of Part 10.5, and Article 7 (commencing with Section 81130) and Article 8 (commencing with Section 81160) of Chapter 1 of Part 49.

(b) In order to qualify for the funding entitlement set forth in subdivision (a), a school district reconstruction project shall be required to meet all of the following conditions:

(1) The facility to be reconstructed is at least 30 years old as of the date the application is filed.

(2) The cost of the reconstruction project exceeds 25 percent of the replacement cost of the facility.

(3) The reconstruction will result in an increased capacity of the facility to house pupils.

(c) No reconstruction project shall be approved under this chapter for which the total cost exceeds 75 percent of the replacement cost of the facility to be reconstructed.

17023. Nothing contained in this chapter shall be construed as changing the powers and duties of the Department of Education or the Department of General Services in respect to schoolsites and the construction of school buildings as contained in Chapter 1 (commencing with Section 17211) and Chapter 2 (commencing with Section 17251) of Part 10.5.

17024. (a) The board shall not authorize the selection of any schoolsite, or a contract for the construction of any new school building, or for any addition to, or alteration of, any existing building, for lease-purchase to any school district, unless the applicant district has obtained the written approval of the State Department of Education that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to subdivisions (b) and (c), respectively, of Section 17251.

(b) A self-certifying district shall comply with subdivision (a) by certifying to the State Department of Education and the board that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to subdivisions (b) and (c), respectively, of Section 17251. The self-certifying district shall maintain documentation of the determinations made pursuant to this subdivision as required by the board. Those determinations shall be subject to subsequent audit by the State Department of Education in accordance with this section.

(c) The State Department of Education shall conduct random audits of the information certified by self-certifying districts pursuant to subdivision (b), using generally accepted auditing principles, at any time to ensure compliance with the law.

(d) If any information certified by a self-certifying district pursuant to subdivision (b) is found by the department to contain any material inaccuracy, the department shall so notify the board. The board shall thereupon impose both of the following penalties:

(1) Pursuant to a repayment schedule approved by the board of no more than five years, the district shall repay to the board, for deposit in the State School Building Lease-Purchase Fund, an amount equal to the amount of project funding allocated under this chapter to acquire any site that was selected in material violation of the standards adopted by the department pursuant to subdivision (b) of Section 17251, together with interest at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of

interest for the most recent issue of state general obligation bonds as established pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. The amount of any repayment owing under this paragraph for any fiscal year, which is not repaid otherwise by the district, shall be withheld by the board from any project funding that otherwise would be allocated to that district under this chapter in that fiscal year. As to any repayment obligation remaining for that fiscal year, the board shall notify the Superintendent of Public Instruction, who shall withhold the amount of that remaining obligation from the apportionments to be made to the district from the State School Fund in that fiscal year.

(2) The board shall prohibit the district from exercising the self-certifying authority under subdivision (b) under any subsequent applications for project funding for a period of up to five years following the date of the finding of a material inaccuracy, or until the district's repayment of the entire amount owing under paragraph (1), whichever occurs later.

(e) Any school district against which the board imposed the penalties under paragraphs (1) and (2) of subdivision (d) may submit for binding determination by an arbitrator the issue of whether the penalties imposed are disproportionate to the inaccuracy certified by the district. Except as otherwise provided by this chapter, the procedure governing the arbitration shall be as set forth in Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

(f) It is the intent of the Legislature that audits as described in this section not interfere with the application and construction process under this chapter unless one or more violations are discovered.

17024.5. Upon request of any school district, the State Department of Education shall provide assistance in the evaluation and utilization of existing school facilities and the justification of the need for schoolsites, new facilities, and the rehabilitation or replacement of existing facilities, in accordance with board regulations.

17025. (a) The board shall not authorize a contract for the construction of any new school, or for the addition to, or reconstruction or alteration of, any existing building, for lease-purchase to any school district unless the applicant district has submitted plans therefor to the Department of General Services and obtained the written approval of the department pursuant to Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5.

(b) The board, or the self-certifying district, as applicable, shall certify the compliance of a project with Sections 17212, 17212.5, and 17213, with Division 13 (commencing with Section 21000) of the Public Resources Code, and with any other law that applies to that project, but may require documentation of compliance only as to requirements that are applicable under this chapter.

Notwithstanding any other law, for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code, the applicant district shall be deemed to be the "lead agency" with regard to any project funded for that district under this chapter.

17029. (a) The board shall authorize the applicant school district to act as its agent in the performance of acts specifically approved by the board and all acts required pursuant to Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. That authorization shall include, but is not limited to, the selection of schoolsites, the securing of appraisals, the contracting for architectural services, the advertisement for construction bids and the entering into of contracts therefor and the purchase of furniture and equipment.

(b) If, pursuant to the authority granted under subdivision (a), a self-certifying district submits to the board two or more independent appraisals and certifies to the board that the appraisals were performed by appraisers licensed or certified in accordance with Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code and were obtained in accordance with standards and procedures imposed by the board for that purpose, the district shall not be required to document its compliance with those standards and procedures except as specified in Section 17041.2. In addition, the board shall use any of those appraisals, including an appraisal that is not the highest bid appraisal, for the purposes of this section, except that the board may substitute, for the results of those appraisals, the results of one or more independent appraisals, which may include an appraisal performed by the Department of General Services, obtained by the board for that purpose.

(c) If, pursuant to the authority granted under subdivision (a), any bid reported to the board by a self-certifying district as the lowest responsible bid for a construction contract does not exceed the cost limit established by the board for that purpose, and the district certifies to the board that the bid was obtained in accordance with standards and procedures imposed by the board for that purpose, the district shall not be required to document its compliance with those standards and procedures except as specified in Section 17041.2.

17029.5. Notwithstanding any other provisions of this chapter, the funding by the board of contracts entered into by a school district pursuant to this chapter shall not, in itself, make the board liable for any tort, breach of contract, or any other action for damages caused by a school district arising from those contracts. These contracts include, but are not limited to, contracts between the school district and its construction contractors, construction managers, architects, or engineers. The school district shall be liable for all torts, breaches of contract, or any other actions for damages caused by the school district.

17030. (a) In expending funds for any project under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings

constructed, altered or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state.

(b) The Director of General Services shall file with the county recorder of the county in which any site purchased or improved through the expenditure of funds under this chapter is located a certificate, properly acknowledged, indicating the state's interest in real property of the district by virtue of this section, without the necessity of particularizing the real property. The recorder shall record and index the certificate in the same manner as abstracts of judgments and the certificate shall constitute constructive notice of the state's interest in the particular real property affected. The certificate shall, as to any party thereafter acquiring real property or any interest therein in the county from the school district, have the same force, effect and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution. That effect shall commence upon recordation and shall continue until the certificate is discharged or released as provided herein.

(c) Upon request, the Director of General Services shall issue either of the following:

(1) A release of the state's interest in any real property or a portion thereof that the district has been authorized by the board to dispose of under Section 17039, provided that delivery of such release may be subject to such conditions as may be prescribed by the board to protect the state's interest.

(2) A disclaimer of the state's interest in any real property or a portion thereof of the district, the disposition of which the board is not required to consent to under the terms of Section 17039, provided that the delivery of such disclaimer may be subject to such conditions as the board deems appropriate to protect the interest of the state, including conditions relating to the amount of consideration to be received from the disposition where the board asserts an interest in the proceeds of such disposition under other provisions of this chapter. The release or disclaimer shall conclusively protect any third party relying upon the same and shall be acknowledged to permit recordation by the county recorder.

(d) Upon payment by the district of all amounts required to be paid by it, or on its behalf, to the state under this chapter, each of the following shall occur:

(1) The Director of General Services shall file with the county recorder a release of any certificate, which release shall be recorded and indexed in the same index as the certificate.

(2) The title to personal property purchased by the school district with funds apportioned under this chapter shall revert thereto without further action by the state.

17030.2. Notwithstanding any other provision to the contrary, all lease agreements shall terminate 40 years from the date of execution

and title to the property covered therein shall revert to the district as though full payment had been made.

17030.3. Notwithstanding any other provision of this chapter, any project funded under this chapter that involves only the identification, assessment, or abatement of hazardous asbestos in school facilities shall not be subject to Section 17014 or 17032, nor shall that funding cause the transfer to the state of title or any other property interest in the subject facilities.

17030.5. Notwithstanding any provision to the contrary, no funds authorized by any act for the purpose of this chapter may be expended for any purpose without specific authorization from the board or its designated representatives.

17030.6. From any moneys in the State School Building Lease-Purchase Fund, the board shall make available to the Director of General Services such amounts as it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

17031. The applicant district, acting as agent for the state, shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to school buildings.

17032. The board shall fix rents for all projects acquired and may change the rents from time to time as may be needed provided the rents shall not in any year exceed the sum of the following:

(a) One dollar ($1).

(b) Any interest earned on funds in the county school lease-purchase fund for the district.

(c) Any unencumbered bond funds of the district, exclusive of funds that are used by the district to fund a project pursuant to Section 17040.2.

(d) The net proceeds from the sale or lease of any school buildings or land no longer needed for school purposes, exclusive of proceeds that are used for capital outlay expenditures for school construction that conforms to building area standards established under this chapter, for revenue purposes under a joint venture as authorized by Section 17032.3.

17032.3. (a) Any school district for which one or more projects has been funded under this chapter may, pursuant to written agreement with any other public or private person or entity, utilize any school buildings, land, or other real property interest that the governing board determines is not needed for school purposes, and will not be needed for school purposes within the next 30 years, in a joint venture with that person or entity to generate revenues for school facilities purposes, pursuant to the following conditions:

(1) The district has developed a school district asset utilization plan, setting forth the information required under subdivision (b), which plan has been the subject of a public hearing, and the governing board of the district has made the finding that the implementation of the plan will benefit the district.

(2) Prior to the execution by the school district governing board of any agreement regarding the utilization of the school buildings or land, or both, under a joint venture pursuant to this section, the school district asset utilization plan has been submitted for, and has received, the review and approval of the State Allocation Board. No later than 90 days after the receipt of the plan, the board shall determine whether to approve the plan, which approval shall be granted if the board finds the plan to comply with this section.

(3) Once every three years after the approval of any plan pursuant to paragraph (2), the school district shall update the plan with information regarding the disposition of the revenues received by the district from the utilization of the school buildings or land, or both, under the joint venture, including the effect of those revenues upon the school facility needs for which the district may otherwise be eligible under this chapter or under any other school facilities program administered by the board, together with such other information as the board may require, and shall resubmit the plan to the board for its review and approval. In the event that the board refuses to approve the plan on the basis that the district is no longer in substantial compliance with this section, the surplus school buildings or land, or both, utilized under the joint venture shall no longer be exempt from the rental requirements of Section 17032.

(4) Pursuant to a school district asset utilization plan approved under this section, the school district may utilize school buildings or land, or both, in a joint venture, the revenues from which shall be placed by the district in a separate fund. The principal and interest from that separate fund may be expended by the district only for the following school facilities purposes, as authorized under the approved plan, in accordance with the pupil loading and cost standards established pursuant to this chapter: the acquisition of land, new construction, reconstruction, modernization, rehabilitation, and deferred maintenance.

(b) For purposes of this section, a school district asset utilization plan shall include, but not necessarily be limited to, all of the following:

(1) A specific description of the surplus school buildings or land, or both, to be utilized under the joint venture.

(2) The identification of the current educational uses of the surplus school buildings or land, or both, and of the educational uses proposed under the joint venture.

(3) The identification of the current noneducational uses of the surplus school buildings or land, or both, and of the noneducational uses proposed under the joint venture, and a specific assessment of the compatibility of those uses with any applicable general or specific governmental land use plans and with applicable zoning restrictions.

(4) A description of the prospective economic benefits to be derived by the district from the joint venture.

(5) A description of the prospective educational benefits to be derived by the district from the joint venture.

(6) A comprehensive description of the joint venture, including, but not limited to, a description of the intended means of financing the joint venture.

(7) A plan for the disposition of the revenues received by the district from the joint venture.

17033. Rent, charges, and fees collected in error may be refunded by the board in accordance with regulations prescribed by the board.

17034. A county school lease-purchase fund is hereby created in the county treasury within each county for each school district project in the county.

17035. The board may from time to time authorize the Controller to transfer any funds that the board may deem necessary from the State School Building Lease-Purchase Fund established for a given project to the corresponding county school lease-purchase fund in the county treasury.

17036. (a) Except as provided in subdivision (b), funds may be expended from the county school lease-purchase fund by the applicant school district only when specifically authorized by the board for either direct project costs or reimbursements.

(b) Upon specific authorization by the board, applicant school districts may be reimbursed from the county school lease-purchase fund for expenditures, or commitments therefor, made prior to the approval of a project by the board, subject to all of the following conditions:

(1) The expenditures or commitments were made in accordance with the terms of the approval of a project.

(2) The expenditures or commitments were made not more than four years prior to the approval of a project.

(3) The expenditures or commitments do not include any cost incurred for construction of a project.

17038. The board shall require school districts to insure at their own expense for the benefit of the state, all sites, equipment and buildings which are, under Section 17030, the property of the state, against such risks and in such amounts as the board may deem necessary to protect the interests of the state. No project funds shall be used to pay the premiums on such insurance. All payments resulting from claims made against said insurance shall be made payable to and retained by the board. Funds so received shall be utilized by the board for repair or replacement of the facilities for which claim was made. In no event may the amounts expended from such funds for such repair or replacement exceed the payments received.

17039. (a) Not more than one hundred fifty million dollars ($150,000,000) of the moneys authorized by the State School Building Lease-Purchase Bond Law of 1982 (Sec. 34, Ch. 552, Stats. 1995) shall

be reserved for the reconstruction or modernization of facilities within the meaning of this chapter.

(b) For purposes of this section, the State Allocation Board shall establish a separate priority system which shall be based on the following factors and any other factors which the board determines are appropriate:

(1) Structural condition and age of the building.

(2) Percentage of pupils affected in the district or attendance area.

(3) Degree of utilization of eligible buildings.

(4) Other building code deficiencies, such as health, safety, or electrical problems.

17039.1. Not more than two hundred million dollars ($200,000,000) of the moneys authorized by the State School Building Lease-Purchase Bond Law of 1982 (Sec. 34, Ch. 552, Stats. 1995) shall be reserved for the reconstruction or modernization of facilities within the meaning of this chapter.

17039.2. Of the moneys reserved for the rehabilitation or modernization of facilities pursuant to Section 17039.1, the board may reserve not more than twenty-five million dollars ($25,000,000) for apportionments to school districts that the board has determined to be in severe need of the apportionment. In addition, of the moneys reserved for the reconstruction or modernization of facilities pursuant to Section 17696.96 of the Greene-Hughes School Building Lease-Purchase Bond Law of 1986 (Sec. 34, Ch. 552, Stats. 1995), the board may reserve up to and including 10 percent for this purpose. In either event, the apportionment shall be for purposes of site acquisition and the construction of school facilities for schoolsites that meet one or more of the conditions established by the board, which shall include, but are not limited to, the following:

(a) The schoolsite is not less than 30 years of age.

(b) The schoolsite has accommodated a significant increase in enrollment during the last 10-year period.

(c) Enrollment increases have been accommodated by placing relocatable structures on the schoolsite without expanding the schoolsite.

(d) The schoolsite has inadequate playground space for its enrollment.

(e) The schoolsite has inadequate meal facilities, and those facilities are used for more than three times the number of pupils for which the facilities were originally designed.

Article 3. Allowances

17040. Except as provided in Section 17041, no project shall be approved, the building area of which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building

construction per unit of estimated average daily attendance in excess of that computed in accordance with Sections 17043, 17044, 17045, and 17046.

As used in Sections 17041.5, 17043, 17044, 17045, and 17046, "maximum area" means maximum area of school building construction and "attendance unit" means unit of estimated average daily attendance.

As used in this section and Sections 17045 and 17046, "attendance center" means a school maintained or to be maintained at a given location within a district. Enrollment projections shall be made for the third fiscal year beyond the fiscal year in which the application is made for a project for kindergarten or any of grades 1 to 6, inclusive, and for the fourth fiscal year beyond the fiscal year in which the application is made for a junior high school or high school project. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter, pupils attending grades 7 and 8 in an elementary district, but residing in a high school district that maintains one or more junior high schools, shall not be considered in determining or estimating the average daily attendance of the elementary district, unless one of the following conditions is met:

(a) The elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1975.

(b) The elementary district, by a vote of the electorate at an election held on June 2, 1981, withdrew its 7th and 8th grade pupils from the high school district.

(c) The elementary district, by a vote of the electorate at an election held on November 4, 1980, withdrew its 7th and 8th grade pupils from the high school district and the high school district continues to qualify for a project, other than a project pursuant to Section 17041, on the basis of the remaining 7th and 8th grade pupils. In no event shall a facility be constructed for the withdrawn 7th and 8th grade pupils at a distance less than one and one-half miles from the nearest proposed or existing junior high facility.

When these pupils are so considered in determining or estimating the average daily attendance of the elementary district, they shall not be considered in determining or estimating average daily attendance of the high school district for junior high school purposes.

17040.1. (a) The allowable building area of any project, as calculated under this article, may be increased by any applicant school district, where the increase is funded exclusively from sources other than any state programs administered by the State Allocation Board. Any increase in building area pursuant to this section in a

project for which construction commenced on or after January 1, 1987, not to exceed 110 percent of the area that would be allowed under applicable state standards, shall be excluded from the calculation of the area of adequate school construction for the purposes of all subsequent project applications by the district under this chapter.

(b) The maximum building cost permitted for any project under this article may be increased, by not more than 10 percent, by any applicant school district, where the increase is funded by the district exclusively from the proceeds of a general obligation bond measure approved by the voters of the district or of a special tax pursuant to the formation of a community facilities district under Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, or both. In order to qualify for this purpose, any tax or other charge authorized pursuant to that approval or formation, respectively, shall apply uniformly to all taxpayers or all real property within the school district, rather than to a particular class of property or taxpayers, and shall require that the amount of the school facilities fee or other requirement that may be levied by the school district pursuant to Section 17620, in addition to that tax or other charge, not exceed the amount deemed by the governing board to be necessary for the interim school facilities needs of the district.

17040.2. Where 75 percent or more of the total cost of a project approved under this chapter is to be funded by the applicant district from sources other than any state program administered by the board, the area of the allowable new building construction for that project, and the amount of the building cost allowed for that project under this chapter, shall each be increased by 5 percent, plus 1 percent for each 1 percent by which that local contribution exceeds 75 percent.

17040.3. (a) Notwithstanding any other provision of this part, the estimate of average daily attendance for an applicant school district shall be calculated for up to and including two years longer than the period of time permitted by Section 17040, as requested by the district, where 50 percent or more of the cost of the project is provided by the district from funding sources other than any state program administered by the board. For the purposes of any subsequent project application from that district based upon additional growth in pupil enrollment, the estimate of average daily attendance shall be based on enrollment projections for any period of time, as requested by the district, up to and including that permitted by Section 17040.

(b) The project shall be "fast tracked." For purposes of this section, "fast tracking" means that the total amount of project funding eligibility shall be established upon the board's approval of the project, which shall be subsequently disbursed as necessary for the development and construction of the project without the

prerequisite of any additional state certification or other state-conducted review of project eligibility. Based upon the results of an audit to be conducted upon completion of the project, the board or the applicant district, as appropriate, shall pay to the other any amount that is necessary to conform to the allocation of project costs determined upon the board's approval of the project.

In the event that the applicant district has not executed all contractual agreements necessary for the complete construction of the project within a period of 18 months following the board's approval of the project, this subdivision shall cease to apply to the project with regard to any state funding of the project not yet disbursed. Upon request of the applicant district and approval by the board, this 18-month period may be extended for an additional period of up to six months to account for one or more delays resulting from circumstances beyond the district's control.

17040.4. Notwithstanding any other provision of this part, the board may use, for purposes of determining the estimate of average daily attendance for an applicant school district, a master plan that has been prepared by a district that includes the additional pupils due to increases in housing units within the boundaries of the district or attendance area. Before a master plan may be used, both of the following conditions shall be satisfied:

(a) The city, county, or city and county has obtained approval of a local general obligation bond or has obtained funds pursuant to the Mello-Roos Community Facilities Act of 1982, as set forth by Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, to provide local matching funds for school facility projects for which approval is being sought pursuant to this section.

(b) At least 60 percent of the total cost of the project for which approval is being sought shall be provided by funding sources other than any state program administered by the board.

17040.5. Notwithstanding any other provision of this article, the board shall exclude the area of enclosed stairs and appropriate landings for each floor level served from the computation of the allowable building area of multistory buildings for any applicant school district.

17040.6. (a) For any school of two or more stories, the project funding provided under this chapter shall include, at the request of the applicant district, the costs of any or all of the following:

(1) Compliance with applicable requirements of law for fire safety, and for handicapped access, as a result of the multistory design.

(2) Playground apparatus.

(3) Duct shafts, utility tunnels, and pipe conduit chases.

(4) Security items required as a result of the multistory design.

(b) In calculating the maximum project funding that may be allocated for parking, landscaping, and other general schoolsite

improvements, which calculation is determined in proportion to the total building cost or area approved for funding under the project, the total building cost or area approved for funding under the project shall be computed by the board to include any increase in project building area, as authorized under Section 17041.8. The applicant district shall provide the board information on how the supplemental project funding will be allocated to relieve the effects resulting from less than the specified land area for the schoolsite.

(c) This section shall apply to any application for project funding under this chapter for which the final apportionment for construction of the project had not been made on or prior to December 1, 1987.

(d) For any project approved under this chapter, the amount of project funding granted by the board shall include the actual and reasonable costs incurred by any applicant district for the revision of its project application for the purpose of qualifying for supplemental project funding as authorized by this section.

17040.7. Notwithstanding any other provision of this article, the board shall provide that building area for enclosed hallways in the second or higher story of any building shall be counted as two-thirds of the actual area. For purposes of this section "enclosed hallways" includes, but is not limited to, all of the following:

(a) Covered passages, arcades, shelters, porches, and planting areas.

(b) Enclosed covered areas that provide shelter between buildings that are 20 feet or more apart.

(c) Sun control devices designed and located to function in lieu of covered walks or other shelters.

(d) Mezzanines used for storage purposes.

17040.8. Where an applicant district that is eligible under this chapter for project funding of new construction of school facilities on an existing schoolsite, which site has less than 50 percent of the land recommended under State Department of Education guidelines, as published in the School Site Analysis and Development Handbook in effect on January 1, 1987, the area of allowable new building construction for that project shall be increased by the square footage of any existing one-story school facility or facilities to be replaced under the project by one or more multistory school facilities.

17040.9. (a) (1) The board shall allocate the amount calculated under subdivision (b), in addition to any other project funding authorized under this chapter, to each project funded under this chapter for which the resulting pupil density will exceed the following:

(A) For a project for kindergarten or any of the grades 1 to 6, inclusive, 90 pupils per acre.

(B) For a project for a junior high school project, 80 pupils per acre.

(C) For a project for a senior high school project, 70 pupils per acre.

(2) For any new construction project, pupil density shall be computed, for purposes of paragraph (1), by dividing the number of units of estimated average daily attendance for the project, including those to be served by relocatable structures, by the acreage of the project site.

(3) For any project for the construction of additional facility space on an existing schoolsite or on land acquired that is adjacent to an existing schoolsite, pupil density shall be computed, for purposes of paragraph (1), by adding the number of units of estimated average daily attendance for the project to the number of units of average daily attendance for the existing school facilities, and dividing that sum by the total site acreage for the project and the existing school facilities.

(b) The supplemental project funding authorized under this section shall be calculated by dividing the actual pupil density for the project, as calculated under subdivision (a), by the threshold pupil density for the project as set forth in that subdivision, and multiplying the resulting fraction by an amount equal to the average cost per acre of the land approved for acquisition by the board under this chapter for the project, or that would have been approved for acquisition if the applicant school district had not had an existing schoolsite available for the project.

17041. Whenever the area of adequate school construction existing in any attendance area is such as to prevent another attendance area from receiving the maximum area of school construction for each unit of attendance as specified for the district as a whole, the allowable building area may be computed separately for each attendance area. For the purposes of this section and Section 17041.5, an "attendance area" is defined as the geographical area serving an existing or proposed high school and those junior high schools and elementary schools included therein.

17041.1. (a) Notwithstanding any other provision of this chapter, the following determinations shall be made by a self-certifying district, in the manner specified in this chapter and in accordance with the standards governing those determinations that are adopted by the board, for the purpose of calculating the district's eligibility for project funding under this chapter:

(1) The total allowable building area for which the district is eligible for project funding under this chapter.

(2) The district's area of existing adequate school construction, including, but not limited to, the conducting of field inspections for this purpose.

If requested by the applicant district, the board shall provide assistance to the district in preparing the necessary documents for self-certification pursuant to this chapter.

(b) The area determinations made by a self-certifying district pursuant to subdivision (a) shall be certified by the district in its application for project funding and shall be used by the board as the basis for project funding eligibility, except to the extent of any information that the board finds is demonstrated, pursuant to the information certified and any other documentation available to the board from prior project funding applications for that district, to be materially inaccurate, regardless of whether the inaccuracy was intended. No later than 30 calendar days after receipt of the determinations certified pursuant to subdivision (a), the board shall notify the district of any inaccuracies identified under this subdivision.

(c) Each self-certifying district shall maintain documentation of the determinations described in subdivision (a) as required by the board. Those determinations shall be subject to subsequent audit as the board may direct.

(d) All estimates of average daily attendance for a self-certifying district for the purposes of this article shall be made by the district in accordance with the standards governing those estimates that are adopted by the board. Each determination made by a self-certifying district pursuant to this subdivision shall be reviewed for accuracy by the board or by the county office of education in the county in which the district is located. In the event that the review is performed by the board, that review shall be completed no later than 45 calendar days subsequent to the board's receipt from the district of all documentation necessary for that purpose.

17041.2. (a) The State Allocation Board shall conduct random audits of the information certified by self-certifying districts pursuant to this chapter, except as to any determinations that are made under subdivision (d) of Section 17041.1 or that are subject to audit by the State Department of Education pursuant to Section 17024, using generally accepted auditing principles, at any time to ensure compliance with the law.

(b) If any information submitted by a self-certifying district in its certification of funding eligibility for any project is found by the board to contain any material inaccuracy, any building area constructed as a result, in excess of the building area to which the district was entitled for purposes of that project, shall be included in the calculation of the area of adequate school construction for the purposes of all subsequent project applications by the district under this chapter. In addition, the board shall impose both of the following penalties:

(1) Pursuant to a repayment schedule approved by the board, the district shall repay to the board of no more than five years, for deposit in the State School Building Lease-Purchase Fund, an amount equal to the amount of project funding allocated under this chapter to construct that excess building area, together with interest at the rate paid on moneys in the Pooled Money Investment Account or at the

highest rate of interest for the most recent issue of state general obligation bonds as established pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. The amount of any repayment owing under this paragraph for any fiscal year, which is not repaid otherwise by the district, shall be withheld by the board from any project funding that otherwise would be allocated to that district under this chapter in that fiscal year. As to any repayment obligation remaining for that fiscal year, the board shall notify the Superintendent of Public Instruction, who shall withhold the amount of that remaining obligation from the apportionments to be made to the district from the State School Fund in that fiscal year.

(2) The information that otherwise may be certified under this chapter by a self-certifying district shall be made by the board under any subsequent applications for project funding, rather than by the applicant district, for a period of up to five years following the date of the finding of a material inaccuracy, or until the district's repayment of the entire amount owing under paragraph (1), whichever occurs later.

(c) Any school district against which the board imposes the penalties under paragraphs (1) and (2) of subdivision (b) may submit for binding determination by an arbitrator the issue of whether the penalties imposed are disproportionate to the inaccuracy certified by the district. Except as otherwise provided by this chapter, the procedure governing the arbitration shall be as set forth in Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

(d) It is the intent of the Legislature that audits as described in this section not interfere with the application and construction process under this chapter unless one or more violations are discovered.

17041.3. For the purposes of Sections 17041 and 17041.5, allowable building area may be computed, in the alternative to the methods prescribed by Section 17041, for any combination of two or more adjacent high school attendance areas pursuant to the following conditions:

(a) The project to be funded is for the construction of a high school, junior high school, or elementary school located or to be located in any of those high school attendance areas.

(b) The high school, junior high school, or elementary school to be constructed is to serve pupils residing in each of those high school attendance areas.

(c) The combined computation of allowable building area reflects the allowable building area to which each of the high school attendance areas would otherwise be entitled, reflecting the proportion of projected pupil enrollment in the school to be constructed, as calculated under this chapter, from each of those attendance areas.

17041.5. (a) Whenever the area of adequate school construction existing in an attendance area is less than the maximum area computed for that attendance area, any portion of the remaining computed allowable building area may be used for the construction of district administration and maintenance facilities.

(b) If the allowable building area is computed separately by attendance area, the board shall include within the computation of the maximum area for that attendance area the proposed building area of a project for the construction of district administration and maintenance facilities.

17041.6. The board shall, in allocating funds for school facilities construction pursuant to this chapter, give first priority to applicant districts proposing additional classrooms within their maximum allowable building area before allocating funds to applicant districts proposing administration and maintenance facilities.

17041.8. (a) Notwithstanding any other provision of law, any applicant school district that receives supplemental project funding under Sections 17040.6, 17040.7, 17040.8, and 17041.8 shall apply that funding to the purposes of the project funded, in compliance with any requirements set forth in those sections, but need not comply in that regard with the allowable building area of that project as otherwise calculated under this chapter. The expenditure of the supplemental project funds authorized under those sections is exempt from the total building cost standards applicable to the project. In addition, the increase in building area authorized under this subdivision is exempt, for purposes of any subsequent application for project funding under this chapter, from the calculation of existing adequate school construction of the district.

(b) Notwithstanding any other provision of law, the total amount of supplemental project funding that an applicant district is entitled to receive under Sections 17040.6, 17040.7, 17040.8, and 17040.9 may not exceed the lesser of the following:

(1) An amount equal to that calculated under subdivision (b) of Section 17040.9.

(2) An amount equal to the sum of four thousand dollars ($4,000) for each of the first 500 units of estimated average daily attendance for the project, and two thousand dollars ($2,000) for each additional unit of estimated average daily attendance. The monetary rates set forth in this paragraph shall be increased annually for inflation for the prior calendar year on the basis of the cost index for class B construction as determined in the January meeting of the board.

17042. (a) The board, by the adoption of rules, shall provide for the manner of determining the area of adequate school construction existing in an applicant school district at the time of application. Those rules shall define and provide for the method of determining building areas that are to be included in, in whole or in part, or to be excluded from, the area of existing adequate school construction. Any building to which Article 3 (commencing with Section 17280) of

Chapter 3 of Part 10.5 does not apply shall not be considered adequate school construction for the purpose of determining the maximum total building area per attendance unit.

The board may make exceptions to the provisions of this section, or to the rules adopted pursuant thereto, if it determines that the exception or exceptions will be for the benefit of pupils affected.

(b) For the purposes of this chapter, the area of adequate school construction existing in an applicant school district does not include any of the following:

(1) Any portable classroom made available to the district under Chapter 14 (commencing with Section 17085).

(2) In any school operated on a year-round schedule, any building area that has been in continuous use during the preceding five-year period primarily for the operation of any preschool program or programs.

(3) Any building area, not to exceed the area that is equivalent to one classroom per schoolsite, used to provide support services pursuant to Chapter 5 (commencing with Section 8800) of Part 6 or to provide integrated children's services pursuant to Section 18986.40 of the Welfare and Institutions Code. A school shall meet the definition of a "qualifying school" under paragraph (1) of subdivision (h) of Section 8802 to qualify for this exemption from the area of adequate school construction.

(c) The board may make exceptions to this section, or to the rules adopted pursuant thereto, if it determines that the exception or exceptions will be for the benefit of pupils affected.

17042.5. (a) For purposes of determining the area of adequate school construction existing in an applicant school district pursuant to Section 17042.7, all portable classrooms, whether owned or leased, shall be included, except as otherwise provided in paragraphs (1) to (3), inclusive.

(1) Leased portable classrooms acquired by a school district shall not be included in the area of existing adequate school construction until January 1, 1991.

(2) Portable classrooms leased pursuant to Chapter 14 (commencing with Section 17085) shall be excluded from the area of adequate school construction. Portable classrooms obtained by an applicant district pursuant to subdivision (b) of Section 17088.5 also shall be excluded from the area of adequate school construction, except as to any portable classroom or classrooms for which the district rejected the board's offer to purchase pursuant to that subdivision.

(3) Portable classrooms that have been leased or owned by the district for 20 years or more shall be excluded from the area of adequate school construction.

(4) Leased portable classrooms shall not be included in the area of adequate school construction for a period of five years from the date first leased by the district. That exclusion shall be extended by

the board for one additional five-year period where the board finds that the continued use of the leased portable classrooms for classroom purposes is justified by additional growth in average daily attendance pursuant to the standards established by this part. If the board finds continued use to be no longer justified, it may extend the exclusion for a period of up to two years as necessary to maintain the eligibility of the applicant district for project funding pursuant to this chapter if the board finds that the district has made a good faith effort to obtain that funding in a timely manner. The additional five-year exclusion shall not apply to any portable classroom for which, under the lease agreement, the district is to take title, or the total consideration paid by the district for the lease and an option to purchase is determined by the board to be substantially equivalent to the cost of acquiring title.

(b) For purposes of this section, "portable classroom" means a classroom building of modular design and construction that meets all of the following criteria:

(1) Is designed and constructed to be relocatable and transportable over public streets.

(2) Is designed and constructed for relocation without the separation of the roof or floor from the building.

(3) When measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

17042.7. (a) For any project application filed or amended on or after January 1, 1993, the area of adequate school construction existing in the applicant school district or, where appropriate, in the attendance area, at the time of application shall be calculated pursuant to the following formula:

(1) Identify by grade level all teaching stations existing in the school district or, where appropriate, the attendance area, as of January 1, 1993. For the purposes of this section, "teaching station" means any space that was constructed or reconstructed to serve as an area in which to provide pupil instruction.

(2) Determine the maximum pupil loading figure for each grade level pursuant to the district pupil loading standards in effect on January 1, 1993. For the purposes of this section, the "district pupil loading standards" are those pupil loading standards in effect in a school district on July 1, 1992, as a result of actions including, but not necessarily limited to, the execution of a collective bargaining agreement or the adoption of a district policy by the governing board of the school district. In no event may this figure be more than the maximum pupil loading standards established by the board, or less than three pupil units lower than those maximum pupil loading standards.

(3) Multiply the figure determined under paragraph (2) for each grade level by the number of teaching stations for the particular grade level, as determined under paragraph (1).

(4) Multiply the product determined under paragraph (3) by the maximum area allowance established for that grade level under this article.

(5) The sum of these computations for each grade level, as determined under paragraphs (1) to (4), inclusive, shall be the total area of adequate school construction existing in the district or attendance area pursuant to this formula.

(b) For purposes of this section, a school district that is participating in a class size reduction program set forth in this code shall use the pupil loading standard established pursuant to that program.

(c) The area of existing adequate school construction calculated under this section shall not include, in any school operated on a year-round schedule, any teaching station that has been in continuous use during the preceding five-year period primarily for the operation of a preschool program or programs.

17043. (a) There shall be allowed to each district with attendance units of 300 or more in kindergarten and grades 1 to 6, inclusive, a maximum area of 55 square feet for each attendance unit of the district in kindergarten and grades 1 to 6, inclusive.

(b) The maximum total building area per attendance unit allowed to applicant districts with attendance units of less than 300 in kindergarten and grades 1 to 6, inclusive, for such attendance units shall be determined by the board, and shall be building area to provide comparable facilities to those provided by subdivision (a) of this section, and shall be the least building area required to house adequately the estimated average daily attendance and the normal instructional and other services.

17044. There shall be allowed to each district a maximum area of 75 square feet for each attendance unit of the district in grades 7 and 8.

17045. The maximum area allowed to a district for attendance units in junior high schools composed of grades 7 to 9, inclusive, or 7 to 10, inclusive, as the case may be, shall be determined pursuant to this section, rather than Sections 17044 and 17046. This section shall not apply to junior high schools composed of grades 7 and 8 only.

The maximum area allowed for attendance units in junior high schools shall be determined by computing, in accordance with this section, the number of square feet for the attendance units at each junior high school attendance center of the district, and totaling the number of square feet so determined for all attendance units in all such junior high school attendance centers of the district. There shall be allowed a maximum area of 75 square feet for each attendance unit of the junior high school attendance center in grades 7 and 8. For each attendance unit in grade 9, or grades 9 and 10, as the case may be, at each junior high school attendance center, there shall be allowed a maximum area equal to the number of square feet which would be allowed under Section 17046 for each attendance unit of an

attendance center having a total number of attendance units equal to the total number of attendance units in grades 7 to 9, inclusive, or 7 to 10, inclusive, as the case may be, at such junior high school attendance center. The number of square feet which would be allowed under Section 17046 for each attendance unit of an attendance center shall be computed by determining in accordance with that section the total number of square feet which would be allowed at an attendance center and dividing such total number of square feet by the total number of attendance units at such attendance center.

17046. There shall be allowed to each district a maximum area for the attendance units of the district in grades 9 to 12, inclusive, determined by computing, for the attendance units in grades 9 to 12, inclusive, at each attendance center of the district, a number of square feet for the number of attendance units in such grades at each attendance center, in accordance with the following table, and totaling the number of square feet so determined for all attendance units in such grades of all attendance centers of the district:

Attendance units of attendance center	Maximum number of square feet of building area
1- 50	18,000
51-100	18,000 plus 162 for each attendance unit over 50
101-200	26,100 plus 99 for each attendance unit over 100
201-300	36,000 plus 60 for each attendance unit over 200
301-600	42,000 plus 54 for each attendance unit over 300
601-1,800	58,200 plus 80 for each attendance unit over 600
Over 1,800	154,200 plus 85 for each attendance unit over 1,800

17046.7. Notwithstanding any other provision of law, the determination of the area of allowable new building construction for any project for an applicant school district for which original construction commenced on or after January 1, 1987, shall be made on the basis of 107 percent of the area that would otherwise be determined for that purpose under this chapter, calculated to the nearest whole number.

17046.8. Notwithstanding any other provisions of law, the maximum allowable building area for each applicant district shall be reduced by the product of the maximum area per attendance unit

calculated for each appropriate grade level and the number of pupils reported by the Superintendent of Public Instruction for that grade level pursuant to Section 42268. This reduction shall be calculated on the basis, at the district's option, of either the district as a whole or the appropriate attendance area, as defined in Section 17041.

17047. (a) The allowable new building area for the purpose of providing special day class and Resource Specialist Program facilities for special education pupils shall be negotiated and approved by the State Allocation Board, with any necessary assistance to be provided by the Special Education Division of the State Department of Education. The square footage allowances shall be computed within the maximum square footage set forth in the following schedule:

Special Day Class Basic Need	Grade Levels	Loading*	Square Footage
Nonsevere Disability			
—Specific Learning Disability	All	12	1080
—Mildly Mentally Retarded	All	12	1080
—Severe Disorder of Language	All	10	1080
Severe Disability			
—Deaf and Hard of Hearing	All	10	1080
—Visually Impaired	All	10	1330 (1080 + 250 storage)
—Orthopedically and Other Health Impaired	All	12	2000 (1080 + 400 toilets + 250 storage + 270 daily living skills + 3000 therapy + 75 therapy per additional classroom)
—Autistic	All	6	1160 (1080 + 80 toilets)
—Severely Emotionally Disturbed	All	6	1160 (1080 + 80 toilets)
—Severely Mentally Retarded	Elem.	12	1750 (1080 + 400 toilets + 270 daily living skills)

	Secon.		2150 (1080 + 400 toilets + 270 daily living skills + 400 vocational)
—Developmentally Disabled	All	10	2000 (1080 + 400 toilets + 250 storage + 270 daily living skills + 3000 therapy** + 750 therapy per additional CR)
—Deaf−Blind/Multi	All	5	1400 (1080 + 200 storage + 150 toilets)

			Pupils	Square Feet
Resource Specialist Program for those pupils with disabling conditions whose needs have been identified by the Individualized Education Program (IEP) Team, who require special education for a portion of the day, and who are assigned to a regular classroom for a majority of the schoolday.***	All	Maximum caseload for RS is 28, not all served at same time.	1–8	240
			9–28	480
			29–37	720
			38–56	960
			57–65	1200
			66–85	1440
			86–94	1680
			95–112	1920

* Special pupils may usually be grouped without accordance to type, especially in smaller districts or where attendance zones may indicate, to maximize loadings per classroom where there are children with similar educational need (Sec. 56364).

** Therapy add−ons not to be provided if on same site as orthopedically impaired.

*** To a maximum of 4 percent of the unhoused average daily attendance of the district, per new school or addition, to a maximum of 1920 square feet.

(b) The allowable new building area shall be computed by dividing the number of eligible pupils by the minimum required loading per classroom for special day classes for the type of pupils to be enrolled. No new or additional facility shall be provided for special

day classes unless the number of additional eligible pupils equals one-third or more of the minimum required loading.

17047.5. (a) All school facilities purchased or newly constructed pursuant to this chapter for use, in whole or in part, by pupils who are individuals with exceptional needs, as defined in Section 56026, shall be designed and located on the schoolsite so as to maximize interaction between those individuals with exceptional needs and other pupils as appropriate to the needs of both.

(b) School district governing boards and county offices of education shall ensure that school facilities for pupils who are individuals with exceptional needs are integrated with other school facilities in applying for the purchase or new construction of school facilities pursuant to this chapter.

(c) The State Allocation Board, after consultation with the State Department of Education and representatives from county offices of education, special education services regions, and school districts, shall develop and adopt any regulations necessary to implement this section.

(d) Notwithstanding any other law, the requirement set forth in subdivision (a) may be waived, by the Superintendent of Public Instruction, only upon compliance with the following procedure:

(1) The applicant school district or county superintendent of schools shall file a written request for waiver that documents the reasons for its inability to comply with the requirement.

(2) The State Department of Education shall verify the reasons set forth pursuant to paragraph (1), including the documentation submitted, which verification shall be completed no later than 30 days after the filing of the request for waiver with the Superintendent of Public Instruction.

(3) The Advisory Commission on Special Education, as established under Section 33590, at its first scheduled meeting following the verification conducted pursuant to paragraph (2), shall review the request for waiver, accompanying documentation, and the verification findings of the State Department of Education. No later than 15 days following the date of that meeting, the commission shall submit its written comments and recommendations regarding the request for waiver to the Superintendent of Public Instruction.

(4) The Superintendent of Public Instruction shall review the comments and recommendations submitted by the Advisory Commission on Special Education prior to approving or rejecting the request for waiver.

(5) Any request for waiver, submitted in accordance with this section, that is not rejected within 60 days of its receipt by the State Department of Education, shall be deemed approved.

(e) This section does not apply to any application for project funding under this chapter that meets one of the following conditions:

(1) The application was submitted to the board prior to January 1, 1987, and all of the facilities under the project for use, in whole or in part, by pupils who are individuals with exceptional needs are located on a schoolsite on which facilities for use by other pupils are also located.

(2) The application is for any other project, for which, prior to January 1, 1987, the board approved the drawing of final plans and the preparation of final specifications.

17048. Whenever an existing building is to be reconstructed, rather than replaced, under an application pursuant to this chapter, there shall be allowed, for those attendance units to be housed in such reconstructed building, an additional five square feet of building area beyond the amounts set forth in Section 17043, 17044, 17045, or 17046.

17049. (a) The board shall require, as a condition of providing funding for any project under this chapter, that, for any facilities for kindergarten or any of grades 1 to 12, inclusive, or for any facilities for special education or continuation high school purposes, at least 30 percent of allowable new building construction for classrooms under the project be utilized for relocatable structures.

(b) The board may reduce the percentage requirement set forth in subdivision (a), as to any applicant, in the event that the quantity of relocatable structures necessary to comply with those requirements is unavailable from the manufacturers of those structures.

(c) The board may reduce or eliminate the percentage requirements set forth in subdivision (a), as to any applicant, under either of the following circumstances:

(1) Where the board finds that special conditions of terrain, climate, or unavailability of space within the attendance area make the use of relocatable structures impractical or inappropriate.

(2) Under the condition that, as the result of a future project for which the district receives funding under this chapter, located on the same schoolsite on which the current project is located, at least 30 percent of total building construction for classrooms on that schoolsite will be utilized for relocatable structures.

(d) Relocatable structures acquired by an applicant school district up to two years preceding the final approval by the board of the project application submitted by the district shall apply to the percentage requirements set forth in subdivision (a).

(e) Notwithstanding subdivision (d), relocatable structures acquired by an applicant school district up to 10 years preceding the final approval by the board of the project application submitted by the district shall apply to the percentage requirements set forth in subdivision (a) if the relocatable structures are to be situated on the site of a new school to be constructed under the project and all of the following conditions are met:

(1) The relocatable structures were not previously used to satisfy the 30 percent requirement set forth in subdivision (a) under any other project constructed pursuant to this chapter.

(2) The board determines that the relocatable structures are in satisfactory condition upon being moved to the new schoolsite, and are usable for classroom purposes without requiring major repair or renovation for a period of not less than 20 years subsequent to that relocation.

(3) Subsequent to moving the relocatable structures to the new schoolsite, at least 30 percent of the classroom space at the schoolsite where the structures were previously located consists of relocatable structures.

The cost of moving the relocatable structures to the new schoolsite shall be at the school district's sole expense.

(f) Whenever at least 10 percent of the allowable new building construction contained in an application is to be utilized for relocatable structures, an additional three square feet of building area for each pupil to be housed under the approved project shall be allowed.

17050. (a) A district may enter into a contract with the county, or other appropriate entity having responsibility for the provision of public library services, in which the district is located for the purpose of operating a joint-use library facility at a schoolsite owned by the district.

(b) The district may apply for the lease-purchase of a project which includes a library facility, pursuant to Section 17017, which facility, if constructed, would be of sufficient size to accommodate the requirements of a joint-use library for which the district has entered into a contract, pursuant to subdivision (a).

(c) Should the board receive an application for a project which includes space for a joint-use library, the board shall evaluate the application disregarding any space in the proposed library facility which is beyond the needs of the district, provided the application contains a copy of the contract specified in subdivision (a), and provided that the contract contains at least the following:

(1) Agreement that the county or other appropriate entity shall deposit in the county school lease-purchase fund, created pursuant to Section 17034, an amount equal to the total cost of any space in the proposed library facility which is beyond the needs of the district, prior to the signing of the construction contract for the project. The deposit shall not be refundable, except to the extent that it may prove subsequently to be in excess of the actual total cost of the space which is beyond the needs of the district.

(2) Agreement between the district and the county or other appropriate entity regarding staffing, maintenance, materials acquisition, and other matters related to the administration and operating costs of the joint-use facility.

(3) Agreement between the district and the county or other appropriate entity regarding the procedure for amendment or termination of the contract, including the disposition of materials housed in the joint-use facility should termination of the contract occur.

(d) Any space in a joint-use library which is beyond the needs of the district shall not be included by the board in any calculations made for any other purposes provided for in this article for the period of time that the contract for that joint-use facility remains in effect. Should the contract be terminated, the board shall include the additional space in any calculations made after the termination for any other purposes provided for in this article.

17051. (a) A district may enter into an agreement with another governmental entity that includes some or all of the territory of the district for the purpose of the joint use of park and recreation facilities, including an auditorium, or commercial or industrial facilities.

(b) If the board receives an application for a project that includes some or all of the territory of the district for the purpose of the joint use of park and recreation facilities or commercial or industrial facilities, the board shall evaluate the application disregarding any space in the proposed joint-use facility that is beyond the needs of the district if the application contains a copy of the agreement specified in subdivision (a) and if the contract contains at least the following:

(1) An agreement that the county or other appropriate entity shall deposit in the county school lease-purchase fund, created pursuant to Section 17034, an amount equal to the total cost of any space in the proposed joint-use facility that is beyond the needs of the district, prior to the signing of the construction contract for the project. The deposit shall not be refundable, except to the extent that it may prove subsequently to be in excess of the actual total cost of the space that is beyond the needs of the district.

(2) An agreement between the district and the county or other appropriate entity regarding staffing, maintenance, materials acquisition, and other matters related to the administration and operating costs of the joint-use facility.

(3) An agreement between the district and the county or other appropriate entity regarding the procedure for amendment or termination of the contract, including the disposition of materials housed in the joint-use facility should termination of the contract occur.

(c) Any space in a joint-use facility that is beyond the needs of the district shall not be included by the board in any calculations made for any other purposes provided for in this article for the period of time that the contract for that joint-use facility remains in effect. If the contract is terminated, the board shall include the additional space in any calculations made after the termination for any other purposes provided for in this article.

Article 4. Space-Saver Schools

17055. (a) The board shall authorize project funding under this chapter for the construction, in urban areas in which the construction of schools would ordinarily require the removal of residential, commercial, or industrial structures, of four elementary or junior high schools, or any combination thereof, none of which serve any of the grades 10 to 12, inclusive.

(b) The construction funded pursuant to subdivision (a) shall be designed to minimize the need for the relocation of inhabitants of residential, commercial, or industrial structures. The design features of the schools may include, but should not be limited to, the use of below-ground facility construction, multistory construction, multiuse construction where single-use construction currently exists, the joint use of facilities that otherwise involve such uses as a shopping center, office complex, or apartment building, the joint or dual use of land that otherwise involves park or other uses, overhead or underground parking, or the use of areas above or below streets or freeways.

17056. Any school district that is a project applicant under this chapter may apply for the funding of a school specifically under this article, pursuant to which it may be approved by the board for funding only to the extent of its project eligibility under this chapter. The governing board of each district for which that funding is approved by the board shall do all of the following, in the order specified:

(a) Identify an area within the district that it determines to be appropriate for the construction of a school that meets the purposes of this article.

(b) Establish criteria for the purpose of identifying the school design that will most effectively accomplish the purposes of this article and the needs of the district. The district shall thereupon issue, in a manner approved by the board, a request for architectural design proposals incorporating those criteria.

17058. The cost of any project funded under this article shall not exceed the maximum cost that would otherwise be allowable for a project funded under this chapter.

Article 4.1. Alternative Use of Apportionments

17059. The Legislature finds and declares as follows:

(a) In many areas of the state, overcrowding in the schools has created a need for new school facilities in neighborhoods where little or no vacant land exists. School districts are compelled, therefore, to acquire property that already has been developed with structures, then demolish these structures and construct classroom space.

(b) With an estimated statewide need for school facilities within the next five years that exceeds fourteen billion dollars

($14,000,000,000), neither state nor local funds reasonably can be anticipated to meet this need.

(c) In many of the areas having overcrowded schools, a significant supply exists of vacant space in structures meeting current building codes.

(d) Use of this vacant space by schools can be a cost-effective means of providing classroom space for the students of California.

(e) This chapter and Section 4-306 of Part 1 of Title 24 of the California Code of Regulations authorize the reconstruction of existing commercial buildings for school facility purposes.

(f) No existing commercial building shall be considered for reconstruction for school facility classroom purposes unless it was designed and constructed according to the standards established in the 1976 Uniform Building Code or subsequent editions of that code.

17059.1. In a manner that is consistent with this chapter and the California Code of Regulations, a school district that is eligible for an apportionment for project funding for new construction under this chapter may use that apportionment for the acquisition and conversion of an existing commercial building to school facility purposes.

17059.2. The State Allocation Board in conjunction with the office of the State Architect shall advise all school districts in the state of the existence of the procedure for reconstructing existing commercial buildings for school facility purposes and shall upon request assist in the interpretation and successful implementation of the pertinent regulations in the California Code of Regulations.

Article 5. Joint Venture School Facilities Construction Projects

17060. (a) A school district may enter into a joint venture relationship for the purposes of school facilities construction. Notwithstanding any other provision of this chapter, a school district entering into a joint venture relationship does so as an independent entity and not as an agent of the State Allocation Board.

(b) For the purposes of this article, "joint venture" means a collaborative undertaking by two or more persons or organizations for a specific project or projects, having the legal characteristics of a partnership.

(c) The joint venture relationship may, but is not required to, include any of the following:

(1) Joint use of the property of, or facilities on, the project site.

(2) Ground leases, alternative financing arrangements, or similar financing arrangements.

(3) A construction arrangement in which a school district enters into an agreement with a developer pursuant to which the school district initially stipulates the basic performance and programmatic criteria for the facility and the developer provides input into the design work and building construction services by entering into a

contract with a single source team to administer the project in a manner consistent with state law, and construct the project to, under most circumstances, a maximum price.

(d) The price for the portion of the project that is funded by the state shall be established through a bidding process as approved by the State Allocation Board. All subcontract trade groups that are included within the project, shall be determined based upon competitive bidding for each contract group. All subcontracts shall be awarded to the lowest responsible bidder.

(e) The proposed uses of any facilities constructed under the joint venture project shall not be inconsistent with educational purposes and activities.

(f) The cost of any project funded under this article shall not exceed the maximum cost that would otherwise be allowable for a project funded under this chapter.

17061. (a) A school district may apply to the State Allocation Board for funding for the costs of property acquisition and the cost of construction, as specified in this chapter, of the school facilities portion of a joint venture project. The school district shall publicly solicit proposals for the joint venture project pursuant to the procedures set forth in this section and Sections 17062, 17521, 17522, and 17523.

(b) Upon review of the application for funding, the State Allocation Board shall establish the maximum allowances for construction of the school facilities portion of the joint venture project. For the purpose of calculating allowances pursuant to Article 3 (commencing with Section 17040), the State Allocation Board shall use the information used to determine the allowances for the school district at the time the district received approval of funds under this chapter to acquire property on which the school facilities will be constructed, or at the time an application is made pursuant to subdivision (a), whichever is earlier.

(c) The State Allocation Board may approve, in whole or in part, an application submitted by a school district pursuant to this section in an amount the State Allocation Board may deem appropriate, not to exceed the amount applied for, subject to final approval of the joint venture agreement pursuant to Section 17063.

(d) For purposes of this section, and the process referred to in subdivision (a), a school district joint venture request for proposals shall include, but not necessarily be limited to, all of the following:

(1) A specific description of the school buildings or land, or both, to be constructed or utilized under the joint venture and a description of how the costs of the project have been determined.

(2) The identification of the current educational uses of the school buildings or land, or both, and of the educational uses proposed under the joint venture.

(3) The identification of the current noneducational uses of the proposed school buildings or land, or both, and of the noneducational

uses proposed under the joint venture, and a specific assessment of the compatibility of those uses with any applicable general or specific governmental land use plan and with applicable zoning restrictions.

(4) A description of the prospective economic benefits to be derived by the school district from the joint venture.

(5) A description of the prospective educational benefits to be derived by the school district from the joint venture.

(6) A request that each request for proposal response include a comprehensive description of the joint venture, including, but not limited to, a description of the intended means of financing the joint venture.

17062. (a) Notwithstanding Sections 20111 and 20118.4 of the Public Contract Code, or any other law, upon approval of funding pursuant to Section 17061, a school district may utilize a request for qualifications and proposal process described in subdivision (a) of Section 17061 to select and enter into a joint venture agreement with a developer to construct school facilities. The agreement may utilize Section 17406.

(b) The joint venture agreement shall include, but not be limited to, all of the following terms:

(1) The cost of the project approved by the State Allocation Board pursuant to Section 17061 as the amount that the district will pay to the developer pursuant to the joint venture agreement upon completion of the project, if applicable.

(2) A detailed description of the project, including, but not limited to, the school facilities and any other facilities that may be included in the project and any other information necessary to meet the requirements of this chapter.

(3) The timeframe for completion of the project.

(4) A requirement that there shall be no state liability if funds are not made available within the four-year period specified in subdivision (a) of Section 17063.

(c) The joint venture agreement may also include a requirement that if the actual cost of constructing the school facility project designated in the agreement exceeds the amount set forth in that agreement, the developer shall be responsible for the additional expense.

(d) The lien placed on a schoolsite pursuant to this chapter shall only attach to that portion of the project for which state funds are actually expended. In addition, the lien shall expressly recognize any subordinate property interest created by the joint venture, and the state lien shall not be foreclosed or otherwise used to terminate the property interest, or any subordinate financing liens incidental thereto, created by the joint venture. The document creating that lien on a schoolsite shall be written in a manner to clearly prohibit assumption of any state liability resulting from the lien.

(e) Notwithstanding subdivision (d), the nondisturbance of subordinate property interests permitted in subdivision (d) shall not

permit the foreclosure or other private taking of actual school facilities or property paid for with state funds in a manner that would restrict, terminate, or impair the school facilities portion of the joint venture or the school district's use thereof.

17063. Upon completion of the joint venture agreement pursuant to Section 17062, the school district shall transmit the agreement to the State Allocation Board for final review to determine whether the agreement is consistent with the project approval pursuant to Section 17061. The State Allocation Board shall act to approve or disapprove the complete agreement within 60 days following submission of the complete proposal to the State Allocation Board. The approval or disapproval relates to only the decision by the State Allocation Board to fund the school portion of the joint venture project and is not to be construed as an approval or disapproval of the terms and conditions of the joint venture agreement nor as authority for the school district to act as the agent of the State Allocation Board. The State Allocation Board is not made a party to the joint venture agreement and shall not incur liability under the joint venture agreement through its approval or disapproval of the agreement. The joint venture shall indemnify and hold harmless the State Allocation Board and its officers, agents, and employees from any loss or liability, including reasonable attorneys fees and costs, caused by the joint venture arising out of, or in relation to, any contract entered into by the joint venture in furtherance of the joint venture project. The date of approval by the State Allocation Board of the project shall be the date of funding eligibility for the project. The apportionment of funds for the eligible project shall be made at any point up to four years following the date of funding eligibility subject to the availability of funds for this purpose. If the state funds are not available within that four-year period, the school district may at its option remain in the funding cycle, subject to other provisions of this chapter, until the school district receives all of the funds it is eligible to receive pursuant to this article as of the date of funding eligibility. The district's eligibility for reimbursement of authorized costs and the district's position in the processing schedule for the reimbursement shall be established as the date of project approval by the State Allocation Board. The exact amount of the reimbursement shall be determined at the conclusion of the project and shall be based upon the actual subcontract trade bids and other costs allowable pursuant to Section 17019.3.

17064. The selection of any design professional pursuant to this article shall be made in accordance with Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

17065. The design and construction of school facilities pursuant to this article shall comply with Article 3 (commencing with Section 17280) of Chapter 2 of Part 10.5.

17066. This article does not affect any requirement of a school district to comply with the prevailing wage requirements of Article

2 (commencing with Section 1770) of Chapter 2 of Part 7 of Division 2 of the Labor Code with respect to the school facilities portion of a joint venture project under this article.

CHAPTER 13. TRANSFER OF EXCESS FUNDS

17080. (a) Notwithstanding any other provision of law, whenever moneys transferred to the General Fund each year from (1) moneys deposited in the Public School Building Loan Fund pursuant to Section 15735, and (2) moneys deposited in the State School Building Aid Fund pursuant to Section 16080, are in excess of the amounts required to reimburse the General Fund on account of principal and interest due and payable for that fiscal year on all school building aid bonds outstanding against the state, an amount equal to such excess is appropriated from the General Fund for purposes of the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 12 (commencing with Section 17000)) and Section 17584. The Controller shall transfer, as directed by the State Allocation Board, such appropriated amount to the State School Building Lease-Purchase Fund and to the State School Deferred Maintenance Fund, which is hereby established.

(b) In addition to the amount transferred pursuant to subdivision (a), the Controller shall transfer annually from the General Fund to the State School Deferred Maintenance Fund an amount equal to any amount transferred to or deposited in the General Fund as a result of repayment of any loan made by the board pursuant to Section 17005.15.

(c) Notwithstanding Section 13340 of the Government Code, the State School Deferred Maintenance Fund is continuously appropriated for the purposes for which it is established.

CHAPTER 14. EMERGENCY SCHOOL CLASSROOM LAW OF 1979

Article 1. General Provisions

17085. This chapter may be cited as the State Relocatable Classroom Law of 1979.

17086. In adopting this chapter, the Legislature recognizes that the ad valorem tax is no longer available as a source of revenue for the construction of necessary school facilities. The Legislature considers that the greatest need in school construction is for classrooms for the education of public school pupils. It is the intent of the Legislature to satisfy this primary need to the greatest extent possible before providing any additional educational facilities, regardless of how desirable such additional facilities may be.

17087. As used in this chapter:

(a) "Board" means the State Allocation Board.

(b) "State School Building Aid Fund" means that fund established pursuant to Section 16096.

(c) "Lessee" means a school district or county superintendent of schools to whom the board has leased a portable classroom pursuant to this chapter.

17088. In addition to any other powers and duties as are granted the board by this chapter, other statutes, or the State Constitution, the board has the power to do each of the following:

(a) Establish any qualifications not in conflict with other provisions of this chapter, as it deems will best serve the purposes of this chapter, for determining the eligibility of school districts and county superintendents of schools to lease portable classrooms under this chapter.

(b) Establish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(c) Adopt any rules and regulations for the administration of this chapter requiring such procedure, forms, and information, as it may deem necessary.

(d) Have constructed, furnished, equipped, or otherwise require whatever work is necessary to place, portable classrooms on schoolsites where needed.

(e) Own, have maintained, and lease portable classrooms to qualifying school districts and county superintendents of schools.

(f) From any moneys in the State School Building Aid Fund available for purposes of this chapter, the board shall make available to the Director of General Services such amounts as it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

(g) Notwithstanding any other provision of law, from any funds available to the board, the board may, no later than January 15 of any year, make available to the Director of General Services up to thirty-five million dollars ($35,000,000) for expenditure in the subsequent school year. It is the intent of the Legislature that this allocation be annually funded from an appropriation made for this purpose by the Legislature in the Budget Act for the fiscal year in which the board is to act to make that funding available. These funds shall be utilized to purchase portable classrooms for the purposes of this section.

17088.3. (a) No school district shall qualify for the lease under this chapter, after January 1, 1990, of one or more portable classrooms except upon submitting a study examining the feasibility of implementing in the district a year-round multitrack educational program that is designed to increase pupil capacity in the district by at least 20 percent.

(b) Emergency or urgency conditions within a school district shall constitute grounds for approval by the board, pending submission of the report.

(c) Subdivision (a) does not apply to facilities that are designated as uninhabitable after July 1, 1989, due to fire or other health or safety conditions.

(d) Subdivision (a) does not apply to a school district for leases or subleases under this chapter for the purpose of providing facilities, pursuant to subdivision (c) of Section 17091, for licensed child day care programs or recreation or enrichment activities or programs for schoolage children.

17088.5. (a) The board may empower any lessee to act as its agent in the performance of acts authorized under this chapter with regard to portable classrooms to be made available to that lessee, including, but not necessarily limited to, contracting for architectural and construction services and purchasing furniture and equipment.

(b) In addition, where any qualifying school district or county superintendent of schools is deemed by the board to be eligible under this chapter for the lease of portable classrooms, but adequate funds are not at that time available to the board for the purchase of those classrooms, the board may authorize the school district or county superintendent of schools to purchase portable classrooms, to the extent of that eligibility, pursuant to the following conditions:

(1) The portable classrooms are purchased under a procedure determined by the board, pursuant to either a bidding process implemented by the school district or county superintendent of schools or by the State Office of Procurement.

(2) To the extent that funding for purposes of this chapter is subsequently made available to the board, the board shall purchase the portable classroom or classrooms from the school district or county superintendent of schools, for lease to that entity under this chapter, for an amount, not to exceed the purchase price the board determines it would have paid for the classroom or classrooms at the time they were acquired pursuant to paragraph (1), as necessary to reimburse the school district or county superintendent of schools for the purchase price, less the amount that would have been charged to the school district or county superintendent of schools for the lease of the classroom or classrooms under Section 17089 from the date of purchase. The sale of the portable classroom or classrooms under this paragraph shall be at the discretion of the school district or county superintendent of schools.

17088.7. (a) Any school district, or, under a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, any combination of one or more school districts or county superintendents of schools, may, to the extent of the eligibility of the school district or of the parties to the joint powers agreement to lease portable classrooms under this chapter, purchase portable classrooms as provided in this section.

(b) The number of portable classrooms which may be purchased pursuant to this section, on a statewide basis, shall not exceed 200 in

any given year, and shall not exceed 600 in total. Portable classrooms purchased prior to September 22, 1989, are exempt from the yearly limit of 200, but shall be counted towards the total limit of 600.

(c) The purchase costs of the portable classrooms, which include costs of site preparation, furniture and equipment, toilet facilities as described in Section 65980 of the Government Code, and the transportation of classrooms, may be funded from revenues received by the school district or districts pursuant to Section 17620. The purchase shall comply with any procedures and policies established by the board under this chapter for the purchase of portable classrooms. All portable classrooms purchased pursuant to this section are the property of the state.

(d) The board shall lease the portable classrooms purchased pursuant to the authority granted in this section to the purchaser, as described in subdivision (a), in accordance with this chapter, including applicable eligibility standards, and the purchase costs paid shall be credited toward the rent the purchaser would otherwise be required to pay under this chapter as a lessee.

(e) In the event that the purchase of portable classrooms under this section occurs pursuant to a joint powers agreement, as described in subdivision (a), the agreement shall identify the school district or districts and county superintendent or superintendents of schools that are party to the agreement, identify the district or districts providing the revenues, specify the manner in which the revenues are to be expended, and specify the distribution of portable classrooms subsequent to purchase, which distribution shall be in accordance with the eligibility requirements of this chapter. The agreement shall be subject to approval of the board, pursuant to subdivision (b) and any applicable procedures and policies established by the board under this chapter.

17089. (a) The board shall lease portable classrooms to qualifying school districts and county superintendents of schools for not less than one dollar ($1) per year, nor more than four thousand dollars ($4,000) per year, for each portable classroom, which amount shall be annually increased according to the adjustment for inflation set forth in the statewide cost index for classroom construction, as determined by the board at its January meeting.

(b) The board shall require each lessee to undertake all necessary maintenance, repairs, renewal, and replacement to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the lessee.

17089.2. Any portable classroom that is leased from the board by a school district or county superintendent of schools under this chapter on July 1, 1991, may be purchased by that district or county superintendent of schools for an amount equal to the purchase price paid by the board, including the purchase costs specified in subdivision (c) of Section 17088.7, less the amount of any rent already

paid to the board by the district or county superintendent of schools for that classroom. Payment for purchases made pursuant to this section shall be in equal annual installments for an agreed upon term not to exceed nine years.

17089.5. The board may lease portable classrooms to any school district or county superintendent of schools which serves infant or preschool individuals with exceptional needs, as defined in Section 56026, and which operates programs pursuant to Part 30 (commencing with Section 56000). These portable classrooms shall be adequately equipped to meet the educational needs of these students, including, but not limited to, sinks and restroom facilities.

17090. The board shall require lessees to insure at their own expense for the benefit of the state, any leased portable classroom which is the property of the state, against such risks, including liability from the use thereof, in such amounts as the board may deem necessary to protect the interest of the state. All payments resulting from claims made against the insurance shall be made payable to and retained by the board for deposit in the State School Building Aid Fund.

17091. (a) The board shall have authority to adopt rules establishing priorities for the acquisition and leasing of classrooms to those school districts and county superintendents of schools whose pupils will benefit most. The board may make exceptions from the established priorities if it determines that the pupils affected will benefit.

(b) If at any time the number of portable classrooms available exceeds the number of those required by applicant districts, as determined by basic loading standards and eligibility requirements, the board may authorize additional portable classrooms to be placed in any school district that agrees to hire an additional teacher for each additional portable classroom placed in the district pursuant to this subdivision.

(c) If at any time the number of portable classrooms available exceeds the number of those required by applicant districts, as determined by basic loading standards and eligibility requirements, the board shall authorize additional portable classrooms to be placed in any school district, upon request of the school district, for the purpose of providing licensed child day care programs or recreation or enrichment activities or programs for schoolage children on a schoolsite, unless the surplus classrooms are needed for emergency purposes.

17092. (a) No portable classrooms shall be made available to any school district unless the district furnishes evidence, satisfactory to the board, that the district has no available bond proceeds that could be used for the purchase of classroom facilities.

(b) Notwithstanding any other provision of law, a school district or county superintendent of schools that has received approval for a project that includes a justified number of new teaching stations

pursuant to Chapter 12 (commencing with Section 17000) shall be eligible for at least the same number of emergency portable classrooms as approved new teaching stations.

(c) Subdivision (a) does not apply to leases or subleases under this chapter for the purpose of providing facilities, pursuant to subdivision (c) of Section 17091, for licensed child day care programs or any recreation or enrichment activities or programs for schoolage children.

17092.3. A school district may sublease any portable classroom obtained by the district pursuant to subdivision (c) of Section 17091 to a private provider that has entered into a contract with the district to provide any child care and development program or programs or any recreation or enrichment activities or programs for schoolage children on a schoolsite. The terms of the sublease for rental payments and other related costs shall not exceed the costs of the portable classroom to the district.

17093. The board shall have prepared for its use, performance specifications for portable classrooms complying with Sections 17280 to 17314, inclusive, which are capable of being economically moved, and bids for the construction of which can be solicited from more than one responsible bidder. The board may from time to time solicit bids from, and award to, the lowest responsible competitive bidder, contracts for the construction or purchase of the number of portable classrooms it deems will be required by eligible school districts and county superintendents of schools during the next 12 months.

17094. If at any time the board determines that a lessee's need for particular portable classrooms which were made available to the lessee pursuant to this chapter has ceased, the board may take possession of the portable classrooms and may lease them to other eligible districts or county superintendents of schools, or if there is no longer a need for any portable classrooms, the board may dispose of them to public or private parties in any manner that it deems to be in the best interests of the state.

Any revenue which is derived from a lease or other disposition of the portable classrooms pursuant to this section shall be deposited in the State School Building Aid Fund.

17095. The State Board of Education may waive application of the penalty provisions of Section 41376 for school districts which during the school year used portable classrooms leased pursuant to this chapter.

CHAPTER 15. SCHOOL DISTRICT REVENUE BONDS

Article 1. General Provisions

17100. The Legislature hereby finds and declares that the State School Building Lease-Purchase Fund, pursuant to Section 17008, and the proceeds from the sale or lease of surplus school property are

the two sources available to school districts to finance the construction of school facilities to relieve overcrowding. However, these sources are still insufficient to meet the construction needs statewide of school districts.

Article 2. Revenue Bonds

17110. The governing board of a school district may issue for sale revenue bonds to finance the construction of joint occupancy facilities as prescribed in Article 8 (commencing with Section 17515) of Chapter 4 of Part 10.5, which facilities are necessary to relieve overcrowded schools. Proceeds from the rental and lease of the facilities shall be used by the governing board to repay the revenue bonds.

As used in this chapter:

(a) "To finance the construction of joint occupancy facilities" means to offset either the cost of constructing the joint occupancy facilities or the cost of financing the construction of joint occupancy facilities, or both.

(b) "Joint occupancy facilities" means any building constructed pursuant to this chapter which is occupied jointly by a school district and a private entity specified in Section 17811 or one or more buildings which are constructed pursuant to this chapter on the same property used by the district and the private entity, but are not occupied jointly. Facilities to be acquired by purchase pursuant to this article for occupancy by pupils shall meet the requirements of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 3 of Part 10.5.

(c) "Construction" includes acquisition by purchase.

17111. The governing board may contract with any person, firm, partnership, joint venture, or other private entity for the purpose of issuing revenue bonds pursuant to Section 17810 and for the purpose of renting or leasing the facilities constructed pursuant to this chapter.

17112. No revenue bonds may be issued for sale by the governing board unless the facilities are to be constructed on district-owned property, except as to facilities to be acquired by purchase.

CHAPTER 16. PUBLIC DISCLOSURE OF NON-VOTER-APPROVED DEBT

17150. (a) Upon the approval by the governing board of the school district to proceed with the issuance of certificates of participation revenue bonds, the school district shall notify the county superintendent of schools and the county auditor. The superintendent of the school district shall provide the repayment schedules for that debt obligation, and evidence of the ability of the school district to repay that obligation, to the county auditor, the county superintendent, the governing board, and the public. Within

15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) Upon the approval by the county board of education to proceed with the issuance of certificates of participation or revenue bonds, the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent of Public Instruction. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide the repayment schedules for that debt obligation and evidence of the ability of the county office of education or school district to repay that obligation, to the Superintendent of Public Instruction, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent of Public Instruction may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

CHAPTER 17. THE ARCHIE-HUDSON AND CUNNEEN SCHOOL TECHNOLOGY REVENUE BOND ACT

17160. It is the intent of the Legislature in enacting this act to provide a source of financing for the development of California public schools' educational technology infrastructure for the use of technology in instruction through the use of state revenue bonds repaid from a dedicated portion of funds allocated to school districts from the California State Lottery Education Fund pursuant to Section 8880.5 of the Government Code. It is further the intent of the Legislature in enacting this act to further the purposes of the California State Lottery Act of 1984 as approved by the voters on November 6, 1984.

17161. For the purpose of this article the following terms have the following meanings:

(a) "Act" means the Archie-Hudson and Cunneen School Technology Revenue Bond Act.

(b) "Authority" means the California School Financing Authority established pursuant to Section 17172.

(c) "Bond" means bonds, notes, bond anticipation notes, commercial paper, and any other evidences of indebtedness.

(d) "Fund" means the School Technology Pooled Revenue Bond Fund established pursuant to subdivision (c) of Section 17162.

(e) "School district" means school district or county office of education.

17162. (a) Notwithstanding Section 17199.3, the authority may issue bonds exclusively for the purposes of this act, provided that the total amount of bonds issued and outstanding at any time under this

act shall not exceed four hundred million dollars ($400,000,000). Authorization for the issuance of bonds under this act shall become operative after July 1, 1997, upon receipt by the authority of repayment pledges made by school districts, pursuant to Section 17163, which, when the pledges from all school districts are combined, are equal to or greater than five million dollars ($5,000,000). The authority shall not issue bonds for any project that cannot be supported by the repayment pledges of school districts.

(b) In administering this act, the authority shall meet all of the requirements established by law for the issuance, holding, and repayment of revenue bonds by the authority, including those set forth in Chapter 17 (commencing with Section 17170), unless otherwise provided for in this act.

(c) Revenues from the sale of bonds issued pursuant to this act shall be deposited in the School Technology Pooled Revenue Bond Fund, which fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated without regard to fiscal year for the purposes of this chapter. The authority shall allocate moneys to each participating school district from the fund.

(d) Allocations from the fund shall be used by school districts only for the purpose of establishing computer-based networks and telecommunications systems for instructional purposes, including the procurement and installation of computer hardware and software, multimedia audio, video, and data transfer equipment, and wiring, cabling, and other equipment necessary to establish network connectivity, and any planning and installation costs associated with establishing and installing the networks.

(e) The length of terms of the bonds issued pursuant to this act shall be less than the useful life of the equipment to be purchased as set forth in subdivision (d).

17163. (a) Notwithstanding any other provision of law, a school district may participate in this act, if the governing board of the school district adopts a resolution approving that participation. A participating school district shall pledge a portion of the lottery revenues allocated annually to the school district from the California State Lottery Education Fund as a dedicated revenue source to repay bonds issued by the authority under the act.

(b) A school district may pledge an amount up to the equivalent of 25 percent, but not more than 25 percent, of the allocation to the school district for the 1996–97 fiscal year from the California State Lottery Education Fund.

(c) A participating school district shall guarantee the repayment of bonds issued under this chapter by providing instructions to the Controller as follows:

(1) Informs the Controller of its election to participate in this act.

(2) Authorizes the Controller to pay the portion of the school district's annual allocation of funds from the California State Lottery

Education Fund to the bond trustee identified by the school district for the repayment of the school district's share of the bonds issued under this chapter.

(3) Contains a transfer schedule that sets forth the amounts of funds, which shall be equal to the amount of funds pledged pursuant to subdivisions (a) and (b) of this section, to be transferred by the Controller to the trustee from the funds to be allocated to that school district from the California State Lottery Education Fund.

17163.5. The Controller shall pay bond trustees in accordance with the instructions received pursuant to Section 17863. The Controller shall make that payment only from moneys in the California State Lottery Education Fund allocated to that school district. The Controller is not authorized to pay a bond trustee any amount in excess of a district's allocation from the California State Lottery Education Fund.

17164. Nothing contained in this chapter shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit of the state.

Notwithstanding any other provision of law, should lottery funds pledged to repay bonds issued pursuant to this act be insufficient to repay the revenue bonds, negotiable notes, or negotiable bond anticipation notes sold to finance projects and related interest and expenses, moneys in the General Fund shall not be available as an alternative source of repayment.

17165. The State Department of Education shall include in its annual survey of schools on the use of lottery funds, the amount of lottery revenues expended to repay bonds issued pursuant to this act.

CHAPTER 18. CALIFORNIA SCHOOL FINANCE AUTHORITY

17170. This chapter shall be known and may be cited as the California School Finance Authority Act.

17171. The Legislature hereby finds and declares that it is in the interest of the state and its people for the state to do all of the following:

(a) Reconstruct, remodel, or replace existing school buildings which are educationally inadequate or which do not meet current structural safety requirements.

(b) Acquire new schoolsites and buildings to be made available to school districts and community college districts for the pupils of the public education system, which is a matter of general concern inasmuch as the education of the state's children is an obligation and function of the state.

(c) Assist school districts and community college districts by providing access to financing for working capital and capital improvements.

17172. There is in the state government the California School Finance Authority. The authority is a public instrumentality, and the

exercise by the authority of the powers conferred by this chapter is an essential public function.

17173. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Act" means the California School Finance Authority Act.

(b) "Agent" means a county or city board of education or superintendent of schools acting with its consent on behalf of one or more school districts for any purpose of this chapter, and the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges acting with its consent on behalf of one or more community college districts for any purpose of this chapter.

(c) "Authority" means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(d) "Bonds" means bonds, notes, bond anticipation notes, commercial paper, and any other evidences of indebtedness.

(e) "Cost," as applied to all or part of a project financed pursuant to this chapter, means and includes all or any part of the cost of any of the following:

(1) Construction.

(2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.

(3) Demolition or removal of any buildings or structures on land acquired for a project, including the acquisition of any lands to which the buildings or structures may be moved.

(4) All machinery and equipment.

(5) Financing charges.

(6) Interest prior to, during, and for a period following, the completion of such construction or improvement as determined by the authority.

(7) Provisions for working capital.

(8) Reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements.

(9) Engineering, architectural, financial, and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to the construction, acquisition, or improvement of any project or any financing under this chapter.

(f) "Educational facility" means any property, facility, structure, equipment, or furnishings used or operated in conjunction with one or more public schools or community colleges, including, but not limited to, all of the following:

(1) Classrooms.

(2) Auditoriums.
(3) Student centers.
(4) Administrative offices.
(5) Sports facilities.
(6) Maintenance, storage, or utility facilities.
(7) All necessary or usual attendant and related facilities and equipment, including streets, parking, and supportive service facilities or structures required or useful for the effective operation of the educational facility.

(g) "Participating district" means a school district or community college district which undertakes, itself or through an agent, the financing or refinancing of a project or of working capital pursuant to this chapter. "Participating district" shall also be deemed to refer to the agent to the extent the agent is acting on behalf of the school district or community college district for any purpose of this chapter.

(h) "Project" means the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an educational facility to be financed or refinanced pursuant to this chapter. "Project" may include any combination of the foregoing undertaken jointly by any participating district with one or more other participating districts.

(i) "Working capital" means funds to be used by, or on behalf of, a participating district to pay maintenance or operating expenses, or any other costs which would be treated as an expense item under generally accepted accounting principles in connection with the ownership or operation of an educational facility, including, but not limited to, all of the following:
(1) Reserves for maintenance or operating expenses.
(2) Interest for a period not to exceed one year on any loan for working capital made pursuant to this chapter.
(3) Reserves for debt service, and any other costs necessary or incidental to, financing pursuant to this chapter.

(j) "Certificate of participation" means an undivided interest in one or more bonds, leases, loans, installment sales, or other agreements of a participating district or districts.

17174. (a) The authority shall be comprised of the following members:
(1) The Treasurer, who shall serve as chairperson.
(2) The Director of the State Department of Finance.
(3) The Superintendent of Public Instruction.

(b) Each member of the authority may designate an individual from the member's department or agency to act for the member and represent the member at all meetings.

(c) Members of the authority or their designees shall serve without compensation, but may be reimbursed by the authority for necessary and reasonable expenses incurred in the discharge of their duties.

17175. (a) Upon the first appointment of its members, and thereafter on or after March 31 of each year, the authority shall elect from its members a vice chairperson and a secretary-treasurer, who shall hold office until the following March 31, and shall continue to serve until their successors have been elected.

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

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

17176. (a) Except as otherwise provided by subdivision (b), the Attorney General shall be the legal counsel for the authority.

(b) Upon the approval of the Attorney General, which shall not be unreasonably withheld, the authority may employ legal counsel as, in its judgment, is necessary or advisable to enable it to carry out the duties and functions of the authority pursuant to this chapter, including, but not limited to, the employment of bond counsel in connection with the issuance of bonds.

17177. The executive director or other person designated by resolution of the authority shall maintain a record of the proceedings of the authority, and shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director or the designee may cause copies to be made of all minutes and other records and documents of the authority, and may certify under the official seal of the authority that the copies are true copies, and all persons dealing with the authority may rely upon that certification.

17178. Two members of the authority shall constitute a quorum. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director any powers and duties as it may deem proper.

17179. The provisions of this chapter shall be administered by the authority, which shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed under this chapter.

17180. The authority is hereby authorized to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept gifts, grants, or donations of money for any of the purposes of this chapter from any of the following:

(1) A federal agency.

(2) A state agency.

(3) A municipality, county, or other political subdivision of the state.

(4) An individual, association, or corporation.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this chapter.

(f) (1) Determine the location and character of any project to be financed under this chapter, and acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate the same.

(2) Designate a participating district as its agent, with authority to enter into contracts, for any of the purposes specified in paragraph (1).

(3) Enter into contracts for any of the purposes specified in paragraph (1).

(4) Enter into contracts for the management and operation of a project owned by the authority.

(g) Acquire, directly or by and through a participating district as its agent, by purchase solely from funds provided pursuant to this chapter, or by gift or devise, and sell, by installment or otherwise, property, rights, rights-of-way, franchises, easements, and other interests in lands, including, but not limited to, lands lying under water, and riparian rights, located within the state which the authority deems necessary or convenient for the acquisition, construction, financing, or operation of a project. The authority may do so upon the terms, and at the prices, it considers reasonable and upon which it can agree with the owner, and may take the title to the interest in the name of the authority or in the name of a participating district as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of all or part of a project, in the form of money, property, labor, or other things of value.

(i) Pursuant to an agreement between the authority and the participating district, make, directly or through a lending institution, secured or unsecured loans to, or purchase secured or unsecured loans from, a participating district for any of the following purposes:

(1) To finance a project or provide working capital. No loan to finance a project shall exceed the total cost of the project, as determined by the participating district and approved by the authority.

(2) To refinance indebtedness incurred by the participating district in connection with projects undertaken, educational facilities acquired, or working capital financed.

(j) Upon the terms and conditions the authority deems proper, lease a project being financed pursuant to this chapter to a participating district, and charge and collect rent therefor. The authority may terminate a lease pursuant to this subdivision upon the lessee's failure to comply with any of its obligations under the lease. The lease may include any of the following provisions:

(1) That the lessee shall have the option to renew the term of the lease for the period or periods, and at the rent, determined by the authority, or to purchase any or all of the project.

(2) That upon payment by the participating district of all of the indebtedness incurred by the authority for the financing of the project or for the refinancing of the district's outstanding indebtedness, the authority may convey any or all of the project to the lessee or lessees, with or without further consideration.

(k) Charge and equitably apportion among participating districts its administrative costs and expenses incurred pursuant to this chapter.

(*l*) (1) Obtain, or aid in obtaining, from any state or federal agency or any private company, any insurance, guarantee, letter, or line of credit regarding, or of, or for, the payment or repayment of all or part of the interest, principal, or both, on any loan, lease, or obligation, or any instrument evidencing or securing the same, made or entered into pursuant to this chapter, or on any bonds issued pursuant to this chapter.

(2) Notwithstanding any other provision of this chapter, enter into any agreement, contract, or any other instrument regarding any insurance, guarantee, letter, or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating district.

(3) Assign any insurance, guarantee, letter, or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(m) Enter into any agreements or contracts, including, but not limited to, agreements for liquidity or credit enhancement, execute any instruments, and any other act or thing necessary, convenient, or desirable for the purposes of the authority or to carry out any express power granted the authority pursuant to this chapter.

(n) At the discretion of the authority, invest any moneys held in reserve or in sinking funds, or any moneys not required for immediate use or disbursement, in obligations authorized by the resolution authorizing the bonds secured by the investment, or by law governing the investment of trust funds in the custody of the Treasurer.

17181. (a) The California School Finance Authority Fund is hereby created in the State Treasury, to be administered by the

authority. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated without regard to fiscal year for the purposes of this chapter. The authority may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds pursuant to this chapter. For that purpose, or as necessary or convenient to the accomplishment of any other purpose of this chapter, the authority may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this chapter from any source shall be deposited in the fund.

(b) Subject to any priorities created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and to reasonable administrative costs incurred by the authority in implementing this chapter, all moneys in the fund, regardless of the source, shall be held in trust for the security and payment of bonds of the authority, and shall not be used or pledged for any other purpose while any bonds are outstanding and unpaid. Nothing in this subdivision shall be construed to limit the power of the authority to make loans with bond proceeds in accordance with the terms of the resolution authorizing the issuance of those bonds.

(c) Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts in the fund to manage the assets, revenues, or moneys in the manner prescribed by the agreements.

(d) From time to time, the authority may direct the Treasurer to do any of the following:

(1) Invest moneys in the fund which are not required for its current needs, including, but not limited to, proceeds from the sale of any bonds in eligible securities specified in Section 16430 of the Government Code and designated by the authority, or in any other securities or obligations designated by the authority, in the resolution authorizing the issuance of the bonds payable or secured by the moneys.

(2) Deposit moneys in the fund in interest bearing accounts in state or national banks or other financial institutions having principal offices in the state.

(3) Transfer moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 4 of Division 4 of Title 2 of the Government Code.

Notwithstanding Section 16305.7 of the Government Code, all interest or other earnings resulting from an investment or deposit pursuant to this subdivision shall be deposited in the fund.

(e) Except as otherwise provided in paragraph (3) of subdivision (d), no moneys in the fund shall be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code.

17182. (a) Except as otherwise provided in subdivision (b), all expenses incurred by the authority in implementing this chapter shall be payable solely from funds appropriated for purposes of this chapter, and the authority shall not incur liabilities in excess of the amount of those funds.

(b) For purposes of meeting the necessary expenses of initial organization and operation of the authority until it derives money from funds provided to it pursuant to this chapter, the authority may borrow such moneys as it may require. Moneys borrowed pursuant to this subdivision shall subsequently be charged to, and apportioned among, participating school districts in an equitable manner, and repaid with appropriate interest over a reasonable period of time.

17183. (a) From time to time, the authority may, by resolution, issue its revenue bonds in order to provide funds for any of the purposes of this chapter. Bonds may be issued to finance any of the following:

(1) A single project or financing of working capital for a single participating district.

(2) A series of projects or financings of working capital for a single participating district.

(3) A single project or financing of working capital for several participating districts.

(4) Several projects or financing of working capital for several participating districts.

(b) Except as otherwise expressly provided by the authority, all revenue bonds shall be payable from any available revenues or moneys of the authority not otherwise pledged, subject only to any agreements with holders of particular bonds or notes pledging any particular revenue or moneys. Notwithstanding that revenue bonds issued pursuant to this section may be payable from a special fund, the revenue bonds shall be, and shall be deemed to be for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds for registration.

(c) The revenue bonds of the authority may be issued as serial bonds, term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance shall be in accordance with the indenture, trust agreement, or resolution relating to the revenue bonds, which shall provide all of the following:

(1) The date or dates of the bonds.

(2) The date or dates upon which the bonds will mature, not to exceed 40 years from their respective dates.

(3) The interest rate or rates, or methods of determining the interest rate or rates, of the bonds.

(4) When the bonds are payable.

(5) The denominations of the bonds.

(6) The form of the bonds, which shall be either bearer or registered.

(7) The registration privileges of the bonds.

(8) The manner in which the bonds are to be executed.

(9) The place or places at which the bonds shall be payable in lawful money of the United States of America.

(10) The terms of redemption of the bonds.

(d) After giving due consideration to the recommendations of the participating district or districts, the revenue bonds of the authority shall be sold by the Treasurer at either a public or private sale at a price or prices, and upon the terms and conditions prescribed by the authority. The revenue bonds of the authority may be sold at, above, or below the par value of the bonds.

(e) Pending the preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for the definitive bonds.

(f) Any resolution authorizing the issuance of any bonds of the authority, or any issue of revenue bonds of the authority, may include any of the following provisions:

(1) Provisions pledging all or any part of the proceeds of the bonds or revenue of a project or loan.

(2) Provisions concerning the replacement of mutilated, destroyed, stolen, or lost bonds.

(3) Provisions specifying insurance to be maintained on the project and the authorized uses of the proceeds of the insurance.

(4) Covenants against the mortgaging or otherwise encumbering, selling, leasing, pledging, placing a charge upon, or otherwise disposing of the project prior to the payment of the bonds issued to finance the project.

(5) Provisions specifying the events of default, terms upon which the bonds may be declared due before maturity, and the terms upon which the declaration and its consequences may be waived.

(6) The rights, liabilities, powers, and duties arising upon the breach of any covenants, conditions, or obligations.

(7) Vesting of the right to enforce covenants in a trustee.

(8) The terms upon which all or any percentage of the bondholders may enforce covenants or duties.

(9) Procedures for amending the terms of the resolution, with or without the consent of the holders of a specified number of bonds.

(10) Provision for any other acts or things deemed necessary, convenient, or desirable by the authority to secure the bonds or improve their marketability.

(g) The validity of the authorization and issuance of any bond issue shall not be affected by proceedings for the acquisition, construction, or improvement of any project, or by contracts relating to those proceedings. Any resolution authorizing the issuance of any bonds of the authority may provide authorization for the bonds to bear a statement certifying that they are issued pursuant to this chapter. Bonds bearing such a statement shall be conclusively deemed valid and issued in conformity with this chapter. Reference on the face of the bonds to the resolution by its date of adoption shall

incorporate the provisions of the resolution and of this chapter into the terms of the bonds.

(h) Members of the authority, or any person executing the revenue bonds of the authority, shall not incur personal liability on the bonds, nor shall these persons incur personal liability or accountability by reason of the issuance of the revenue bonds of the authority.

(i) The authority is authorized, out of any funds available for that purpose, to purchase revenue bonds of the authority. The authority may hold, pledge, cancel, or resell any bonds purchased under the authority of this subdivision, subject to, and in accordance with, agreements with bondholders.

(j) The financing or refinancing of projects or working capital may be provided pursuant to this chapter by means other than revenue bonds, at the discretion of the authority, including financing or refinancing through certificates of participation, or other interests, in bonds, loans, leases, installment sales, or other agreements of the participating district or districts. In this connection, the authority may do all things and execute and deliver all documents and instruments as may be necessary or desirable with regard to issuance of the certificates of participation or other means of financing or refinancing.

17183.5. In enacting this chapter, it is the intent of the Legislature to provide financing only for projects demonstrated by the participating district to be financially feasible. In demonstrating financial feasibility, the participating district may take into account all district funds, and may base future projections upon historical experience or reasonable expectations, or a combination thereof. Nothing in this section shall be construed to imply that any project is required to produce revenue in order to be financed under this chapter.

17184. (a) In the discretion of the authority, any revenue bonds of the authority issued under this chapter may be secured by a trust agreement, or by indenture by and between the authority and a corporate trustee or trustees, including the Treasurer or any trust company or bank having the powers of a trust company within or outside the state.

(b) Any trust agreement, indenture, or any resolution providing for the issuance of bonds of the authority, may pledge or assign the proceeds of the bonds, and the revenues to be received by, a participating district or districts.

(c) Any trust agreement, indenture, or resolution providing for the issuance of revenue bonds of the authority may include any provisions for the protection of, and the enforcement of the rights and remedies of, bondholders as may be reasonable and proper and not in violation of any law, including provisions included in any resolution or resolutions of the authority provided under subdivision (a) or (b).

(d) Any trust agreement or indenture may prescribe the rights and remedies of the bondholders, and of the trustee or trustees, and may restrict the individual right of action of the bondholders.

(e) Any trust agreement, indenture, or resolution may include any other provisions deemed by the authority to be reasonable and proper for the security of the bondholders.

(f) Notwithstanding any other provision of law, the Treasurer shall not be deemed to have a conflict of interest by reason of his or her capacity as trustee pursuant to this chapter.

17185. (a) Revenue bonds issued under this chapter are not and shall not be deemed to constitute a debt or liability of the state, or any political subdivision thereof, and are not and shall not be deemed to be a pledge of the faith and credit of the state, or any political subdivision thereof, other than the authority. Revenue bonds of the authority shall be payable solely from funds provided under this chapter.

(b) Each revenue bond of the authority shall include a statement on the face of the bond that neither the State of California nor the authority is obligated to pay the principal or interest thereon, except from revenues of the authority, and shall also include a statement that neither the faith or credit, nor the taxing power of the State of California, or any political subdivision, is pledged to the payment of the principal or interest of the bonds.

(c) The issuance of revenue bonds under this chapter shall not directly, indirectly, or contingently obligate the state, or any political subdivision thereof, to levy or pledge any form of taxation, or make any appropriation for their payment.

17186. (a) Any holder of revenue bonds issued under this chapter, or any coupons appertaining thereto, or the trustee or trustees under any trust agreement, indenture, or resolution, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any rights conferred under state law, by this chapter, or under the terms of any trust agreement, indenture, or resolution, except to the extent that these rights may be otherwise restricted by any resolution authorizing the issuance of these bonds, or by any trust agreement or indenture securing these bonds.

(b) Any holder of revenue bonds issued under this chapter, or any coupons appertaining thereto, or the trustee or trustees under any trust agreement, indenture, or resolution, may enforce and compel the performance of all duties required under this chapter, or by any trust agreement, indenture, or resolution, to be performed by the authority, or by any officer, employee, or agent of the authority.

17187. All moneys received under this chapter, whether received as proceeds from the sale of revenue bonds or as revenues, are trust funds to be held and applied solely as provided in this chapter. Any officer, bank, or trust company with whom those moneys have been deposited, shall act as trustee of those moneys and shall hold and

apply them for those purposes, subject to the requirements of this chapter and the resolution authorizing the bonds of any issue, or the trust agreement or indenture securing those bonds, may provide.

17188. (a) The authority may provide for the issuance of the revenue bonds of the authority for the purpose of refunding any bonds, or any series or issue of the revenue bonds of the authority then outstanding, and may include the payment of any redemption premium for those bonds and any interest accrued or to accrue to the date of redemption and purchase or maturity of those bonds.

(b) The proceeds of any bonds issued for the purpose of refunding of outstanding bonds may, in the discretion of the authority, be applied to the purchase or redemption prior to maturity or retirement at maturity of the outstanding bonds on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof, or paid to a third person to assume the authority's obligation to make those payments, and may, pending that application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on any date or dates as may be determined by the authority.

(c) Any escrowed proceeds, pending such use may be invested and reinvested in obligations or securities authorized by resolution of the authority, maturing at any time or times as shall be appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income and profits, if any, earned or realized on any investment may also be applied to the payment of the outstanding bonds to be so refunded or of interest in the refunding bonds. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest, income profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

(d) All refunding bonds are subject to the provisions of this chapter, in the same manner and to the same extent, as other bonds issued pursuant to this chapter.

17189. (a) Revenue bonds issued by the authority under this chapter shall be designated as securities in which all banks, bankers, savings banks, trust companies, and other persons engaged in a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; any administrators, executors, guardians, trustees, and other fiduciaries; and any other persons who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control.

(b) Revenue bonds issued by the authority under this chapter, other notes or securities, or obligations are hereby made securities which may properly and legally be deposited with, and received by, any state or municipal officer, or agency of the state for any purpose

for which the deposit of bonds or other obligations of the state are, or may hereafter be, authorized by law.

17190. (a) Any bonds issued under this chapter, their transfer, and income therefrom shall at all times be free from taxation of every kind by the state and by all political subdivisions of the state.

(b) The authority is not required to pay any taxes or assessments upon, or with respect to, any project or property acquired by or for the authority under this chapter, or upon any income therefrom, or on or from any other assets or operations of the authority.

17191. (a) The State of California pledges and agrees with the holders of the bonds issued pursuant to this chapter, and with those parties who may enter into contracts with the authority pursuant to the provisions of this chapter, that the state will not limit, alter, or restrict the rights hereby vested in the authority to finance educational facilities. The State of California pledges and agrees to fulfill the terms of any agreements made with the holders of bonds authorized by this chapter, and with the parties who may enter into contracts with the authority pursuant to this chapter, and pledges and agrees not to impair the rights or remedies of the holders of any revenue bonds or any parties until the bonds, together with interest, are fully paid and discharged and any contracts are fully performed on the part of the authority.

(b) The authority shall have the right to include the pledges made pursuant to this section in its revenue bonds and contracts.

17192. (a) Pledges by or to the authority of revenues, moneys, accounts, accounts receivable, contract rights, or other rights to payment of any other kind made by or to the authority pursuant to this chapter shall be valid and binding from the time the pledge is made for the benefit of the pledges, and the successors thereto.

(b) The revenues, moneys, accounts, accounts receivable, and other rights to payment of any other kind pledged by or to the authority or its assignees, shall immediately be subject to the lien of the pledge without physical delivery, or any further act. The lien of any pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the claim. The trust agreement, indenture, resolution, or other instrument by which any pledge is created need not be recorded.

17193. (a) The authority shall fix, revise, charge, and collect rents for the use of each project owned by the authority, and may contract with any person, partnership, association, corporation, or other body, whether public or private, for that purpose. Any lease entered into by the authority with a participating district, and each agreement, note, or other instrument evidencing the obligations of a participating district to the authority, shall provide that the rents or principal, interest, and other charges payable by the participating district shall be sufficient to provide for all of the following:

(1) To pay the principal, sinking fund payments, if any, premiums, if any, and the interest on outstanding bonds of the authority issued in respect of the project when due and payable.

(2) To create and maintain reserves which may, but need not necessarily be required or provided for, in the resolution relating to the revenue bonds of the authority.

(3) To pay its share of the administrative costs and expenses of the authority.

(b) The authority shall pledge the revenues derived and to be derived from a project or from a participating district for the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). The authority may issue additional revenue bonds which may be ranked on a parity with other bonds relating to the project to the extent, and under the terms and conditions provided, in the bond resolution.

(c) The authority and a participating district may include in any lease or agreement between them or with a credit provider any terms and conditions relating to insurance, liquidity, or credit enhancement of the bonds, or any other lawful terms and conditions the authority deems necessary or desirable to facilitate the purposes of this chapter.

17194. The authority may authorize any participating district to act as its agent in the performance of acts specifically approved by the authority, and all acts required under Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. The authorizations may include, but are not necessarily limited to, all of the following:

(a) The selection of school or college sites.

(b) The securing of appraisals.

(c) Contracts for architectural services.

(d) The advertisement for construction bids and the entry into contracts for construction.

(e) The purchase of furniture and equipment.

17195. Whenever the principal and interest on bonds issued by the authority to finance the cost of a project, or to refinance the outstanding indebtedness of one or more participating districts, including any refunding bonds issued to refund and refinance those bonds, have been fully paid or retired, or whenever adequate provision has been made to fully pay and retire the bonds, and all other conditions of the resolution, lease, trust indenture and any security interest, or any other instrument or instruments authorizing and securing the bonds have been satisfied and the lien of security interest has been released in accordance with those provisions, the authority shall promptly provide for and execute any releases, release deeds, reassignments, deeds, and conveyances as are necessary and required to convey or release its rights, title, and interest in the project financed, to the participating districts.

17196. (a) This chapter shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts

authorized in this chapter, and shall be deemed as being supplemental and additional to the powers conferred by other applicable laws, except that the issuance of revenue bonds and refunding bonds and the undertaking or projects or financings under this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds, including, without limitation, Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) Except as provided in subdivision (a), the financing of a project under this chapter shall not exempt a project from any of the requirements of law which are otherwise applicable to the project.

17197. To the extent that the provisions of this chapter are inconsistent with any other provisions of any general statute, or a special act or parts thereof, the provisions of this chapter shall be deemed controlling.

17198. Any net earnings of the authority beyond that necessary for the retirement of any obligations issued by the authority, or to implement the purposes of this chapter, may inure only to the benefit of the State of California or the authority.

17199. Upon the dissolution of the authority, title to all property owned by the authority shall vest in the successor authority created by the Legislature, if any, if the successor authority meets the requirements of Section 103 of the federal Internal Revenue Code of 1954, as amended, and its implementing regulations, as an authority entitled to issue obligations on behalf of the State of California, the interest from which is exempted from federal income taxation.

In the event that a successor authority is not created, title to all property owned by the authority shall vest in the State of California.

17199.1. (a) Any participating district, exclusively for the purpose of securing financing or refinancing of projects or working capital pursuant to this chapter through the issuance of revenue bonds, certificates of participation, or other means, and notwithstanding any other provision of law, may issue bonds to the authority or borrow money or purchase or lease educational facilities from the authority, and in connection therewith, sell or lease property to the authority, at any interest rate or rates, rental provisions, with any maturity date or dates or term, and with any other payment, security, default, remedy, and other terms or provisions as may be specified in the bonds of the participating district or a loan, loan purchase, installment sale, lease, or other agreement between the authority and the participating district, subject to the following conditions:

(1) The sum of the amount borrowed to finance working capital and the interest payable thereon at the initial interest rate if interest is variable, shall not exceed 85 percent of the estimated amount of uncollected taxes, income, revenue, cash receipts, and other district funds which will be available in any fiscal year for the repayment of the loan and the interest thereon. For purposes of this paragraph,

"revenue" includes, but is not limited to, federal and state funds received by the district.

(2) In computing the maximum amount which may be borrowed in any fiscal year pursuant to paragraph (1), the district may exclude the amount of any principal or interest which is secured by a pledge of the amount in any inactive or term deposit of the district which has a term scheduled to terminate during that fiscal year.

(3) A participating district that borrows money to finance working capital pursuant to this subdivision shall be required to repay and discharge the loan within 15 months of the loan date.

(4) In enacting this chapter, it is the intent of the Legislature to provide financing of working capital needed to cover temporary or cash-flow deficits and needs for working capital and not long-term budget deficits or shortfalls in funding. The participating school district must demonstrate to the satisfaction of the authority that, during the term of any working capital loan received pursuant to this chapter, the participating district will receive or otherwise have (without additional borrowing) sufficient funds to repay and discharge the loan. The participating district may take into account all district funds and may base future projections upon historical experience or reasonable expectations, or a combination thereof.

(b) Any participating district may enter into any agreement for liquidity or credit enhancement, with any reimbursement, payment, interest, security, default, remedy, and other terms it may deem necessary or appropriate in connection with the issuance of bonds, the borrowing of money or the lease or purchase of educational facilities, whichever is applicable. Any participating district or districts may also do all things and execute all documents as may be necessary or desirable in connection with the issuance of certificates of participation, or other interests, in any bond, loan, installment sale, lease, or other agreement of the district.

(c) A school district may by resolution authorize any county or city board of education or superintendent of schools, and a community college district may by resolution authorize the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges, to act as its agent in the performance of any of the matters permitted by this section or any other provision of this chapter. Notwithstanding any other provision of law, the agent shall have the powers granted by the resolution for purposes of this chapter. The resolution shall be deemed to bind the school district or community college district, as the case may be, to any contract, agreement, instrument, or other document executed by the agent on behalf of the school district or community college district, and all duties, obligations, or responsibilities contained therein on the part of the school district or community college district, to the same extent as if duly authorized, executed, and delivered by the school district or community college district.

(d) This section shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized by this section, and the issuance of bonds to, borrowing of money from, or sale or purchase or lease of educational facilities from or to, the authority. Any agreement entered into in connection with the issuance of bonds, the borrowing of money or the sale, purchase, or lease of educational facilities, including, without limitation, any agreement for liquidity or credit enhancement under this section, need not comply with the requirements of any other law applicable to issuance of bonds, borrowing, selling, purchasing, leasing, pledge, encumbrance, or credit, as the case may be, by a school district or community college district, or by a county or city board of education or superintendent of schools or the Board of Governors of the California Community Colleges or Chancellor of the California Community Colleges.

17199.2. An action may be commenced under Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of revenue bonds, the loan of the proceeds thereof, the sale, purchase, or lease of facilities under this chapter, or the legality and validity of any proceedings previously taken or proposed in a resolution of the authority to be taken for the authorization, issuance, sale, and delivery of the bonds, for the use of the proceeds thereof, or for the payment of the principal and interest thereon.

17199.3. (a) The total amount of revenue bonds which may be issued and outstanding at any time under this chapter shall not exceed four hundred million dollars ($400,000,000).

(b) For purposes of subdivision (a), bonds which meet any of the following conditions shall not be deemed to be outstanding:

(1) Bonds which have been refunded pursuant to Section 17188.

(2) Bonds for which money or securities in amounts necessary to pay or redeem the principal, interest, or any redemption premium on the bonds have been deposited in trust.

(3) Bonds which have been issued to provide working capital.

SEC. 3. Part 10.5 (commencing with Section 17211) is added to the Education Code, to read:

PART 10.5. SCHOOL FACILITIES

CHAPTER 1. SCHOOLSITES

Article 1. General Provisions

17211. Prior to commencing the acquisition of real property for a new schoolsite or an addition to an existing schoolsite, the governing board of a school district shall evaluate the property at a public hearing using the site selection standards established by the State Department of Education pursuant to subdivision (b) of

Section 17251. The governing board may direct the district's advisory committee established pursuant to Section 17388 to evaluate the property pursuant to those site selection standards and to report its findings to the governing board at the public hearing.

17212. The governing board of a school district, prior to acquiring any site on which it proposes to construct any school building as defined in Section 17283 shall have the site, or sites, under consideration investigated by competent personnel to ensure that the final site selection is determined by an evaluation of all factors affecting the public interest and is not limited to selection on the basis of raw land cost only. If the prospective schoolsite is located within the boundaries of any special studies zone or within an area designated as geologically hazardous in the safety element of the local general plan as provided in subdivision (g) of Section 65302 of the Government Code, the investigation shall include any geological and soil engineering studies by competent personnel needed to provide an assessment of the nature of the site and potential for earthquake or other geologic hazard damage.

The geological and soil engineering studies of the site shall be of such a nature as will preclude siting of a school in any location where the geological and site characteristics are such that the construction effort required to make the school building safe for occupancy is economically unfeasible. No studies are required to be made if the site or sites under consideration have been the subject of adequate prior studies. The evaluation shall also include location of the site with respect to population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions, and other factors affecting the operating costs, as well as the initial costs, of the total project.

For the purposes of this article, a special studies zone is an area which is identified as a special studies zone on any map, or maps, compiled by the State Geologist pursuant to Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.

17212.5. Geological and soil engineering studies as described in Section 17212 shall be made, within the boundaries of any special studies zone, for the construction of any school building as defined in Section 17283, or if the estimated cost exceeds twenty thousand dollars ($20,000), for the reconstruction or alteration of or addition to any school building for work which alters structural elements. The Department of General Services may require similar geological and soil engineering studies for the construction or alteration of any school building on a site located outside of the boundaries of any special studies zone. No studies need be made if the site under consideration has been the subject of adequate prior studies.

No school building shall be constructed, reconstructed, or relocated on the trace of a geological fault along which surface

rupture can reasonably be expected to occur within the life of the school building.

A copy of the report of each investigation conducted pursuant to this section shall be submitted to the Department of General Services pursuant to Article 3 (commencing with Section 17280) of this chapter and to the State Department of Education. The cost of geological and soil engineering studies and investigations conducted pursuant to this section may be treated as a capital expenditure.

17213. The governing board of a school district shall not approve a project involving the acquisition of a schoolsite by a school district unless all of the following occur:

(a) The lead agency, as defined in Section 21067 of the Public Resources Code, determines that the property purchased or to be built upon is not any of the following:

(1) The site of a current or former hazardous waste disposal site or solid waste disposal site unless, if the site was a former solid waste disposal site, the governing board of the school district concludes that the wastes have been removed.

(2) A hazardous substance release site identified by the State Department of Health Services in a current list adopted pursuant to Section 25356 for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(3) A site which contains one or more pipelines, situated underground or aboveground, which carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line which is used only to supply natural gas to that school or neighborhood.

(b) The lead agency, as defined in Section 21067 of the Public Resources Code, preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located and with any air pollution control district or air quality management district having jurisdiction in the area, to identify facilities within one-fourth of a mile of the proposed schoolsite which might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or acutely hazardous materials, substances, or waste. The lead agency shall include a list of the locations for which information is sought.

(c) The governing board of the school district makes one of the following written findings:

(1) Consultation identified none of the facilities specified in subdivision (b).

(2) The facilities specified in subdivision (b) exist, but one of the following conditions applies:

(A) The health risks from the facilities do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the school.

(B) The governing board finds that corrective measures required under an existing order by another jurisdiction which has jurisdiction over the facilities will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes this finding, the governing board shall also make a subsequent finding, prior to the occupancy of the school, that the emissions have been mitigated to these levels.

(d) As used in this section:

(1) "Hazardous air emissions" means emissions into the ambient air of air contaminants which have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(2) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety Code.

(3) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety Code.

(4) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety Code.

(5) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety Code.

(6) "Administering agency" means any agency designated pursuant to Section 25502 of the Health and Safety Code.

(7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

17215. (a) In order to promote the safety of pupils, comprehensive community planning, and greater educational usefulness of schoolsites before acquiring title to property for a new schoolsite, the governing board of each school district, including any district governed by a city board of education, shall give the Department of Transportation written notice of the proposed acquisition and shall submit any information required by the department if the proposed site is within two miles, measured by air line, of that point on an airport runway or a potential runway included in an airport master plan that is nearest to the site.

(b) If the Department of Transportation is no longer in operation, the governing board of the school district shall, in lieu of notifying the Department of Transportation, notify the United States Department of Transportation or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the

department or other agency any information or assistance that it may desire to give.

(c) The Department of Transportation shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the governing board a written report and its recommendations concerning acquisition of the site. As part of the investigation, the Department of Transportation shall give notice thereof to the owner and operator of the airport who shall be granted the opportunity to comment upon the proposed schoolsite.

(d) The governing board shall not acquire title to the property until the report of the Department of Transportation has been received. If the report does not favor the acquisition of the property for a schoolsite or an addition to a present schoolsite, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the department's report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the school district or, if there is no newspaper of general circulation within the school district, in a newspaper of general circulation within the county in which the property is located.

(e) Except as provided in subdivision (e), if the Department of Transportation in its report submitted to a governing board of a school district does not favor acquisition of a proposed site that is within two miles of the centerline of an active runway, no state funds or local funds shall be apportioned or expended for the acquisition of that site, construction of any school building on that site, or for the expansion of any existing site to include that site.

(f) This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.

(g) If the recommendations of the Department of Transportation are unfavorable, the recommendations shall not be overruled without the express approval of the State Allocation Board.

17216. No action undertaken by the State Department of Education or by any other state agency or by any political subdivision pursuant to this chapter, or in compliance with this chapter, shall be construed to affect any rights arising under the provisions of Section 19 of Article 1 of the California Constitution.

17217. The governing board of a school district may acquire a site for a school building contiguous to the boundaries of the district and upon the acquisition of the site it shall become a part of the district. The site shall not be acquired until the county committee on school district organization of the county or of each of the counties concerned has received the proposal for acquisition of the site and reported its recommendations thereon to the governing boards of the districts concerned and to each county superintendent of schools concerned. The report of the county committee shall be made within 60 days from the time the proposal for acquisition of the site was

submitted to it. The power of eminent domain may be used for the purposes of this section.

A schoolsite is contiguous for the purpose of this section although separated from the boundaries of the district by a road, street, stream, or other natural or artificial barrier or right-of-way.

17218. The governing board of a school district which has been included in a school district unification proposal approved by the electors of the territory involved pursuant to Chapter 2 (commencing with Section 4206) of Part 3, may, prior to the time the new unified school district becomes effective for all purposes, acquire a site for a school building at any place within the new unified school district, and upon the acquisition of the site it shall become a part of the district pending the date when the new unified school district becomes effective for all purposes. The site shall not be acquired until the county committee on school district organization of the county or of each of the counties concerned has received the proposal for acquisition of the site and reported its recommendations thereon to the governing boards of the districts concerned and to each county superintendent of schools concerned. The report of the county committee shall be made within 60 days from the time the proposal for acquisition of the site was submitted to it.

17219. (a) Whenever a school district acquires or has acquired a site for school purposes, as determined by the State Allocation Board, and does not use the site within (1) five years of the date of acquisition for the kindergarten, if any, and any of grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district, or, (2) seven years of the date of acquisition for any of grades 7 to 12, inclusive, maintained by a high school district or a unified school district, or if a school district has a site at any grade level that has previously been used but has not been used for school purposes within the preceding five years, the school district shall be subject to nonuse payments, unless the State Allocation Board, from time to time, makes a determination that the school district will utilize the property for the purpose for which it was intended within a reasonable period of time, in a specific amount for each additional year in which the site is retained and not used by the district beyond the foregoing specified periods, except the first additional year shall be deemed to end not earlier than April 30, 1973.

(b) Payment shall not be required under this section as to any site having a value of twenty thousand dollars ($20,000) or less. Commencing on January 1, 1988, and annually thereafter, the State Allocation Board shall increase this exemption figure by the amount of the current fiscal year inflation adjustment specified in Section 42238.1, if any.

(c) The payments required shall be computed by the Executive Officer of the State Allocation Board and certified to the Controller, and payments shall be equal to one one-hundredth ($^1/_{100}$) of the original purchase price of the site modified by either a factor

reflecting the change in assessed value of all lands in the state from the date of purchase of the site to the current date or any other factor that in the determination of the State Allocation Board is applicable to the site under consideration.

(d) Whenever the State Allocation Board has determined that a school district in good faith has, within the preceding year, advertised the schoolsite for sale to the highest bidder pursuant to the provisions of Article 4 (commencing with Section 17455) of Chapter 4 of Part 10.5 and has received no bids that in the judgment of the State Allocation Board reflect the fair market value of the property, the Executive Officer of the State Allocation Board shall not compute any nonuse payments for the site for a period of one year beyond the date of the determination.

(e) Nonuse payments shall not be required for any year with respect to a schoolsite that for one-half or more of the number of days of that year has been utilized for any of the following purposes:

(1) By the school district, or by any other governmental entity pursuant to agreement with the school district, for school purposes, for use as a civic center, or for community playground, playing field, or other outdoor recreational purposes. "Civic center," for this purpose, means a site used for one or more of the purposes described in Section 40041.

(2) By the State Allocation Board, pursuant to agreement with the school district, for the storage of emergency portable classrooms.

(3) By the school district, or by any other public or private entity pursuant to agreement with the school district, for the operation of a child care program.

(f) Nonuse payments shall not be required for any year with respect to a schoolsite that was leased at least one-half of the days in that year in a manner that subjected the site to property taxes equal to the taxes that would have been paid if the site had been sold.

17220. If the State Allocation Board determines a school district to be exempt from the requirement to make nonuse payments for any year as to any schoolsite on any basis authorized under subdivision (e) or (f) of Section 17219, that exemption shall continue to apply to that schoolsite for each subsequent year for which the superintendent of the school district certifies to the State Allocation Board, on a timely basis, that the basis of exemption continues to exist.

17221. The amount of any nonuse payments required of any school district under Section 17219 shall be reduced, without regard to fiscal year, by the amount of the proceeds, resulting from the lease of district property that is subject to that section, that are expended by the district the payment of bond debt service costs that are directly related to the actual construction of school facilities.

17222. The Controller shall, during the next fiscal year following that in which the Executive Officer of the State Allocation Board certifies to him or her the amount of payment, deduct the total amount of the payment of each district in equal amounts from each

of the February, March, April and May installments of the apportionments made to the district from the State School Fund under Sections 46304, 46305, and 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, whichever are in effect. However, in no event shall the deductions exceed an amount which would result in a district's receiving, in any school year, from the State School Fund, less than one hundred twenty dollars ($120) per pupil in average daily attendance in the district during the preceding school year. On order of the Controller, the amount so deducted shall be transferred to the State School Site Utilization Fund which is hereby created.

17223. (a) Whenever a school district has either begun to use an unused site or has sold that site within two years of the date the Controller, pursuant to Section 17222, has deducted a certified nonuse payment from the district's State School Fund apportionment, the State Allocation Board shall certify that fact to the Controller. The Controller shall then cease to withhold any additional payments and shall return to the district from the State School Site Utilization Fund the payments, without interest, which had been withheld for the particular site during the prior fiscal year and the current fiscal year.

(b) If the school district begins to use or has sold the site more than two years after the aforesaid date, the State Allocation Board shall so certify to the Controller and no further payments shall be withheld as specified in Section 17222.

17224. Any funds in the State School Site Utilization Fund, including interest, which are not subject to return to a school district pursuant to Section 17223 shall revert to the General Fund.

Article 2. Disposal of Sites

17230. Notwithstanding the provisions of Article 4 (commencing with Section 17455) of Chapter 4 of this part and in addition to the requirements placed upon school districts pursuant to Section 54222 of the Government Code, the governing board of any school district may sell, for less than fair market value, any schoolsite that is deemed to be surplus property of the district, to any park district, city, or county in which the school district is wholly or partially situated for use or partial use as park or recreational purposes or open-space purposes if the governing board adopts a resolution specifying that it will sell or transfer the property for less than fair market value to such an entity for that purpose. The offer to sell shall be made in writing, but the terms by which the property may be sold or transferred need not be specifically provided.

17231. The sale or transfer may be made for cash and other valuable consideration, or for other valuable consideration, as deemed appropriate by the governing board of the school district.

The sale or transfer may be made without first taking a vote of the electors of the district.

17232. A school district's offer to sell or transfer the land shall be made to all park districts, cities, and counties in which the school district is wholly or partially situated pursuant to this article and shall remain open for not less than 60 days. The sale or transfer shall be made to whichever public entity first accepts the offer, or whichever public entity can negotiate satisfactorily for the purchase or transfer of the surplus land.

17233. Notwithstanding Article 4 (commencing with Section 17455) of Chapter 4 of this part, Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, or any other provision of law, any unimproved real property that was acquired by a school district pursuant to Section 35270.5, which property the governing board of the school district has deemed to be surplus property of the district, may not be sold to any person or entity within 20 years of its acquisition by the district unless the district has first made a bona fide offer to sell the property to the person or entity that owned the property at the time of its acquisition by the district or, if applicable, offered to that person or entity a right of first refusal of any bona fide offer acceptable to the district made by another to purchase the property.

17234. The failure to comply with any provision of this article shall not invalidate any sale or transfer of real property to a purchaser or encumbrancer for value.

CHAPTER 2. NEW SCHOOLS RELIEF ACT OF 1979

17240. This chapter shall be known and may be cited as the New Schools Relief Act of 1979.

17241. The Legislature hereby finds and declares that because of the adoption of Article XIII A of the California Constitution, imposing limits on the ability of school districts to levy and collect property taxes, it is necessary to create new revenues for the construction of school facilities.

17242. It is the intent of the Legislature in enacting this chapter to provide opportunities for school districts, the state, and the private sector to cooperate to provide needed school facilities in growth impacted districts, and to facilitate innovative financing and other techniques for growth impacted districts to help meet new school construction needs.

17243. As used in this chapter:

(a) "Board" means the State Allocation Board.

(b) "A school district with an anticipated increase in enrollment" means a school district in which the level of enrollment is projected by the district to be higher during any of the five years, including the year in which the projection is made, than the year preceding the

year in which the projection is made. Projections shall be made pursuant to regulations adopted by the board.

(c) "Private developers" means individuals or corporations owning land, facilities, or both; or, in the business of developing land for construction purposes, constructing facilities on developed land, or both.

17244. Notwithstanding any other provision of law, a school district with an anticipated increase in enrollment is authorized to lease land and facilities from a private developer with funds provided by one or more of the following sources, subject to regulations established by the board:

(a) Funds provided by the state for the purposes of school construction (1) in the Budget Act, (2) in separate legislation, (3) from the sale of bonds, the issuance of which was approved by the voters of the state prior to January 1, 1980, provided that the purposes for which the issuance of the bonds was approved encompassed the purposes of this section; or (4) from the sale of bonds, the issuance of which may be approved on or after January 1, 1980, by the voters of the state for the purposes of school construction, among other purposes.

(b) Funds the district has borrowed from the state and which the district is in the process of repaying, provided that nothing in this section shall be construed as terminating, delaying, or otherwise interrupting the district's schedule of repayments for the funds.

(c) Available capital reserves from the district's general fund or special funds of the district, provided the purposes of this section do not conflict with the purposes for which the funds may be used.

(d) Proceeds from the sale or lease of unneeded facilities, provided that nothing in this section shall be construed to have any of the following effects:

(1) To terminate, delay, or otherwise interrupt the schedule of regular repayments for the district's obligations to the state.

(2) To relieve the district from any obligation to the state, except to the degree that such district may retain that portion of the proceeds from the sale or lease of unneeded facilities necessary to lease land and facilities pursuant to this section.

(3) To permit the district to retain any proceeds otherwise owing to the state from the lease or sale of unneeded facilities in excess of the amount necessary to lease land and facilities pursuant to this section.

17245. Notwithstanding any other law, a school district with an anticipated increase in enrollment is authorized to construct school facilities authorized within state school building aid standards, and subject to regulations established by the board, with funds from the following sources:

(a) Available capital reserves from the district's general fund or special funds of the district, provided the purposes of this section do not conflict with the purposes for which the funds may be used.

(b) Proceeds from the sale or lease of unneeded facilities provided that nothing in this section shall be construed to have any of the following effects:

(1) To terminate, delay, or otherwise interrupt the schedule of regular repayments for the district's obligations to the state.

(2) To relieve the district from any obligation to the state, except to the degree that the district may retain that portion of the proceeds from the sale or lease of unneeded facilities necessary to construct facilities pursuant to this section.

(3) To permit the district to retain any proceeds otherwise owing to the state from the lease or sale of unneeded facilities in excess of the amount necessary to construct facilities pursuant to this section.

CHAPTER 3. CONSTRUCTION OF SCHOOL BUILDINGS

Article 1. State Department of Education: Powers and Duties

17251. The State Department of Education shall:

(a) Upon the request of the governing board of any school district, advise the governing board on the acquisition of new schoolsites and, after a review of available plots, give the governing board in writing a list of the recommended locations in the order of their merit, considering especially the matters of educational merit, safety, reduction of traffic hazards, and conformity to the land use element in the general plan of the city, county, or city and county having jurisdiction. The governing board may purchase a site deemed unsuitable for school purposes by the State Department of Education only after reviewing the department's report on proposed sites at a public hearing. The department shall charge the school district a reasonable fee for each schoolsite reviewed not to exceed the actual administrative costs incurred for that purpose.

(b) Develop standards for use by a school district in the selection of schoolsites, in accordance with the objectives set forth in subdivision (a). The department shall investigate complaints of noncompliance with site selection standards and shall notify the governing board of the results of the investigation. If that notification is received prior to the acquisition of the site, the governing board shall discuss the findings of the investigation in a public hearing.

(c) Establish standards for use by school districts to ensure that the design and construction of school facilities are educationally appropriate and promote school safety.

(d) Upon the request of the governing board of any school district, review plans and specifications for school buildings in the district.

The department shall charge governing boards of school districts, for the review of plans and specifications, a reasonable fee not to exceed the actual administrative costs incurred for that purpose.

(e) Upon the request of the governing board of any school district, make a survey of the building needs of the district, advise the

governing board concerning the building needs, suggest plans for financing a building program to meet the needs. The department shall charge the district, for the cost of the survey, a reasonable fee not to exceed the actual administrative costs incurred for that purpose.

(f) Provide information relating to the impact or potential impact upon any schoolsite of hazardous substances, solid waste, safety, hazardous air emissions, and other information as the department may deem appropriate.

17252. All money collected by the State Department of Education under the provisions of this article shall be available for the use of the department pursuant to appropriations for any use that may from time to time be made by the Legislature.

17253. (a) The Legislature finds and declares the following:

(1) The Department of Water Resources, pursuant to Division 3 (commencing with Section 6000) of the Water Code, exercises regulatory control over dam safety in the State of California.

(2) The department approves all plans and specifications, certifies that any dam is safe to impound water, periodically inspects all dams for the continuing safety of all impounding structures, and may revoke any certification allowing impoundment of water if it is determined that the dam is a danger to life and property.

(b) If the Department of Water Resources has asserted and continues to exercise its regulatory control over the Domenigoni Valley Reservoir Project, the State Department of Education, when evaluating schoolsites, shall not require mitigation related to potential dam breach inundation of the Domenigoni Valley Reservoir Project.

Article 2. Plans

17260. As used in Sections 17260 to 17267, inclusive, "school buildings" refers to only one-story schoolhouses of not more than nine classrooms.

17261. The State Department of Education shall:

(a) Establish a pool of duplicate plans for school buildings appropriate for school districts in rural areas. The series shall be composed of plans designed to meet the requirements of school districts located in rural areas of varying characteristics. The plans may include landscape suggestions.

(b) Provide specifications for the design and construction of school buildings.

17262. Any school district may request sets of any plans and specifications appropriate for use in constructing a school building of the type desired by the district. The plans and specifications shall be furnished to the school district subject to the payment of the actual expense incurred by the State Department of Education, but the expense shall not exceed more than 2 percent of the total cost of the

project. Any payments received for the plans and specifications shall be paid into the State Treasury to the credit of the General Fund.

17263. The plans and specifications for any school building as defined in Section 17283, together with estimates of cost, shall be submitted by the board to the Department of General Services for approval.

17264. (a) Commencing January 1, 1992, all plans and specifications for the construction of a new or modernized elementary school building shall be designed to provide appropriate space, consistent with the needs of the attendance area of the school, to accommodate before-school and after-school child care programs. The State Allocation Board may waive this requirement if it determines that the school district will experience an educational or financial hardship in this accommodation.

(b) For purposes of this section, first consideration in the design of space to be used for the before-school and after-school child care programs shall be within the multipurpose room.

(c) For purposes of this section, the terms "new construction" and "modernization" shall have the same meaning as those words are used in Chapter 12 (commencing with Section 17000) of Part 10.

(d) No funding shall be made available to any child care program or facility pursuant to this chapter unless all of the following conditions are met:

(1) The program facility is open to children without regard to any child's religious beliefs or any other factor related to religion.

(2) No religious instruction is included in the program.

(3) The space in which the program is operated is not utilized in any manner to foster religion during the time used for the program.

17265. All provisions of Sections 17280 to 17313, inclusive, are made applicable to school buildings as defined in Section 17283 constructed from plans and specifications furnished under Sections 17260 to 17267, inclusive, except as otherwise provided in the latter sections.

17266. The district shall furnish its own architect or structural engineer, or both, for necessary structural engineering and supervision of construction.

17267. The governing board of a school district shall, before letting any contract for the construction of a school building as defined in Section 17283 according to the plans and specifications, file a set of the plans and specifications with the Department of General Services accompanied by a fee in the amount fixed by Section 17300.

17268. (a) The governing board of a school district shall not approve a project for the construction of a new school building, as defined in Section 17283, unless the project and its lead agency comply with the same requirements specified in subdivision (a) of Section 17213 for schoolsite acquisition.

(b) For purposes of this section, the acceptance of construction bids shall constitute approval of the project.

Article 3. Approvals

17280. (a) The Department of General Services under the police power of the state shall supervise the design and construction of any school building or, if the estimated cost exceeds twenty thousand dollars ($20,000), the reconstruction or alteration of or addition to any school building, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a school district to perform work with its own forces in excess of the limitations set forth in Sections 17595 and 17599. In calculating the cost of any project of reconstruction or alteration of, or addition to, any school building for the purpose of determining the applicability of the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, the Department of General Services shall not include, as an element of that cost, any expenses of air-conditioning equipment or insulation materials for that building, or of installing the equipment or materials.

(b) Whenever repairs due to fire damage, not including any damage caused by wind or earthquake, must be made to any school building previously approved by the Department of General Services, the approved plans and specifications used in the original work under then existing rules, regulations, and building standards may be used without modification, providing all other provisions of this article are carried out.

(c) Notwithstanding any other provision of law, no school district shall be authorized to construct or reconstruct any school building, regardless of the source of funding, unless and until the governing board of the district, by resolution, has indicated the agreement of the district that any school building construction or reconstruction that exceeds those construction cost and allowable area standards or any allowable building area computed for an attendance area pursuant to Section 17041 shall, in the event of the district's subsequent application for state funding for school facility construction, be deducted from the allowable building area for which the district would otherwise have been eligible, which restriction shall not be subject to waiver or exception as otherwise may be provided by law.

If it is determined that, for any reason, a school district failed to comply with the requirement of this section, the district shall not be eligible for any additional building area pursuant to Section 17049 and may be denied any time priority established for the particular project pursuant to Section 17016.

17281. This article, together with Article 6 (commencing with Section 17365), and Article 7 (commencing with Section 81130) of

Chapter 1 of Part 49, shall be known and may be cited as the "Field Act."

17282. (a) It is the intent of the Legislature to expedite the repair, alteration, and reconstruction of school facilities that have been damaged or destroyed by fire, earthquake, flood, or other manmade or natural disasters, to return those school facilities to a condition that makes them useful to school districts in the least amount of time and at the lowest appropriate cost while maintaining the integrity and safety of the structure as required by the laws of this state.

(b) Notwithstanding any other law, if a school facility has been damaged or destroyed by fire, earthquake, flood, or other manmade or natural disaster, all reviews or approvals required by this article shall be expedited. In no event shall any review or approval exceed 60 days, excluding weekends and holidays, from the date of receipt of all complete plans, specifications, and documentation for the facilities from the district.

(c) If, upon review, the plans or specifications require minor amendment or modification, these minor amendments or modifications shall not delay the completion of the review or approval beyond the 60-day requirement specified in subdivision (b) unless the amendment or modification constitutes a major substantive change affecting the entire project. While any minor amendments or modifications are being undertaken, the remainder of the project shall continue under review so that a timely and adequate review may be completed within the 60-day requirement of subdivision (b).

(d) A state agency that is required to perform any review or approval under this article may hire additional personnel or incur any additional costs necessary to perform the review or approval within the time limits set forth in this section and shall charge the district a fee not to exceed the actual cost of the review or approval.

(e) As used in this section, "damaged" means damages to the extent that occupancy is precluded based upon a report of an architect or a structural engineer and the concurrence of the Department of General Services in the report's conclusion that the occupancy of the premises is precluded.

(f) The expedited review and approval required by this section shall not apply if the documents are not submitted within six months of the damage to, or destruction of, the facilities.

17283. "School building" as used in this article means and includes any building used, or designed to be used, for elementary or secondary school purposes and constructed, reconstructed, altered, or added to, by the state or by any city or city and county, or by any political subdivision, or by any school district of any kind within the state, or by any regional occupational center or program created by or authorized to act by an agreement under joint exercise of power, or by the United States government, or any agency thereof.

17284. Any school building, as defined in Section 17283, operated by a county official, board, or commission which on the effective date of this section is in violation of this article, if compliance therewith was otherwise required, may be continued in use as a school building after June 30, 1975, provided that no building shall be operated after that date unless the county official, board, or commission requests and obtains from the State Allocation Board authority for use of the building for a specific period after that date.

Concurrent with the request the county official, board, or commission shall file with the State Allocation Board a statement or resolution declaring an intention to utilize the building as a school building after June 30, 1975, pending its repair, reconstruction, or replacement.

The State Allocation Board shall not authorize the county official, board, or commission to use the building after June 30, 1975, unless it has first determined that the affected authority has already proceeded with a plan of total repair, reconstruction, or replacement in a timely manner and the contract has been let for any phase of, and work commenced on, the project.

In no event shall the State Allocation Board authorize the use of these unsafe facilities for a period extending beyond the completion of the replacement facilities or beyond June 30, 1977, whichever occurs first.

17285. (a) Notwithstanding any provision of law except Sections 17286, 17287, and 17405, a leased building that does not meet the requirements of Section 17280 may not be used as a school building, as defined in Section 17283, after September 1, 1990.

(b) Notwithstanding any other provision of law, a building leased pursuant to Section 17280 may be used after September 1, 1991, as a regional occupational center or program that does not meet the requirements of Section 17280, provided the building satisfies all of the following conditions:

(1) The facility is one of the following:

(A) A single-story, wood-framed structure.

(B) A single-story, light steel frame structure.

(C) A structure for which a structural engineer has submitted a report that certifies that substantial structural hazards do not exist, as to that structure. The governing board of the regional occupational center or program, as provided for under Section 52310.5, shall review the report prior to approval of the lease and may reject the report if there is any evidence of fraud regarding the facts in the report.

(2) The building or structure complies with all applicable local building standards and all applicable local health and safety standards in the community in which it is located.

(3) The governing board of the regional occupational center or program, as provided for under Section 52310.5, certifies to the State Allocation Board that reasonable efforts have been made to locate the

regional occupational center or program in facilities that conform to the seismic safety standards set forth in Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(c) On or before September 1, 1994, and every three years thereafter, each governing board of a regional occupational center or program shall report to the State Allocation Board on the facilities utilized for the operation of that center or program and on efforts to place the center or program in facilities that conform to the seismic safety standards described in paragraph (3) of subdivision (b).

17286. Where the primary use of either a building or complex within which the building is situated, operated by an official or board of a city, city and county or county, is for purposes other than educational, such as, but not limited to, correctional, forestry, or hospital purposes, the building shall not be considered to be a "school building" within the meaning of Section 17283 notwithstanding any educational use thereof incidental to the primary purpose.

17287. For the purposes of this article and Article 6 (commencing with Section 17365), "school building" does not include (a) any building of a school district or county superintendent of schools which is used solely for classes or programs in outdoor science, conservation, and forestry in accordance with Article 5 (commencing with Section 8760) of Chapter 4 of Part 6 and which does not occupy, in whole or in part, the same parcel of land upon which there is situated any school maintained by the district or county superintendent, or (b) agricultural education laboratory facilities used primarily for plant and animal production or the storage of materials, equipment, and supplies involved in this production.

17288. (a) Notwithstanding Section 17285, any high school pupil who attends a class or classes on a campus of the University of California or the California State University in order to receive specialized educational services and opportunities authorized by Chapter 6 (commencing with Section 58800) of Part 31 and any adult attending a special education program established pursuant to Part 30 (commencing with Section 56000), is considered a pupil of that campus for the purposes of Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. Any building or structure or portion of building or structure that pupils occupy pursuant to this section shall not be considered "school buildings" within the meaning of Section 17283.

(b) The governing board of each school district, each county board of education, or each county superintendent of schools, as appropriate, shall notify, in writing, the parent or guardian of each high school pupil who attends a class or classes authorized by Chapter 6 (commencing with Section 58800) of Part 31 and each adult attending a special education program established pursuant to Part

30 (commencing with Section 56000), prior to the pupil's attendance at the class on a university campus that, although University of California and California State University buildings are required to conform to the rigorous standards of the Uniform Building Code (UBC), the buildings on the university campuses may not meet the requirements of Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. This notice shall accompany, to the greatest extent possible, any existing notification to parents or guardians regarding specialized educational services and opportunities.

17289. In order to provide alternative, community-based educational opportunities through independent study, any school district or county office of education may request an exemption from the State Allocation Board for a building or structure, or portion of a building or structure, from the definition of "school buildings" within the meaning of Section 17283. The exemptions may be granted for no longer than two years and exemptions are renewable. An exemption may only be granted if the school district or county office of education demonstrates to the satisfaction of the State Allocation Board all of the following:

(a) The building or structure, or portion of building or structure, satisfies all of the following:

(1) It is not located on a regular schoolsite.

(2) It complies with all applicable local building standards and all relevant local health and safety standards in the community in which it is located.

(3) It is used for independent study.

(4) It serves fewer than 25 pupils enrolled in kindergarten or any of the grades 1 to 12, inclusive, at any one time in the building or structure, or in a portion of a building or structure where the remainder of the building or structure is not used for instructional purposes.

(b) The use of the building or structure is critical to providing an effective alternative, community-based program.

(c) The use of other buildings or structures that would meet seismic safety standards for school facilities is not practical.

17290. (a) An owned relocatable building or structure that is to be used for school purposes shall be subject to the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365). The governing board of a school district may request and obtain from the State Allocation Board a one-time waiver of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) for a maximum of three years upon presentation of satisfactory evidence to the State Allocation Board that the district is proceeding in a timely manner with a program that will eliminate the need for the owned relocatable facilities within that time period.

(b) Notwithstanding subdivision (a), a waiver granted to a school district pursuant to that subdivision prior to January 1, 1993, may be

renewed by the State Allocation Board for one additional period of no more than three years, not extending past September 30, 1996. However, any waiver granted to a school district that will expire on or before September 30, 1996, is hereby extended until September 30, 1997.

(c) This section applies only to relocatable buildings or structures owned by school districts on or before April 17, 1990, and does not authorize school districts to purchase relocatable buildings or structures to be used for school purposes which do not comply with the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of this chapter.

(d) This section shall remain in effect only until September 30, 1997, and as of that date is repealed, unless a later enacted statute, that is enacted before September 30, 1997, deletes or extends that date.

17291. (a) An owned relocatable building or structure that is to be used for school purposes shall be subject to the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365).

(b) This section shall become operative on September 30, 1997.

17292. (a) Notwithstanding any provision of law, an owned or leased relocatable building that does not meet the requirements of Section 17280 may be used as a school building through September 30, 2007, if all of the following conditions are met:

(1) The relocatable building is a single story structure with not more than 2,160 square feet of interior floor area when all sections are joined together.

(2) The relocatable building was constructed after December 19, 1979, and bears a commercial coach insignia of approval from the Department of Housing and Community Development.

(3) The bracing and anchoring of interior overhead nonstructural elements, such as light fixtures and heating and air-conditioning diffusers, and the foundation system complies with the applicable rules and regulations adopted pursuant to this article and published in Title 24 of the California Code of Regulations.

(4) The building construction, including associated site construction, except for the relocatable building defined in paragraph (2), complies with the applicable rules and regulations adopted pursuant to this article, Sections 4450 to 4458, inclusive, of the Government Code, and Section 13143 of the Health and Safety Code and the administrative and building standards published in Title 19 and Title 24 of the California Code of Regulations.

(5) The Department of General Services has issued a certification of compliance with the requirements of this article.

(6) The relocatable building was in use for classroom purposes on or before September 30, 1997.

(b) The Department of General Services may assess fees to carry out the requirements of this section. Fees imposed pursuant to this subdivision shall be equal to the costs associated with making the

certifications and inspections required by, and otherwise enforcing, this section and shall be deposited in the Public School Planning, Design, and Construction Review Revolving Fund.

(c) (1) Any relocatable building that has received a certification of compliance from the Department of General Services pursuant to subdivision (a) shall be reinspected for structural integrity by the Division of the State Architect by December 31, 2002.

(2) Notwithstanding paragraph (1), any relocatable building that has been moved from one site to another site and was inspected between the years 2000 and 2002, inclusive, is exempt from the requirements of paragraph (1).

(d) On or before September 30, 2007, the governing board of the school district shall certify to the State Allocation Board by resolution that the relocatable building is no longer being used as a school building.

17292.5. (a) If the governing board of a school district operates a program for expelled pupils, the governing board shall do one or more of the following:

(1) Utilize available school facilities that conform to the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(2) Apply for emergency portable classrooms pursuant to Chapter 25 (commencing with Section 17085) of Part 10.

(3) Enter into lease agreements for facilities, provided that the facilities are limited to a structure where a structural engineer has submitted a report that determines substantial structural hazards do not exist.

(b) Before entering into any lease pursuant to paragraph (3) of subdivision (a), the governing board of the school district shall certify to the State Allocation Board that all reasonable efforts have been made to locate the program in facilities that conform to the structural safety standards listed in paragraph (1) of subdivision (a).

(c) On or before September 1, 1996, and every three years thereafter, each school district shall report to the State Allocation Board on the facilities utilized for the operation of these programs and efforts to place programs in facilities that conform with the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

17293. (a) On or after January 1, 1993, if a county superintendent or school district elects to operate a new or expanded pregnant and parenting teen program pursuant to Chapter 6.5 (commencing with Section 8910) of Part 6, the county superintendent or school district may enter into lease agreements for school facilities as set forth in subdivision (b), if both of the following conditions are met:

(1) All available school facilities that conform to the requirements of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17320) have been utilized.

(2) If facilities meeting the requirements of paragraph (1) are not available, the school district or county superintendent of schools has applied to lease or purchase emergency portable classrooms pursuant to Chapter 14 (commencing with Section 17085) of Part 10 and the application was either not approved, or the portable classrooms approved will not meet the needs of the county superintendent of schools or the school district.

(b) Notwithstanding any other provision of law, the county superintendent or the school district may enter into lease agreements as follows:

(1) The lease may be for a period of up to five years if a report and certification of safety is prepared by a structural engineer that verifies that the building meets local safety standards and that substantial structural hazards do not exist. The county board of education or school district governing board, as the case may be, shall review the report and certification prior to the approval of the lease and may reject the report if there is evidence of fraud regarding the facts in the report.

(2) Before entering into any lease, the county superintendent or the school district shall certify that all reasonable efforts have been made to locate programs in facilities that conform to paragraph (1) or (2).

17294. "Construction or alteration" as used in this article includes any construction, reconstruction, or alteration of, or addition to, any school building.

17295. The Department of General Services shall pass upon and approve or reject all plans for the construction or, if the estimated cost exceeds twenty thousand dollars ($20,000), the alteration of any school building. To enable it to do so, the governing board of each school district and any other school authority before adopting any plans for such school building shall submit the plans to the Department of General Services for approval, and shall pay the fees prescribed in this article.

Where the estimated cost of an alteration exceeds ten thousand dollars ($10,000) but does not exceed twenty thousand dollars ($20,000), a structural engineer shall examine the proposed project to determine if it is a nonstructural alteration or a structural alteration. If he or she determines that the project is a nonstructural alteration, he or she shall prepare a statement so indicating. If he or she determines that the project is structural, he or she shall prepare plans and specifications for the project and shall observe the work of construction. A copy of the engineer's report stating that the work does not affect structural elements, or a copy of the plans and specifications for structural work, as the case may be, shall be filed with the Department of General Services.

17296. Notwithstanding any other provision of law, any school-based facility providing social services or support services, or health care, that is established through agreements with local governments and school districts pursuant to Chapter 5 (commencing with Section 8800) of Part 6 or as part of an integrated children's services program pursuant to Chapter 12.9 (commencing with Section 18986.40) of Part 6 of Division 9 of the Welfare and Institutions Code, respectively, is located on school property, and meets all the requirements of the Uniform Building Code and has been approved by the building department of the appropriate local jurisdiction, as well as those of the appropriate local jurisdiction, shall not be required to obtain approval of plans by the Department of General Services pursuant to Section 17295.

17297. Except as provided in Section 17298, before letting any contract for any construction or alteration of any school building, the written approval of the plans, as to safety of design and construction, by the Department of General Services, shall be first had and obtained.

17298. Before the commencement of any fabrication, construction, or alteration of a relocatable school building of a type previously approved by the Department of General Services, the written approval of the plans, as to the safety and design of construction, by the Department of General Services, shall be first had and obtained.

17299. In each case the application for approval of the plans shall be accompanied by the plans and full, complete, and accurate specifications, and structural design computations, and estimates of cost, which shall comply in every respect with any and all requirements prescribed by the Department of General Services.

17300. (a) The application shall be accompanied by a filing fee in amounts as determined by the Department of General Services based on the estimated cost of the work described in subdivision (a) of Section 17280, according to the following schedule:

(1) For the first one million dollars ($1,000,000), a fee of not more than 0.7 percent of the estimated cost.

(2) For all costs in excess of one million dollars ($1,000,000), a fee of not more than 0.6 percent of the estimated cost.

The minimum fee in any case shall be two hundred fifty dollars ($250). If the actual cost exceeds the estimated cost by more than 5 percent, a further fee shall be paid to the Department of General Services, based on the above schedule and computed on the amount by which the actual cost exceeds the amount of the estimated cost.

(b) The fees determined pursuant to subdivision (a) shall be paid in two installments, as specified by the Department of General Services. The first installment shall be in an amount equal to 70 percent of the estimated cost calculated under subdivision (a), and shall be paid at the time the application is submitted to the department. The second installment shall be in an amount equal to

30 percent of the estimated cost calculated under subdivision (a), and shall be paid no later than five working days after the applicant accepts the bids for construction of the project for which the fees are paid. This subdivision shall become operative January 1, 1994.

(c) The fee shall be paid to the Department of General Services, including, but not limited to, a case in which the application is referred under Section 17306 to a qualified plan review firm.

17301. (a) All fees received by the Department of General Services pursuant to this chapter shall be paid into the State Treasury and credited to the Public School Planning, Design, and Construction Review Revolving Fund, which is hereby created. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are hereby continuously appropriated for expenditure by the Department of General Services to be applied, in the most efficient and expeditious manner possible, to the expenses associated with the review and approval of plans and specifications, and the supervision of public school building construction, pursuant to this article and Article 5 (commencing with Section 17350). The fees paid into the fund shall not be used for or diverted to any other program or purpose. Notwithstanding any other provision of law, any moneys in the Architecture Public Building Fund on the effective date of this section thereupon shall be transferred to the Public School Planning, Design, and Construction Review Revolving Fund for expenditure in accordance with this section.

Adjustments in the amounts of the fees, as determined by the Department of General Services, may be made by the department within the limits set forth in Sections 17300 and 17352 in order to maintain a reasonable working balance in the fund.

(b) The Department of Finance shall provide for the audit of the fund as needed to ensure that it is used solely for the purposes of this article and that the amount of the fee charged does not exceed what is necessary to cover the costs realized by the Department of General Services in carrying out its responsibilities pursuant to this article. The actual cost of the audit shall be paid from the fund.

17302. (a) Except as provided in subdivision (b), all plans, specifications, and estimates shall be prepared by a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and the observation of the work of construction shall be under the responsible charge of such an architect or structural engineer.

(b) For the purposes of this section, a mechanical or electrical engineer holding a valid certificate under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code may be in responsible charge of preparation of plans, specifications, and estimates, and observation of the work of construction where the

work is, as determined by the Department of General Services, of the kind normally performed by engineers certified in the particular branch of engineering for which the engineer is certified. Any architectural or structural work involved shall be the respective responsibility of a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, or a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

17303. (a) The Department of General Services shall establish one or more methods to ensure that each application has been completed sufficiently by the applicant to enable the plan review to be performed.

(b) Upon receipt of a complete application, the Department of General Services shall inform the applicant of the period of time that it anticipates to elapse prior to commencing review of the applicant's plans. As necessary to ensure that this period of time does not exceed an average, as calculated for each quarter of the calendar year, of 15 working days, the department shall do one or more of the following:

(1) Contract for assistance from one or more qualified plan review firms pursuant to Section 17305.

(2) Employ additional staff on a temporary basis.

(3) Maximize the use of department staff through the use of overtime or other appropriate means.

(4) Any other action determined by the department to have the effect of expediting the review and approval process.

(c) Each application shall identify, for purposes of receiving the notifications required under this subdivision, an employee of the applicant school district and either the applicant's architect or structural engineer. The Department of General Services immediately shall notify that employee, and the identified architect or structural engineer, when each of the following steps in the plan review process occurs:

(1) The department requests the applicant's architect or structural engineer to correct or complete any part of the application.

(2) An application number is assigned to the application.

(3) Review of the applicant's plans is commenced.

(4) Review of the applicant's plans is completed and the department returns the plans to the architect or structural engineer for correction.

(5) Corrected plans are returned to the department by the applicant's architect or structural engineer for final review and approval.

(6) The department approves the plans and causes a final record set of the plans to be printed in accordance with Section 17304.

(d) The Department of General Services may provide additional notifications to applicants as it deems necessary.

17304. (a) Upon approving the plans submitted by an applicant pursuant to this article, the Department of General Services shall cause a final record set of the plans to be printed. The department may contract with one or more private entities to perform that printing at one or more of the regional area offices of the department. The costs incurred pursuant to this subdivision shall be paid by the applicant.

(b) No later than five working days after approving plans submitted by an applicant pursuant to this article, the department shall issue a final letter of approval to the applicant.

17305. (a) Notwithstanding Section 14952 of the Government Code, the Department of General Services may contract with one or more qualified plan review firms for assistance in performing the plan review required under this article or Article 5 (commencing with Section 17350).

(b) For purposes of this article, "qualified plan review firm" means an individual or firm that is identified by the Department of General Services as having appropriate expertise and knowledge of the requirements that apply to school buildings under this article. The department shall establish and maintain a list of the individuals and firms so identified, and shall make that list available, upon request, to school districts and other interested parties.

17306. (a) Upon submitting a complete application for review under this article, the applicant may request that the Department of General Services refer the documents necessary for the review of that application to a qualified plan review firm operating under contract with the department pursuant to Section 17305. The department immediately shall grant the request if it anticipates that more than 15 working days will elapse prior to its commencing the review of the applicant's plans. In addition, if more than 15 working days elapse after the applicant submits the complete application before the department commences review, the department immediately shall refer the necessary documents to a qualified plan review firm if the applicant so requests.

Upon completing the review, the qualified plan review firm shall submit the documents referred to it for the review of the application, together with the results of its review, to the Department of General Services.

(b) The Department of General Services shall establish a procedure governing the use by applicants of the review process alternative described in this section, including, but not limited to, provisions restricting the use of qualified plan review firms on the basis of conflict of interest.

17307. No contract for the construction or alteration of any school building, made or executed by the governing board of any school district or other public board, body, or officer otherwise vested with

authority to make or execute a contract, is valid, and no public money shall be paid for any work done under a contract or for any labor or materials furnished in constructing or altering any building, unless the plans, specifications, and estimates comply in every particular with the provisions of this article and the requirements prescribed by the Department of General Services and unless the approval thereof in writing has first been had and obtained from the Department of General Services.

17308. (a) The Legislature finds and declares that a number of serious discrepancies in the interpretation of the structural standards and architectural barrier requirements that apply to school buildings under this chapter, and of the plan review procedures that apply under this chapter, exist within the Department of General Services, and within and between various firms utilized by the department on a contract basis, applicant school districts, and architects and structural engineers utilized by applicant school districts.

(b) The Department of General Services shall provide training, on an ongoing basis, to its employees and to the employees of architectural and structural engineering firms that contract with the department for the purposes of this chapter. The training shall address all phases of the plan review process established under this chapter, and shall be designed to ensure that all individuals who develop and review school building plans obtain sufficient knowledge of the rules, regulations, and standards that apply under this chapter.

(c) The department shall make the training described in subdivision (b) available to the employees of architectural and structural engineering firms that contract with applicant school districts for the purpose of this chapter, and to any other individuals, firms, and government agencies that are involved in school building design, construction, or inspection and that may benefit from the training. The department may charge a fee for training provided pursuant to this subdivision.

(d) The department shall develop and publish interpretations of the structural standards, architectural barrier requirements, and review procedures referred to in subdivision (a) as may be necessary to remedy the interpretational discrepancies described in that subdivision. These interpretational materials shall be updated at least annually.

17309. From time to time, as the work of construction or alteration progresses and whenever the Department of General Services requires, the licensed architect or structural engineer in charge of observation of construction or registered engineer in charge of observation of other work, the inspector on the work, and the contractor shall each make to the Department of General Services a report, duly verified by him or her, upon a form prescribed by the Department of General Services, based upon his or her own personal knowledge, indicating that the work during the period

covered by the report has been performed and materials have been used and installed, in every material respect, in compliance with the approved plans and specifications, setting forth such detailed statements of fact as are required by the Department of General Services.

The term "personal knowledge" as used in this section and as applied to the architect, and the registered engineer, means the personal knowledge which is obtained from periodic visits to the project site of reasonable frequency for the purpose of general observation of the work, and also which is obtained from the reporting of others as to the progress of the work, testing of materials, inspection and superintendence of the work that is performed between the above-mentioned periodic visits of the architect or the registered engineer. The exercise of reasonable diligence to obtain the facts is required.

The term "personal knowledge" as applied to the inspector means the actual personal knowledge which is obtained from his or her personal continuous inspection of the work of construction in all stages of its progress at the site where he is responsible for inspection and, when work is carried out away from the site, that personal knowledge which is obtained from the reporting of others on the testing or inspection of materials and workmanship for compliance with plans, specifications or applicable standards. The exercise of reasonable diligence to obtain the facts is required.

The term "personal knowledge" as applied to the contractor means the personal knowledge which is obtained from the construction of the building. The exercise of reasonable diligence to obtain the facts is required.

17310. Except as provided in Section 18930 of the Health and Safety Code, the Department of General Services may from time to time make such rules and regulations as it deems necessary, proper, or suitable to carry out the provisions of this article.

The Department of General Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code for the purposes described in this article.

17311. The Department of General Services shall make such inspection of the school buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this article and the protection of the safety of the pupils, the teachers, and the public. The school district, city, city and county, or the political subdivision within the jurisdiction of which any school building is constructed or altered shall provide for and require competent, adequate, and continuous inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer and the Department of General Services. The inspector shall act under the direction of the architect or structural

engineer as the board may direct, and be responsible to the governing board.

17312. Any person who violates any of the provisions of this article or makes any false statement in any verified report or affidavit required pursuant to this article is guilty of a felony.

17313. Upon written request by the governing board of any school district or upon written request by at least 10 percent of the parents having children enrolled as pupils in any school district as certified to by the county superintendent of schools, the Department of General Services shall make an examination and report on the structural condition of any public school building of the district, subject to the payment by the governing board of the actual expenses incurred by the Department of General Services. Payment of the expenses may be waived by the Department of General Services on recommendation of the State Superintendent of Public Instruction when it appears to him or her that the school district in which the public school building is located cannot afford to pay them.

17314. Any public school building which has been approved by the Department of General Services (formerly Division of Architecture) for occupancy shall be deemed to meet the local building requirements for use as a private school.

17315. (a) When a school building constructed in accordance with plans and specifications approved by the Department of General Services is completed, the notice of completion is filed, and all final verified reports and all testing and inspection documents, as required by this article or as required by the rules and regulations adopted pursuant to this article, are submitted to and on file with the Department of General Services, and all required fees paid by the school district, the department shall issue a certification that the school building complies with the requirements of this article. Nothing in this article shall prevent beneficial occupancy by a school district prior to the issuance of this certification.

(b) When a school building, constructed in accordance with approved plans and specifications, is completed but final verified reports, as are required under Section 39151, have not been submitted to the Department of General Services due to the incapacitating illness, death, or the default of any persons required to file such reports, the Department of General Services shall, upon written request of the school district, review all of the project records and make such examinations as it deems necessary to enable it to certify that the school building otherwise complies with the requirements of this article. The Department of General Services may request the school district to have made, reported, and verified any other tests and inspections which the department deems necessary to complete its examinations of the construction.

(c) The costs incurred by the Department of General Services in connection with this section shall be paid by the school district. The actual costs to perform the examinations, tests, and inspections shall

be an appropriate cost of the project to be paid from the building funds of the district. Certification of the project by the Department of General Services shall be withheld until all the costs have been paid by the school district.

(d) This section shall not relieve any individual of his or her responsibility to file verified reports, as required in Section 17309, or any other documents required by the rules and regulations adopted pursuant to this article. This section shall not abrogate the provisions of Section 17312.

17316. Any contract entered into by and between the governing board of any school district and any certified architect or structural engineer pursuant to Section 39148 shall provide that all plans, specifications and estimates prepared pursuant thereto shall be and remain the property of the school district.

Article 3.5. Earthquake Construction of Private Schools

17320. This article shall be known and may be cited as the Private Schools Building Safety Act of 1986.

17321. The Legislature finds and declares all of the following:

(a) Most of California is subject to potentially devastating, large-magnitude earthquakes.

(b) Earth scientists estimate that there is a greater than 50-percent probability that one or more damaging earthquakes will occur in California between now and the end of the century.

(c) Not all students of private schools enjoy the same or equivalent earthquake safety as is afforded to students of public schools by the Field Act and other legislation.

(d) Modifications of building design, plan checking, and inspection procedures can offer increased protection to private school students.

17322. It is the intent of the Legislature that children attending private schools be afforded life safety protection similar to that of children attending public schools by having all of the following:

(a) Private school structures designed and constructed in a manner that minimizes fire hazards and resists the forces generated by earthquakes, gravity, and winds to the extent necessary to ensure the safety of occupants.

(b) The structural systems and details set forth in working drawings and specifications carefully reviewed by responsible enforcement agencies using qualified personnel, and the construction process carefully inspected.

(c) Procedures for the design and construction of private school structures to be subjected to qualified design review and construction inspection.

(d) Nonstructural components, including, but not limited to, ceiling systems, electrical equipment, and mechanical equipment given adequate consideration during the design and construction

process to assure that they will not detract from occupant safety in the event of an earthquake.

17323. For the purposes of this article:

(a) "Construction or alteration" means any construction of, addition to, reconstruction of, or structural alteration to any private school structure.

(b) "Enforcement agency" means the agency of a city, city and county, or county responsible for building safety within its jurisdiction.

(c) "Private school structure" means any building used for educational purposes through the 12th grade by 50 or more persons for more than 12 hours per week or 4 hours in any one day. Any structure owned or operated by a public school district shall not be affected by this article.

(d) "Structural engineer" means a person authorized to use the title of structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

(e) "Engineer of record" means the architect, if no structural engineer or civil engineer has been retained for the structural design.

(f) "Electrical engineer" means an electrical engineer, as defined in Section 6702.1 of Chapter 7 of Division 3 of the Business and Professions Code.

(g) "Mechanical engineer" means a mechanical engineer, as defined in Section 6702.2 of Chapter 7 of Division 3 of the Business and Professions Code.

(h) "Qualified inspector" means a person who is currently certified by the International Conference of Building Officials or who has demonstrated his or her competence to the satisfaction of the enforcement agency as having expertise and experience in the particular type of construction or operation requiring inspection.

17324. The appropriate enforcement agency that meets the requirements of Sections 17331 and 17332 shall review the design and inspect the construction, reconstruction, structural alteration, or addition to any private school structure to the extent necessary to ensure that drawings and specifications comply with the applicable sections of the Uniform Building Code and to ensure that construction work has been performed in accordance with the approved drawings and specifications, and the provisions of this article.

17325. Private school structures of one-story Type V and Type II N construction, as defined by the Uniform Building Code, that are 2,000 square feet or less in floor area are exempt from the provisions of this article.

17326. (a) Prior to adopting any drawings or specifications for the private school structure, the governing board, authority, owner, corporation, or other agency proposing to construct any private school structure shall submit the design calculations, drawings, and specifications of the private school structure to the appropriate

enforcement agency. The enforcement agency shall stamp the drawings and specifications if the construction or alteration is approved by the enforcement agency. Included with the stamp shall be the signature of the qualified person referred to in Sections 17333 and 17334.

(b) The provisions of this section are not applicable to private school construction or alteration contracts entered into prior to July 1, 1987.

17327. The application for approval of the drawings and specifications for private school structures shall be accompanied by comprehensive and complete drawings, design calculations, specifications, and a soil analysis at a level of detail appropriate to the proposed structure and site, all of which shall comply with the requirements prescribed by the enforcement agency. This review shall not preclude incremental submission and approval of drawings and specifications.

17328. The enforcement agency shall approve or reject all drawings and specifications for the construction or alteration of private school structures and in doing so shall review the submitted design calculations, drawings, and specifications to ensure compliance with the requirements of this article. A record shall be kept by the enforcement agency indicating that design calculations, drawings, and specifications have been reviewed and conform with the applicable sections of the Uniform Building Code.

17329. All drawings and specifications shall be prepared under the responsible charge of an architect, civil engineer, or structural engineer, who shall sign all drawings and specifications that are to be approved by the enforcement agency. Observation of the work of construction shall be under the general responsible charge, as defined by Section 6703 of Chapter 7 of Division 3 of the Business and Professions Code, of the architect, civil engineer, or structural engineer who signed the drawings, except that drawings and specifications not involving architectural or structural conditions may be prepared and the construction work may be administered by a registered professional engineer qualified in the branch of engineering that is appropriate to the drawings, specifications, estimates, and construction work.

If the architect, civil engineer, or structural engineer is unable to exercise general responsible charge of construction another architect, civil engineer, or structural engineer shall be retained to exercise general responsible charge of construction.

17330. Except as provided in Section 17326, on or after July 1, 1987, construction of a private school structure shall not commence unless the structure's drawings and specifications comply with the provisions of this article and the requirements prescribed by the enforcement agency, and approval of those drawings and specifications has been obtained from the enforcement agency.

17331. During construction or alteration of a private school structure, the building owner shall provide for, and the local enforcement agency shall require, special inspection by a qualified inspector when needed, as determined by the local enforcement agency. Continuous inspection is not required.

17332. An enforcement agency is qualified to undertake the review of plans, drawings, and specifications for a private school structure if the enforcement agency has a structural engineer, either on its staff or under contract, that is responsible for all design review conducted by the enforcement agency and the record prepared under Section 17328.

17333. A jurisdiction whose enforcement agency does not meet the qualifications specified in Sections 17331 and 17332 shall obtain necessary qualified personnel to meet the requirements of this article by contracting with other public agencies, private sector firms, or individuals qualified to perform the necessary services.

17334. During the construction of a private school structure, the enforcement agency shall require the engineer of record responsible for the structural design, or that engineer's authorized representative, to make periodic reviews of construction at the construction site to observe compliance with the approved structural plans, specifications, and change orders. The engineer of record in general responsible charge of the work of construction, and the registered professional engineer shall make a report, duly verified by him or her through periodic review of construction, showing that the work done during the period covered by the report has been performed and that the materials used and installed are in accordance with the approved drawings and specifications. Any detailed statements of fact required by the enforcement agency shall be included. These observations and statements shall not be relied upon by others as acceptance of the work, nor shall they be construed to relieve the contractor in any way of his or her obligations and responsibilities under the construction contract.

"Periodic review of construction," as used in this section and as applied to the architect, civil engineer, structural engineer, or the registered professional engineer, means the knowledge that is obtained from periodic visits of reasonable frequency to the project site for the purpose of general observation of the work. It also means the knowledge that is obtained from the reporting of others as to the progress of the work, testing of materials, inspection, and superintendence of the work that is performed between those periodic visits of the architect, civil engineer, or structural engineer, or the registered engineer. The exercise of reasonable diligence to obtain the facts is required. "Periodic review of construction" does not include responsiblity for superintendence of construction processes, site conditions, operations, equipment, personnel, or maintenance of a safe place to work or any safety in, on, or about the site of work.

17335. Prior to the issuance of a Certificate of Occupancy, the engineer of record shall state in writing to the enforcement agency that, in exercising his or her reasonable professional judgment and to the best of his or her knowledge, information, and belief, the private school structure was constructed in substantial conformity with the approved plans and specifications.

17336. Any person who willfully violates this chapter is guilty of a misdemeanor.

Article 4. Building Schoolhouses

17340. The governing board of any school district may, and when directed by a vote of the district shall, build and maintain a schoolhouse.

17342. The governing board of any school district, whenever in its judgment it is desirable to do so, may establish additional schools in the district.

17343. The governing board of any school district may purchase property and construct and equip buildings in an area after the legal action has been taken that will result in annexation of the area to the school district, but before the annexation has become effective.

Article 5. Factory-Built School Buildings

17350. It is the intent of this article to provide an alternative procedure to Article 3 (commencing with Section 17280) for the construction and installation of factory-built school buildings not over 1,000 square feet in area designed or intended for use as school buildings. As used in this article, a "factory-built building" means any building designed or intended for use as a school building which is either wholly manufactured or is in substantial part manufactured at an offsite location in accordance with building standards adopted and approved pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and other regulations adopted by the Department of General Services, to be assembled or erected on a schoolsite. Any such building purchased or leased by a school district shall be deemed to be the construction or alteration of a school building as those terms are used in Article 2 (commencing with Section 17260) and Article 3 (commencing with Section 17280) of this chapter, and all of the provisions of each of those articles, not inconsistent with the provisions of this article, shall apply with respect to factory-built buildings designed or intended for use as school buildings.

17351. Except as provided in Section 18930 of the Health and Safety Code, the Department of General Services shall adopt regulations for the safety of design and construction of factory-built buildings for use as school buildings, and shall prescribe procedures for the plans, specifications, methods of construction, and estimates

of cost of a factory-built school building to be submitted to the department for approval as provided in Section 17352. Except as provided in Section 18930 of the Health and Safety Code, such regulations shall comply with but not be limited by the provisions of Article 2 (commencing with Section 17260) and Article 3 (commencing with Section 17280) of this chapter.

The Department of General Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code for the purposes described in this section.

17352. A manufacturer of factory-built buildings designed or intended for use as school buildings shall submit to the Department of General Services and the State Department of Education for approval, its plans, specifications, methods of construction, and estimates of cost of such buildings. At the same time the manufacturer shall pay to the Department of General Services a deposit to be applied toward the actual expenses in an amount as determined by the Department of General Services based on the estimated cost of such factory-built buildings, but not exceeding 0.5 percent of such estimated cost. The minimum deposit in any case shall be fifty dollars ($50). The manufacturer shall reimburse the Department of General Services and the State Department of Education for the actual expenses incurred by those departments in the review of such plans and specifications.

All fees received by the Department of General Services pursuant to this article are subject to the provisions of Section 17301.

17353. All plans, specifications and estimates shall be prepared by a certified architect holding a valid license under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and the supervision of the work of construction in the factory shall be under the responsible charge of such an architect or structural engineer.

17354. The Department of General Services, in accordance with standards and procedures adopted pursuant to Section 17351, and as such standards and procedures may thereafter be modified, shall either approve or reject such plans, specifications, and methods of construction. Approval shall not be given unless such plans, specifications, and methods of construction are in accordance with standards adopted by the department pursuant to Section 17351. The department may establish procedures for the inspection of the facilities and manufacturing processes of a manufacturer to determine the manufacturer's ability to produce factory-built school buildings in accordance with the plans, specifications, and methods of construction which the manufacturer has submitted to the department. The Department of General Services shall notify the

State Department of Education of its approval of a manufacturer's plans, specifications, and methods of construction of a factory-built school building.

17355. The Department of General Services shall provide for competent, adequate, and continuous inspection during construction in the factory to insure that all work has been performed and materials used and installed, in every particular, in accordance with the approved plans and specifications. The manufacturer shall reimburse the department for the costs incurred for such inspection as determined by the department.

17356. From time to time, as the work of construction in the factory progresses and whenever the Department of General Services requires, the certified architect or structural engineer in responsible charge of the supervision of the work of construction in the factory, the inspector on the work, and the manufacturer shall each make to the Department of General Services a report, duly verified by him or her, upon a form prescribed by the Department of General Services, showing, of his or her own personal knowledge, that the work during the period covered by the report has been performed, and materials used and installed, in every particular, in accordance with the approved plans and specification, setting forth such detailed statements of fact as are required by the Department of General Services.

17357. Upon the Department of General Services' approval of a manufacturer's plans, specifications, and methods of construction of a factory-built school building, a school district, whenever it is otherwise required by any of the provisions of Article 2 (commencing with Section 17260), or Article 3 (commencing with Section 17280) of this chapter to submit to the Department of General Services or to the State Department of Education the plans and specifications for the construction of a school building may, instead, include in its application for approval to each of such departments a notification that it intends to utilize such factory-built school building. The plans and specifications for the factory-built building to be utilized shall be submitted with the application and notification for identification purposes. Before granting its approval for the use of such buildings, the Department of General Services shall insure that the plans, specifications, and methods of construction of the buildings have been approved and are in accordance with standards adopted by the department pursuant to Section 17351 which are in effect at the time the application for approval is passed upon by the department. Whenever a school district complies with the alternative procedure prescribed by this section it shall not be required to pay the filing fee prescribed by Sections 17267 and 17300, except that a fee shall be charged for onsite work pursuant to Section 17358. If the submitted plans and specifications have not been previously approved the application shall be rejected. In such case a new application together with required documents shall be filed for approval of plans and

specifications by either the manufacturer pursuant to the provisions of Section 17352 or by the school district pursuant to the provisions of Article 3 (commencing with Section 17280) of this chapter.

17358. Whenever a school district has contracted for the purchase or lease of a factory-built school building and where such building is to be supported by foundations, underpinning, pedestals, or similar type elements which extend more than 18 inches above natural grade at any point, or on temporary blocks or jacks of any height, all the provisions of Article 3 (commencing with Section 17280) of this chapter shall apply to the design and construction of onsite work except that, for fee purposes, only the estimated cost of onsite work need be considered. The minimum amount in any case shall be fifty dollars ($50).

17359. The provisions of Sections 17266, 17268, 17300, 17302, and 17309 shall not apply with respect to the manufacture, sale, or lease of factory-built school buildings if this article is otherwise complied with.

17360. Sections 17297, 17302, 17307, 17309, and 17311 shall not apply with respect to the design and construction of onsite work except where required Section 17358.

Article 6. Fitness for Occupancy

17365. The Legislature finds and declares as follows:

(a) By an urgency act (Stats. 1933, Ch. 59), the Legislature at the 1933 General Session established reasonable minimum standards for the design and construction of new school buildings, as now defined in Section 17283. Although it was not required that then existing school buildings incorporate these standards, it was intended by the Legislature that in the intervening years continuous progress would be made in the repair, reconstruction or replacement of such school buildings.

(b) Progress toward this end has been outstanding since 1971 as a result of state funds being made available for rehabilitating or replacing structurally unsafe school facilities.

17366. It is the intent of the Legislature to reexamine the progress under this article from time to time. To enable it to do so, and to expedite the provision of safe educational facilities for California schoolchildren, the Legislature intends that the governing board of each school district adopt a plan for the orderly repair, reconstruction, or replacement of school buildings not repaired, reconstructed, or replaced in accordance with this article.

17367. The governing board of any school district which has in use for school purposes any school buildings which were not constructed under approved plans and the supervision and inspection requirements of Article 3 (commencing with Section 17280) of this chapter shall have such buildings examined pursuant to this section and shall have completed on or before January 1, 1970, the

examination, reporting and estimate requirements of this section and Section 39223.

Whenever an examination of the structural condition of any school building of a school district has been made by the Department of General Services, or by any licensed structural engineer or licensed architect for the governing board of the school district, or under the authorization of law, and a report of the examination, including the findings and recommendations of the agency or person making the examination, has been made to the governing board of the district, and the report shows that the building is unsafe for use, the governing board of the district shall immediately have prepared an estimate of the cost necessary to make such repairs to the building or buildings as are necessary, or, if necessary, to reconstruct or replace the building so that the building when repaired or reconstructed, or any building erected to replace it, shall meet such standards of structural safety as are established in accordance with law. The estimate shall be based on current costs and may include other costs to reflect modern educational needs. Also an estimate of the cost of replacement based on the standards established by the State Allocation Board for area per pupil and cost per square foot, shall be made and reported.

The report required by this section shall include a statement that each of the buildings examined is safe or unsafe for school use. For the purpose of this statement the sole consideration shall be protection of life and the prevention of personal injury at a level of safety equivalent to that established by Article 3 (commencing with Section 17280) of this chapter and the rules and regulations adopted thereunder, disregarding, insofar as possible, such building damage not jeopardizing life which would be expected from one disturbance of nature of the intensity used for design purposes in said rules and regulations.

The governing board, utilizing the information acquired from the examination and report developed pursuant to this section, shall establish a system of priorities for the repair, reconstruction, or replacement of unsafe school buildings.

17368. "School building" as used in this article shall be limited to any physical structure capable of being occupied by pupils, but shall exclude, (a) any bleacher or grandstand with less than six rows of seats, (b) any building which is used exclusively for warehouse, storage, garage, or districtwide administrative office purposes, into which pupils are not required to enter, and buildings utilized by adult schools for off-campus, voluntary adult education courses or registered apprentice courses, (c) any swimming pool, or (d) any yard or lighting poles or flagpoles or playground equipment which does not exceed 35 feet in height.

"School building" as used in this article excludes any building owned or occupied by a unified school district, high school district,

or a county superintendent of schools which is used exclusively for adult education purposes.

If any building so excluded was not constructed in accordance with Article 3 (commencing with Section 17280) of this chapter and was not repaired, reconstructed, or replaced in accordance with this article, there shall be posted in a conspicuous place on such building a public notice stating that such building does not meet the structural standards imposed by law for earthquake safety.

17369. "School building" as used in this article excludes any building operated by an official or board of a public entity for purposes other than educational, notwithstanding any educational use thereof incidental to the other primary purpose.

For purposes of this section, a public entity includes, but is not limited to, a city, city and county, county, or special district, but does not include a school district or county superintendent of schools.

17370. Except as provided in Section 17371, nothing in this article shall be construed as relieving any member of the governing board of a school district of any liability for injury to persons or damage to property imposed by law.

17371. No member of the governing board of a school district shall be held personally liable for injury to persons or damage to property resulting from the fact that a school building was not constructed under the requirements of Article 3 (commencing with Section 17280) of this chapter, if such governing board complies with the provisions of this article. Such limit on liability shall commence when such governing board initiates action to comply with the provisions of Section 17367.

A licensed structural engineer or licensed architect employed by a governing board to examine any school building under this article shall not be held personally liable for injury to persons or damage to property as a result of the structural inadequacy and failure of a building, provided he or she has exercised normal professional diligence in carrying out his or her functions under Article 3 (commencing with Section 39140) of this chapter and the provisions of this article.

17372. No school building examined and found to be unsafe for school use pursuant to Section 17367 and not repaired or reconstructed in accordance with the provisions of this article, and no school building which has never met the requirements of Article 3 (commencing with Section 17280) of this chapter, shall be used as a school building for elementary or secondary school purposes after June 30, 1975, unless the governing board of the school district has requested and obtained from the State Allocation Board authority for use of the building for a specific period beyond that date. Prior to requesting this authority, the governing board shall adopt a resolution declaring the board's intention to utilize the building as a school building after June 30, 1975, pending its repair, reconstruction, or replacement. The State Allocation Board shall not authorize any

school district to use a building beyond June 30, 1975, unless it has first determined that the school district has already proceeded with a plan of total repair, reconstruction, or replacement in a timely manner and a contract has been let for any phase of, and work commenced on, the project. In no event shall the State Allocation Board authorize the use of any unsafe facilities for a period extending beyond the completion of the replacement facilities or beyond June 30, 1977, whichever occurs first.

For purposes of this section, "school building" does not include any portable building. Portable buildings may be used beyond June 30, 1975 to meet temporary housing needs until all repair, reconstruction or replacement of all district school buildings is complete or until June 30, 1977, whichever occurs first, provided that the governing board of the district has requested and obtained from the State Allocation Board authority for use of such portable buildings. The State Allocation Board may grant this authority only to those districts in which 20 percent or more of the schools are subject to partial or complete reconstruction pursuant to Section 17367. Any portable buildings for which authority is granted for temporary use pursuant to this section shall not be subject to Article 3 (commencing with Section 17280) or Article 6 (commencing with Section 17365) of this chapter during the period of the authorized use.

17373. Notwithstanding any other provision of this article or Article 9 (commencing with Section 16310) of Chapter 6 of Part 10, whenever a school district does not have funds available to repair, reconstruct, or replace the school buildings referred to in this article or Section 16320, the school district shall apply for any funds that may be necessary to accomplish the repair, reconstruction, or replacement pursuant to Article 9. The school district shall also accept any funds that are disbursed to the district pursuant to Article 9, whether or not the funds constitute the maximum amount applied for, and shall repay the funds in accordance with Article 9. In cases in which funds derived from a tax increase levied pursuant to Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, or Section 39230.5, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, are utilized to match amounts disbursed to a school district under an apportionment made pursuant to Article 9 (commencing with Section 16310) of Chapter 6 of Part 10, the disbursement and repayment may be made without the necessity of a vote of the electorate of the district as prescribed in any provision of Chapter 6 (commencing with Section 16000) of Part 10.

17374. Any revenue derived from an increase in the rate of tax provided by Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, prior to July 1, 1975, and which is unexpended on that date, may be used after July 1, 1975, by the governing board of a school district to complete the corrective structural repair, reconstruction, or replacement of any school building subject to Section 17367 which had not been completed on that date.

Article 8. All-Purpose Recreational Stadium and Center

17375. The Governing Board of the Los Angeles Unified School District, the City of Los Angeles, and the Board of Supervisors of the County of Los Angeles may form a joint powers agency pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the financing, construction, and operation of an all-purpose recreational stadium and center in the San Pedro area of Los Angeles County.

The governing body of the joint powers agency shall be composed of the following members:

(a) One member appointed by the Los Angeles County Board of Supervisors.

(b) One member appointed by the City of Los Angeles.

(c) One member appointed by the governing board of the Los Angeles Unified School District.

(d) Two members by a majority of the three members appointed pursuant to subdivisions (a), (b), and (c).

17376. The Board of Supervisors of Los Angeles County may establish a county service area pursuant to Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code, for the construction and operation of the recreational stadium and center, with the consent of both the City of Los Angeles and the governing board of Los Angeles Unified School District.

The boundaries of the county service area shall be prescribed by the governing body of the joint powers agency.

17377. The governing body of the joint powers agency may, pursuant to Article 2 (commencing with Section 6540) of Chapter 5 of Division 7 of Title 1 of the Government Code, issue revenue bonds to finance the construction of the all-purpose recreational stadium and center.

17378. The governing body of the joint powers agency may, pursuant to the terms of the joint powers agreement, rent the stadium or center to any public or private entity. The proceeds of the rental shall be used for the payment of principal and interest on the revenue bonds and the operation and maintenance of the stadium and center.

17379. The board of supervisors may have levied and collected a tax within the county service area for the purpose of obtaining funds for contribution to the joint powers agency for the operation and maintenance of the stadium and center.

However, no such tax may be levied and collected unless a majority of the voters of the county service area voting at an election called for such purpose approve a ballot proposition authorizing the levy and collection of such tax. The election may be called by the board of supervisors.

The joint powers agency shall not undertake any financing or construction of the all-purpose recreational stadium and center unless and until such proposition is approved by the voters.

17380. The Legislature finds and declares that because of a unique situation existing in the San Pedro area of the County of Los Angeles regarding the possible acquisition of useful federal surplus land, a general law, within the meaning of Section 16 of Article IV of the California Constitution, cannot be made applicable.

CHAPTER 4. PROPERTY: SALE, LEASE, EXCHANGE

Article 1. Conveyances

17385. The governing board of any school district shall receive in the name of the district conveyances for all property received and purchased by it, and shall make in the name of the district conveyances of all property belonging to the district and sold by it.

17386. The governing board of any school district shall have the power to execute and deliver quitclaim deeds, either with or without consideration to the owners of real property adjacent to any real property owned by the school district, for the purpose of removing defects in and otherwise clearing up the title to such adjacent real property.

Article 1.5. Advisory Committees

17387. It is the intent of the Legislature that leases entered into pursuant to this chapter provide for community involvement by attendance area at the district level. This community involvement should facilitate making the best possible judgments about the use of excess school facilities in each individual situation.

It is the intent of the Legislature to have the community involved before decisions are made about school closure or the use of surplus space, thus avoiding community conflict and assuring building use that is compatible with the community's needs and desires.

17388. The governing board of any school district may, and the governing board of each school district, prior to the sale, lease, or rental of any excess real property, except rentals not exceeding 30 days, shall, appoint a district advisory committee to advise the governing board in the development of districtwide policies and procedures governing the use or disposition of school buildings or space in school buildings which is not needed for school purposes.

17389. A school district advisory committee appointed pursuant to Section 17388 shall consist of not less than seven nor more than 11 members, and shall be representative of each of the following:

(a) The ethnic, age group, and socioeconomic composition of the district.

(b) The business community, such as store owners, managers, or supervisors.

(c) Landowners or renters, with preference to be given to representatives of neighborhood associations.

(d) Teachers.

(e) Administrators.

(f) Parents of students.

(g) Persons with expertise in environmental impact, legal contracts, building codes, and land use planning, including, but not limited to, knowledge of the zoning and other land use restrictions of the cities or cities and counties in which surplus space and real property is located.

17390. The school district advisory committee shall do all of the following:

(a) Review the projected school enrollment and other data as provided by the district to determine the amount of surplus space and real property.

(b) Establish a priority list of use of surplus space and real property that will be acceptable to the community.

(c) Cause to have circulated throughout the attendance area a priority list of surplus space and real property and provide for hearings of community input to the committee on acceptable uses of space and real property, including the sale or lease of surplus real property for child care development purposes pursuant to Section 17458.

(d) Make a final determination of limits of tolerance of use of space and real property.

(e) Forward to the district governing board a report recommending uses of surplus space and real property.

17391. The governing board may elect not to appoint an advisory committee pursuant to Section 17387 in the case of a lease or rental to a private educational institution for the purpose of offering summer school in a facility of the district.

Article 2. Leasing Property

17400. (a) Any school district may enter into leases and agreements relating to real property and buildings to be used by the district pursuant to this article.

(b) As used in this article, "building" includes each of the following:

(1) One or more buildings located or to be located on one or more sites.

(2) The remodeling of any building located on a site to be leased pursuant to this article.

(3) Onsite and offsite facilities, utilities or improvements which the governing board determines are necessary for the proper operation or function of the school facilities to be leased.

(4) The permanent improvement of school grounds.

(c) As used in this article, "site" includes one or more sites, and also may include any building or buildings located or to be located on a site.

17401. As used in this article "lease or agreement" shall include a lease-purchase agreement.

17402. Before the governing board of a school district enters into a lease or agreement pursuant to this article, it shall have available a site upon which a building to be used by the district may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites, and it shall have prepared and shall have adopted plans and specifications for the building that have been approved pursuant to Sections 17280 to 17316, inclusive. A district has a site available for the purposes of this section under any of the following conditions:

(a) If it owns a site or if it has an option on a site that allows the school district or the designee of the district to purchase the site. Any school district may acquire and pay for an option containing such a provision.

(b) If it is acquiring a site by eminent domain proceedings and pursuant to Chapter 6 (commencing with Section 1255.010) of Title 7 of Part 3 of the Code of Civil Procedure, the district has obtained an order for possession of the site, and the entire amount deposited with the court as the probable amount of compensation for the taking has been withdrawn.

(c) In the case of a district qualifying under Section 17410, if it is leasing a site from a governmental agency pursuant to a lease having an original term of 35 years or more or having an option to renew that, if exercised, would extend the term to at least 35 years.

17403. The term of any lease or agreement entered into by a school district pursuant to this article shall not exceed 40 years.

17404. Sections 17455 to 17480, inclusive, shall not apply to leases made pursuant to this article.

17405. Any lease or agreement shall be subject to the following requirements:

(a) A building or structure that is to be used for school purposes shall be subject to the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365). The governing board of a school district may request and obtain from the State Allocation Board authority for use of any building not meeting the structural standards prescribed by Article 3 (commencing with Section 17280) until September 1, 1990. After September 1, 1990, the governing board of a school district may request and obtain from the State Allocation Board a waiver of Article 3 (commencing with Section 17280) for a maximum of three years. A building or facility used by a school district under a lease or lease-purchase agreement into which neither pupils nor teachers are required to enter or that would be excluded from the definition of "school building," as

contained in Section 17368, shall not be considered to be a "school building" within the meaning of Section 17283.

(b) Notwithstanding subdivision (a), a waiver granted to a school district pursuant to that subdivision prior to January 1, 1993, may be renewed by the State Allocation Board for one additional period of no more than three years, not extending past September 30, 1996. However, any waiver granted to a school district that will expire on or before September 30, 1996, is hereby extended until September 30, 1997.

(c) Subdivision (a) shall not apply to trailer coaches used for classrooms or laboratories if the trailer coaches conform to the requirements of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, and the rules and regulations promulgated thereunder concerning mobilehomes, are not expanded or fitted together with other sections to form one unit greater than 24 feet in width, are used for special educational purposes, and are used by not more than 12 pupils at a time, except that the trailer coaches may be used by not more than 20 pupils at a time for driver training purposes.

(d) The site on which a leased relocatable structure is located shall be owned by the school district, or shall be under the control of the school district pursuant to a lease or a permit.

"Relocatable structure" is any structure that is designed to be relocated.

(e) This section shall remain in effect only until September 30, 1997, and as of that date is repealed, unless a later enacted statute, that is enacted before September 30, 1997, deletes or extends that date.

17405. Any lease or agreement shall be subject to the following requirements:

(a) A building or structure that is to be used for school purposes shall be subject to the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365). A building or facility used by a school district under a lease or lease-purchase agreement into which neither pupils nor teachers are required to enter or that would be excluded from the definition of "school building," as contained in Section 17368, shall not be considered to be a "school building" within the meaning of Section 17283.

(b) Subdivision (a) shall not apply to trailer coaches used for classrooms or laboratories if the trailer coaches conform to the requirements of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, and the rules and regulations promulgated thereunder concerning mobilehomes, are not expanded or fitted together with other sections to form one unit greater than 24 feet in width, are used for special educational purposes, and are used by not more than 12 pupils at a time, except that the trailer coaches may be used by not more than 20 pupils at a time for driver training purposes.

(c) The site on which a leased relocatable structure is located shall be owned by the school district, or shall be under the control of the school district pursuant to a lease or a permit.

"Relocatable structure" is any structure that is designed to be relocated.

(d) For purposes of interconnection of fire alarms, buildings leased for 24 months or less shall be subject to Section 809 of the Uniform Building Code until applicable regulations proposed by the State Fire Marshal are adopted as part of Title 24 of the California Code of Regulations.

(e) This section shall become operative on September 30, 1997.

17406. (a) Notwithstanding Section 17417, the governing board of a school district, without advertising for bids, may let, for a minimum rental of one dollar ($1) a year, to any person, firm, or corporation any real property that belongs to the district if the instrument by which such property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the use of the school district during the term thereof, and provides that title to that building shall vest in the school district at the expiration of that term. The instrument may provide for the means or methods by which that title shall vest in the school district prior to the expiration of that term, and shall contain such other terms and conditions as the governing board may deem to be in the best interest of the school district.

(b) Any rental of property that complies with subdivision (a) shall be deemed to have thereby required the payment of adequate consideration for purposes of Section 6 of Article XVI of the California Constitution.

17407. The governing board of any school district may enter into an agreement with any person, firm, or corporation under which that person, firm, or corporation shall construct, or provide for the construction of, a building to be used by the district upon a designated site and lease the building and site to the district. The instrument shall provide that the title to the building and site shall vest in the district at the expiration of the lease, and may provide the means or method by which the title to the building and site shall vest in the district prior to the expiration of the lease, and shall contain such other terms and conditions as the governing board of the district deems to be in the best interest of the district.

The agreement entered into shall be with the lowest responsible bidder who shall give the security that any board requires. The board may reject all bids. For the purpose of securing bids the board shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no paper, then in some paper of general circulation circulated in the county, a notice calling for bids, stating the proposed terms of the agreement and the time and place where bids will be opened.

17408. The governing board of a school district shall call and hold an election, pursuant to Section 17409 or 17412, before or after entering a lease or agreement, as the case may be, except that if the lease or agreement does not effect an increase in the existing applicable maximum tax rate of the district, the election requirements of this section shall not apply.

17409. Before entering into a lease or agreement pursuant to this article, the governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the _____ District purchase (a site, sites) prepare plans and specifications, [the reference to the site or sites and plans and specifications shall not be included if, prior to calling the election, the governing board of the district has acquired a site or sites or proposes to lease a site or sites and has prepared plans and specifications] and lease (a site and, sites and) (a building, buildings) to be constructed for use by the school district [designating the location of the site or sites on which the building or buildings will be constructed and generally describing the building or buildings], and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed _____, such increase to be in effect in the _____ District for the years 19____ to _____, be authorized and the amount of such increase used solely and exclusively for such purposes?"

17410. (a) If, at an election held pursuant to Section 17409, or the predecessor to that section, a majority of the electors voting on the proposition voted "Yes," the governing board may call an election pursuant to this section.

Before entering into one or more leases or agreements pursuant to this section and this article, the governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202 of the Education Code, as it existed on December 31, 1979, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the _____ District purchase (a site, sites) prepare plans and specifications [the reference to the site or sites and plans and specifications shall not be included if, prior to calling the election, the governing board of the district has acquired a site or sites or proposes to lease a site or sites or has prepared plans and specifications] and lease (a site, sites) and (a building, buildings) to be constructed for use by the school district (designating the location of the site or sites on which the building or buildings will be constructed and generally describing the building or buildings) and for those purposes, shall the tax rate increase authorized on [the date of the original election], be used solely and exclusively for those purposes in addition to those approved by the majority of electors at the election held pursuant to Section 17409, or the predecessor to that section, on [the date of the original election]?"

If, at the election held pursuant to this section, a majority of the electors voting on the proposition vote "Yes," the governing board may proceed pursuant to this article to use that previously authorized tax increase for the purpose or purposes authorized under that election.

(b) It is the intent of the Legislature, in enacting this section, to permit the levy of a tax to the extent authorized at an election held pursuant to Section 17409, or the predecessor to that section, as modified to permit the proceeds of that tax to be expended for the purposes authorized at the election held pursuant to subdivision (a).

17411. The governing board of the district, if the district proposes at an election held pursuant to Section 17409 to lease more than one building, may include in the ballot measure used in the election a statement that the district reserves the right to lease less than all of the proposed buildings designated in the ballot measure. If such a statement is included in the ballot measure, the governing board may at any time thereafter determine to not lease one or more of the buildings included in the ballot measure, and such determination shall not breach any obligation of the district to the voters of the district.

17412. An election held pursuant to Section 17409 or Section 17413 shall be held in conjunction with either a statewide primary or general election, or an election date specified in Section 2500 of the Elections Code.

17413. In lieu of calling an election pursuant to Section 17409, the governing board of a school district may call an election pursuant to this section. Within 10 days after the governing board has opened the proposals pursuant to Section 17417 or has adopted a resolution pursuant to Section 17418 it may accept a proposal, if proceeding under Section 17417, and execute the lease or agreement, and immediately thereafter call an election pursuant to this section.

The governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the _____ District lease [a site (sites) and] a building [buildings] to be constructed for use by the school district [designating the location of the site or sites on which the building or buildings will be constructed, and generally describing the building or buildings and the cost thereof], and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed _____, such increase to be in effect in the _____ District for the years 19___ to _____, be authorized and the amount of such increase used solely and exclusively for such purposes?"

17414. If, at the election held pursuant to Section 17409 or Section 17413, a majority of the electors voting on the proposition vote "Yes," the governing board may proceed pursuant to this article.

17415. Whenever the electors of a school district, at an election held pursuant to Section 17409 or 17413, have approved an increase in the maximum tax rate of the district for the purpose of enabling the district to enter into a lease or agreement for a site or building, or both, and before the lease or agreement is entered into, or during the term of the lease or agreement, territory is taken from the district and annexed to or included in another district by any means, the acquiring district shall automatically assume and shall pay to the district from which the territory is transferred a proportionate share of any remaining payments due under the lease or agreement, as the payments become due, for so long as the lease or agreement runs.

The acquiring district's proportionate share shall be in the ratio which the total assessed valuation of taxable property in the transferred territory bore to the total assessed valuation of taxable property in the whole district from which the territory is transferred for the year immediately preceding the date on which the transfer became effective for all purposes.

This section shall be applicable only with respect to transfers of school district territory which become effective for all purposes after the effective date of enactment of this section, and shall be applicable whether the election under Section 17409 or 17413 occurred prior to or after the effective date of this section.

17416. (a) Unless the time allowed for the governing board to enter into the lease agreement is extended pursuant to subdivision (b), if the governing board of the district fails to enter into a lease pursuant to this article within three years after an election, held pursuant to Section 17409, at which a majority of the votes cast favors the proposition submitted, the authorization for an increase in the maximum tax rate shall become void.

(b) If litigation is filed challenging in any way the election held pursuant to Section 17409 or the competitive bidding proceedings or contract for the construction of the building to be used by the district; compliance with the California Environmental Quality Act; or the validity of or the proceedings for the issuance of any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation to be sold to finance construction of the building, the authorization for an increase in the maximum tax rate shall not become void because of the failure of the governing board to enter into a lease pursuant to this article until three years after the date upon which this subdivision becomes effective.

This subdivision shall apply only to school districts which had an average daily attendance of 65,000 or more in the 1975–76 fiscal year.

17417. After the governing board of a school district has complied with Section 17402, it shall, in a regular open meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article. The resolution shall describe, in any manner to identify it, the available site upon which the building to be used by the district shall be constructed, shall generally describe the

building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor, shall, if that is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed, and shall state the maximum number of years for which the school district will lease the building or site and building, as the case may be, and shall state that the proposals submitted therefor shall designate the amount of rental, which shall be annual, semiannual, or monthly, to be paid by the school district for the use of the building, or building and site, as the case may be. The resolution shall fix a time, not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to enter a lease or agreement with the school district will be received from any person, firm, or corporation, and considered by the governing board. Notice thereof shall be given in the manner provided in Section 17469.

At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to enter a lease or agreement and which are made by responsible bidders, the proposal which calls for the lowest rental shall be finally accepted, or the board shall reject all bids. The board is not required to accept a proposal, or else reject all bids, on the same day as that in which the proposals are opened.

17418. (a) As an alternative to obtaining sealed proposals as required by Sections 17407 and 17417, the governing board may, in a public meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article with a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) if the articles of incorporation or bylaws of the nonprofit public benefit corporation provide both of the following:

(1) That no person shall be eligible to serve as a member or director of the corporation except a person initially approved by resolution of the governing board of the school district.

(2) That no part of the net earnings of the corporation shall inure to the benefit of any member, private shareholder, individual, person, firm or corporation excepting only the school district.

(b) The resolution adopted by the governing board shall do all of the following:

(1) Describe, in a manner to identify it, the available site upon which the building to be used by the district shall be constructed.

(2) Generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor.

(3) If that is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed.

(4) State the maximum number of years for which the school district will lease the building, or building and site, as the case may be.

(c) Any building constructed by a nonprofit public benefit corporation pursuant to a lease or agreement entered into pursuant to this section shall be constructed under a contract awarded to the lowest responsible bidder pursuant to Article 42 (commencing with Section 20670) of Part 3 of Division 2 of the Public Contract Code. Section 17424 applies to the contract.

17419. Any bonds, notes, warrants, or other evidences of indebtedness to be issued by a nonprofit corporation to finance the construction of a building pursuant to a lease or agreement entered into pursuant to Section 17418 shall be sold pursuant to Chapter 10 (commencing with Section 5800) of Division 6 of Title 1 of the Government Code.

17420. All bonds, notes, warrants or other evidences of indebtedness referred to in Section 17419 and the interest thereon, and all bonds, notes, warrants, or other evidences of indebtedness issued to refinance any bonds, notes, warrants, or other evidences of indebtedness referred to in Section 17419 and the interest thereon, are exempt from all taxation in the state other than inheritance, gift and franchise taxes.

17421. Any building constructed for the use of a school district pursuant to this article is subject to Sections 17280 to 17313, inclusive.

17422. For the purposes of Sections 15102 and 15106 and Chapter 6 (commencing with Section 16000) of Part 10, 50 percent of any remaining payments for use of the building or site and building which would become due from the district under any leases and agreements entered into by the district pursuant to this article, if the leases and agreements were to run their full term, shall be considered outstanding bonded indebtedness.

17423. No district shall enter into any lease or agreement pursuant to this article if at the time 50 percent of any remaining rental payments for use of the building or site and building which would become due from the district pursuant to this article, including the lease or agreement to be entered into, if the leases and agreements were to run their full term, plus the total amount of district bonded indebtedness outstanding at the time, shall exceed 7.5 percent for elementary school districts and high school districts and 12.5 percent for unified school districts of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. For the purpose of this

section, the taxable property of the district shall be determined upon the basis that the district's assessed value has not been reduced by the exemption of the assessed value of business inventories in the district or reduced by the homeowners' property tax exemption.

17424. The governing board of the school district shall obtain the general prevailing rate of per diem wages from the Director of the Department of Industrial Relations for each craft, classification or type of workman needed for the construction of the building and shall specify in the resolution and in the notice, required by Section 17417, or in the resolution required by Section 17418 and in the lease or agreement made pursuant to this article, what the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality is for each craft, classification or type of workmen needed for the construction of the building. The holidays upon which such rate shall be paid need not be specified by the governing board, but shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification or type of workmen employed on the project.

Any agreement or lease entered into pursuant to this article shall require that such general prevailing rates will be paid. It shall also require that work performed by any workman employed upon the project in excess of eight hours during any one calendar day shall be permitted only upon compensation for all hours worked in excess of eight hours per day at not less than $1^1/_2$ times the basic rate of pay. There may also be included in leases or agreements entered into pursuant to this article any other requirements with respect to matters related to the subject of this section which the governing board deems necessary or desirable.

17425. The provisions of this article prevail over any provisions of law which conflict therewith.

17426. All acts and proceedings taken prior to the effective date of the enactment of this section, by or on behalf of any district under this article, or under color of this article, for the authorization of an increase in the maximum tax rate of the district and for the leasing of a building or buildings for the purposes of the district are hereby confirmed, ratified, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of the district and of any person, public officer, board, or agency, heretofore done or taken upon the question of the authorization of the tax rate increase or the leasing. Whenever an election has been called and held prior to the effective date of the enactment of this section, for the purpose of submitting to the voters of any district the question of an increase in the maximum tax rate of the district and for the leasing of a building or buildings for the purposes of the district, the election and all proceedings attendant thereon are hereby confirmed, ratified, validated, and declared to be legally effective for all purposes, and the tax rate increase, if authorized by the required

vote and in accordance with the proceedings heretofore taken, shall be a legal and valid authorization, in accordance with its terms, and any tax heretofore or hereafter levied pursuant to that authorization shall be legal and valid. The foregoing provisions of this section shall operate to supply any legislative authorization that may be necessary to validate the acts and proceedings heretofore taken which the Legislature could have supplied or provided for in this article. The foregoing provisions of this section shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the California and United States Constitutions. The foregoing provisions of this section shall not operate to confirm, ratify, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this section, and shall not operate to confirm, ratify, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

In any school district in which an election was called and held prior to the effective date of this section in which the voters of the district authorized an increase in the maximum tax rate of the district and the leasing of a building or buildings for the purposes of the district, the law in effect at the date of the school district election shall govern the terms of the lease, the terms of the sale of related bonds, notes, and warrants, and the school district's maximum bonded indebtedness, and Section 17423 shall not be applicable to the school district's entry into any lease or agreement authorized at an election called and held prior to the effective date of this section.

17427. The State Allocation Board shall consider community school pupils housed in leased facilities that do not conform to the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations as unhoused for the purposes of determining priority for the leasing of portable classrooms pursuant to Chapter 14 (commencing with Section 17085) of Part 10.

17428. The governing board of a school district may lease property in an adjoining school district for garage, warehouse, or other utility purposes or may purchase property in an adjoining school district for those purposes and may dispose of the property in the same manner as property within the boundary of the district is purchased and disposed of.

The power of eminent domain shall not be applicable and the acquisitions by purchase shall be subject to the approval of the governing board of the school district in which the property is located.

17429. (a) This section shall apply only to a school district in which the electorate authorizes an increase in the maximum tax rate of the district pursuant to this article for the lease of one or more schools, and there exists at the time of the election on a site owned by the district a school facility not owned by the district meeting all of the requirements of Article 3 (commencing with Section 17280) of this chapter, which site and school facility are designated and described in the ballot proposition approved by the voters.

(b) Notwithstanding any other law, a school district may lease from a California nonprofit corporation an existing school and may pay rentals therefor from funds derived from the increase in the maximum tax rate approved by the voters at an election. The purchase price of the school paid by the nonprofit corporation to the owners of the school shall not exceed the actual audited cost of construction thereof including actual interest paid on money borrowed to finance such construction. Prior to the purchase of the school by the nonprofit corporation, an independent certified public accountant shall be retained by the school district to verify the actual cost of construction and any interest paid to finance the construction, and the nonprofit corporation may conclusively rely upon any certificate or opinion setting forth the actual cost of construction and the interest prepared by the independent certified public accountant.

(c) A school district, the electorate of which, prior to the effective date of this section, authorized an increase in the maximum tax rate in the manner, for the purposes, and under the circumstances specified in subdivision (a), may avail itself of the authority afforded by subdivision (b).

Article 2.5. Leasing Facilities

17430. Notwithstanding any other law, the governing board of any school district may enter into a lease or agreement for any school facilities pursuant to this article with a nonprofit corporation organized under Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code if the articles of incorporation or bylaws of the nonprofit corporation provide for both of the following conditions:

(a) No person shall be eligible to serve as a member or director of the nonprofit corporation, except a person initially approved by resolution of the governing board of the school district.

(b) No part of the net earnings of the nonprofit corporation shall inure to the benefit of any member, private shareholder, individual, person, firm, or corporation, excepting only the school district.

Any facilities constructed by a nonprofit corporation pursuant to a lease or agreement entered into pursuant to this article shall be constructed under a contract awarded to the lowest responsible

bidder pursuant to Chapter 3.5 (commencing with Section 4220) of Division 5 of Title 1 of the Government Code.

17431. Notwithstanding any other law, an owner's development lien created pursuant to this article is a covenant for the benefit of the school district or districts expressly described therein which shall, upon recordation with the county recorder of the county in which the real property is located, run with the land described in the document by which the lien is placed of record. The owner's development lien shall be binding upon successors in interest, during their ownership, of any portion of such land affected thereby and each person having an interest therein derived through any owner of the land owned by the covenantor.

The covenant running with the land created by the owner's development lien as provided in this section constitutes a valid covenant notwithstanding the fact that it is created in connection with only one estate and is imposed upon a single parcel and is intended to be for the benefit of a school district or districts who are not a landowner or owners.

17432. The sale of bonds for the accomplishment of a school facilities plan shall be subject to the approval of the State Treasurer. Prior to the sale of any bonds, the State Allocation Board shall determine that the proposed facilities to be constructed with the bond proceeds are consistent with its building area and costs standards as to the area and facilities described in the school facilities plan pursuant to which the bonds are to be issued. The sale of the bonds shall be conducted in compliance with Chapter 10 (commencing with Section 5800) of Division 6 of Title 1 of the Government Code. However, the bonds may be sold at a negotiated sale. The State Treasurer and the State Allocation Board may impose a charge and collect a fee for reimbursement of actual costs incurred in accomplishing the approval and determination.

17433. Any rental payments required by any lease or agreement entered into pursuant to this article may be paid in annual installments or may be prepaid from state funds or other funds of the school district permissible by law to be used for those purposes at any time during the period of the lease or agreement.

17434. Whenever the governing board determines that a lease or agreement should be entered into with a nonprofit corporation, the board shall adopt a resolution of intention. The board shall have the following powers and shall state in the resolution all of the following:

(a) The intention of the board to formulate a school facilities plan for the school district or a portion thereof.

(b) A summary description of the facilities to be included within the school facilities plan.

(c) The estimated expense of carrying out the school facilities plan, including all incidental expenses.

(d) That a map depicting the exterior boundaries of the territory to be benefited by the school facilities plan is on file with the secretary

of the school district and is available for inspection by any person or persons interested.

(e) A legal description of the real property upon which an owner's development lien is to be imposed and to be recorded with the county recorder of the county or counties in which the real property is located.

(f) The intention of the board to cause the formation of a nonprofit corporation the purpose of which is to issue bonds, notes, or other obligations to finance the construction of the facilities included within the school facilities plan and to lease the facilities to the school district.

(g) That pursuant to Section 17438, an owner's development lien shall be imposed to the benefit of the school district on all real property described in the map on file with the secretary of the school district, exclusive of real property subject to restrictions that preclude development thereon, which shall specify the amount thereof and the maximum period of time over which the amount is to be paid, together with a specified maximum interest rate.

(h) That the school district may enforce the lien, as to any amount or amounts in default, by judicial foreclosure proceedings as provided for in Section 17444.

(i) That the owner's development lien provided for in this article shall be imposed with the consent of all owners within the final map of the boundaries in equal amounts on each acre or portion thereof within the territory to be benefited by the school facilities plan or imposed pursuant to Section 17447.

(j) That the proposed facilities may or may not be constructed within the boundaries of the territory to be benefited by the school facilities plan as depicted on the map described in subdivision (d).

(k) That the benefited property may include noncontiguous territory and that real property may subsequently be included by the governing board, subject to the assumption of a pro rata share of all obligations incurred or to be incurred, plus an amount not less than all amounts collected pursuant to the owner's development lien per acre or portion thereof.

17435. Subsequent to the adoption of the resolution pursuant to Section 17434, the secretary of the school district shall mail a copy of such resolution to each owner of property within the territory to be benefited from the school facilities plan as shown on the last equalized assessment roll, as well as the persons that the secretary can reasonably determine may have an interest in the property, except for those persons who have filed written waivers to receive copies of the resolution with the secretary of the district. A copy of the resolution shall be published pursuant to Section 6066 of the Government Code. The school district also shall give the notice to any persons who have in writing requested notice of the proceedings. The secretary of the district also shall mail copies of the resolution to any beneficiary under any deeds of trust on property within the

territory to be benefited by the school facilities plan unless written waivers to receive the copies have been filed with the secretary of the school district.

Any owner of real property or owner of an interest in real property, such as a trustee or beneficiary under a deed of trust or similar secured interest, may file written objections to the implementation of the school facilities plan with the secretary of the district, which written objections shall be filed with the secretary no later than 30 days from the date of the mailing of a copy of the resolution.

17436. No sooner than 30 days from the date mailing occurs pursuant to Section 17435, the governing board of the school district may consider all written objections filed with the secretary of the school district and may, at its discretion, discontinue proceedings pursuant to this article or may adopt, after consideration of written objections, a resolution ordering the implementation of the school facilities plan for the purpose and for the benefit of that territory described in the resolution of intention, provided the owners described in Section 17435 have consented in writing to the owner's development lien.

17437. The resolution ordering implementation of the school facilities plan shall state the following:

(a) A legal description of the real property to which an owner's development lien is to be imposed.

(b) The names of all owners of record of the real property to which an owner's development lien is to be imposed.

(c) The total amount of the owner's development lien to benefit the school district as described in subdivision (g) of Section 17434.

(d) The real property described in the resolution shall be subject to an owner's development lien for a pro rata share on each acre or portion thereof pursuant to this article or any other amount as herein provided.

(e) That all owners of the real property described in the resolution have agreed on their behalf and on behalf of their successors in interest to pay the designated share of the owner's development lien, have acknowledged that such agreement constitutes a covenant running with the land pursuant to Section 17431, have agreed that the obligation created is secured by the owner's development lien as provided in this article, and have consented to the implementation of the owner's development lien.

(f) That a lease or agreement will be entered into with a nonprofit corporation.

17438. After adoption of the resolution ordering implementation of the school facilities plan, the resolution shall be recorded with the county recorder of the county or counties in which the real property subject to the owner's development lien is located.

Upon recordation of the resolution, an owner's development lien is hereby created and attaches to the real property described therein for the cost of implementing the school facilities plan.

17439. No sooner than 90 days from the date a resolution is recorded pursuant to Section 17438, a nonprofit corporation which has entered into a lease or agreement with the school district pursuant to this article may issue bonds for the purpose of financing all or a portion of the school facilities plan approved pursuant to procedures of this article.

17440. Except as provided in Section 2192.1 of the Revenue and Taxation Code, an owner's development lien imposed for the purposes of this article shall have the same priority as special assessment liens described in Article 13 (commencing with Section 53930) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. Except as to any due, unpaid and delinquent amount, the owner's development lien shall not be deemed to be a prior encumbrance within the meaning of Section 766 of the Financial Code. From and after the date of the recording of the owner's development lien, all persons shall be deemed to have notice of the contents thereof.

17441. Additional territory may be added to the area described as being benefited by the school facilities plan in the discretion of the governing board, provided the owners of the real property to be added consent to the imposition of a lien for all present and future obligations as set forth in the school facilities plan and agree to pay to the district an amount at least equal to all amounts collected pursuant to the owner's development lien.

Any additional territory added to the area benefited by the school facilities plan pursuant to this section shall be the subject of a resolution described in Section 17437 and recorded pursuant to Section 17438.

17442. The governing board may bill and collect pursuant to the owner's development lien and collect payments from the owners of all property subject to an owner's development lien in amounts sufficient for the district to meet its rental obligations under any lease or agreement and to pay or reimburse any expenses incurred to implement the school facilities plan. The amounts due pursuant to the owner's development liens shall be billed and collected in equal amounts on each acre or portion thereof as provided for in the owner's development lien or as provided for in Sections 17437 and 17447.

A school district electing to utilize the provisions of this article may enter into a contract with the county tax collector for the billing of the annual amounts billed pursuant to this section. The tax collector may collect these amounts together with and not separate from the taxes on the property. The county tax collector shall be entitled to a fee for the reasonable value of his or her services.

17443. An owner's development lien may be released by the governing board, provided funds are deposited with the board to pay the unpaid principal amount of the lien, plus any prepayment charges in an amount to be determined by the governing board.

Upon receipt of these amounts, the board shall adopt a resolution specifically providing a legal description of the real property and the record title owners thereof subject to the release. The resolution shall be recorded with the county recorder of the county or counties in which the real property is located. Upon recordation of the resolution, the owner's development lien shall be discharged and of no further effect.

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

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

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

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

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

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

paid pursuant to the priority of encumbrances of record and to the owner or owner's successor as of the date of initiation of the foreclosure proceeding.

(g) Foreclosures of installments of the owner's development lien pursuant to this article shall not affect the priority of any scheme of community development approved by the Department of Real Estate, including, but not limited to, subdivision maps, condominium plans, covenants, conditions, restrictions, and easements whether recorded prior to or subsequent to the owner's development lien.

17445. Any action to contest the validity of this article may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, except that an appeal from any judgment rendered in such action shall be made directly to the Supreme Court of the State of California.

17446. Notwithstanding any other provision contained in this article, and as an alternative method of accomplishing the purposes of this article, owner's development liens may be imposed in unequal amounts on each acre or portion thereof in order that the liens may be based upon equal or equitable amounts for each individual dwelling unit after subdivision into lots or condominium units.

17447. (a) As an alternate provision, owner's development liens previously imposed upon a particular parcel or parcels of property which are subsequently subdivided may be apportioned to provide that the owner's development liens shall be imposed upon the individual lots and condominium units created by one or more subdivisions. The liens need not necessarily be imposed upon a pro rata basis based upon acreage, but may be imposed pursuant to Section 17446 to provide for an equal or equitable portion of the total lien to be imposed upon each individual dwelling unit or resulting separate parcel. In imposing the owner's development liens on individual lots and condominium units, there may be excluded from the liens property which becomes subject to restrictions that preclude development thereon including, but not limited to, areas of common ownership, streets, and easements. Prior to the apportionments of an owner's development lien pursuant to this section, the governing board of the school district shall adopt a resolution which shall include the following:

(1) A legal description of the real property on which an owner's development lien has previously been imposed.

(2) The intention of the governing board to apportion the owner's development lien to provide for an equitable apportionment of the lien upon individual lots and condominium units within the properties to be subdivided.

(3) A map showing the subdivided lands, together with the proposed owner's development liens to be imposed upon the individual lots and condominium units within one or more such subdivisions.

(b) Upon adoption of the resolution, the secretary of the school district shall mail a copy of the resolution to each owner of the property upon which the owner's development lien has previously been imposed as shown on the last equalized assessment roll. A copy of this resolution shall be published pursuant to Section 6066 of the Government Code. The secretary of the school district shall mail copies of the resolution to any beneficiary of deeds of trust upon the property. No sooner than 30 days after the mailings, the governing board may consider objections to the proposed apportionment of the owner's development lien. Provided that all owners of the parcels over which the lien is to be apportioned, including any beneficiary under any deeds of trust, or any beneficiary under any deed of trust, have consented, the owner's development lien may be apportioned to provide for an equitable portion of the total development lien to be placed upon the individual lots, condominium units or separate parcels created within one or more of the subdivisions. A resolution approving the apportionment of the owner's development lien shall thereafter be adopted and recorded with the county recorder of the county or counties in which the real property is located. Apportionment pursuant to this section shall be effective upon the recordation. The apportionment of the owner's development lien shall in no way either increase or decrease the total amount of the owner's development lien which has previously been imposed upon the properties involved. However, the original owner's development lien which had been previously imposed shall be released of record at the time the apportionment of the lien pursuant to this section is recorded.

Article 3. Leasing of Equipment

17450. Any school district or any county superintendent of schools may, as lessee, enter into a lease or lease-purchase agreement for equipment or service systems with any persons, firm, corporation or public agency. As used in this article "equipment" includes all of the following:

(1) Schoolbuses.

(2) Other motor vehicles.

(3) Test materials, educational films, and audiovisual materials.

(4) All other items defined as equipment or service systems in the California School Accounting Manual.

17451. Before a lease or lease-purchase agreement may be entered into the lessee shall comply with all applicable provisions for bids and contracts prescribed by Article 3 (commencing with Section 17595) of Chapter 5 of this part. Each contract shall show the total price for an outright purchase of any item and also its total cost for the entire specified term of the contract.

17452. The term of any lease or lease-purchase agreement shall not exceed the estimated useful life of the item but in no event shall

the term exceed 10 years. A lease, but not a lease-purchase agreement, may be renewable at the option of the lessee and the lessor, jointly, at the end of each term at a rate not more than 12 percent annually above the rate set pursuant to the existing agreement. In no event shall the combined period of the original lease and renewals or extensions exceed 10 years. Any contract for the lease or lease-purchase of equipment or service systems which was in existence prior to April 22, 1975, shall remain in effect and such terms are hereby ratified.

17453. As a lessor, a school district governing board is authorized to let, or let with option to purchase, any land, buildings, or equipment it determines is not needed for school purposes for a term extending to the end of the expected nonuse of the land, buildings, or equipment and under any conditions it deems reasonable. All of these leases and leases with options to purchase to nonpublic agencies or individuals shall comply with the provisions of Sections 17545, 17546, 17547, and 17548.

Article 4. Sale or Lease of Real Property

17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district, and shall be made in the manner provided by this article.

17456. Notwithstanding Section 17455, the sale by the governing board of any school district of any real property belonging to the school district or the lease by that governing board, for a term not exceeding 99 years, of any real property, together with any personal property located thereon, belonging to the school district shall not be subject to any other provision of this chapter, to Article 5 (commencing with Section 17485), or to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, if all of the following conditions are met:

(a) The property is sold or leased to another local governmental agency, or to a nonprofit corporation that is organized for the purpose of assisting one or more local governmental agencies in obtaining financing.

(b) (1) In the case of the sale of school district property pursuant to this section, the school district, as part of that same sale transaction, simultaneously repurchases the same property that is the subject of the transaction.

(2) In the case of the lease of school district property pursuant to this section, the school district, as part of that same lease transaction, simultaneously leases back, for a term that is not substantially less

than the term of that lease, the same property that is the subject of the transaction.

(c) The financing proceeds obtained by the school district pursuant to the transaction described in this section are expended solely for capital outlay purposes, including the acquisition of real property for intended use as a schoolsite and the construction, reconstruction, and renovation of school facilities.

17457. Notwithstanding any other provision of this part, in connection with a sale, sale back, lease, or leaseback of school district property, no proceeds obtained by the school district from the sale of the sale back or leaseback agreement, or interests therein, or a debt instrument payable from payments under the sale back or leaseback agreement shall be used for general operating purposes of the school district.

17458. (a) Notwithstanding Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, the governing board of any school district complying with Section 101338.2 of Title 22 of the California Administrative Code and seeking to sell or lease any real property it deems to be surplus property may first offer that property for sale or lease to any contracting agency, as defined in Section 8208 of the Education Code, pursuant to the following conditions:

(1) The real property sold or leased shall be used by the contracting agency, or by any successor in interest to the contracting agency, exclusively for the delivery of child care and development services, as defined in Section 8208 of the Education Code, for a period of not less than five years from the date upon which the real property is made available to that agency, or successor in interest, pursuant to the sale, or, in the event of a lease, until the real property is returned to the possession of the school district, whichever occurs earlier.

(2) In the event that the contracting agency, or any successor in interest, fails to comply with the condition set forth in paragraph (1), that agency, or successor in interest, that purchased the real property, is required immediately to offer that real property for sale pursuant to this article and Article 5 (commencing with Section 17485) and to sell the property pursuant to those provisions. The agency, or its successor in interest, shall comply, in that regard, with all requirements under those provisions that would otherwise apply to a school district, except that a sale price computed under subdivision (a) of Section 17491 shall be based upon the cost of acquisition incurred by the school district that sold the property pursuant to this subdivision, rather than that incurred by the contracting agency or its successor in interest. In the event, alternatively, of a lease of real property pursuant to this subdivision, the failure by the contracting agency, or any successor in interest, to comply with paragraph (1) shall constitute a breach of the lease, entitling the school district to immediate possession of the real

property, in addition to any damages to which the district may be entitled under the lease agreement.

(3) The school district, and each of the entities authorized to receive offers of sale pursuant to this article or Article 5 (commencing with Section 17485), has standing to enforce the conditions set forth in this subdivision, and shall be entitled to the payment of reasonable attorneys' fees incurred as a prevailing party in any action or proceeding brought to enforce any of those conditions.

(b) No sale or lease of the real property of any school district, as authorized under subdivision (a), may occur until the school district advisory committee has held hearings pursuant to subdivision (c) of Section 17390.

(c) This section is in addition to, and shall not limit the requirements of, Article 5 (commencing with Section 17485), but this section may be utilized with regard to property which the governing board of a school district may retain under Section 17490.

17459. The sale of real property pursuant to this article shall be subject to the provisions of Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

17460. (a) Notwithstanding subdivision (c) of this section or Sections 17456, 17457, and 42133, the West Contra Costa Unified School District, formerly known as the Richmond Unified School District, may enter into an agreement to lease any real property pursuant to Section 17456 and may use the financing proceeds from the agreement to terminate the Lease-Purchase Agreement, dated May 1, 1988, between the Richmond Unified School District Financing Corporation and the Richmond Unified School District. However, any property that has been leased, rented, sold, or otherwise utilized pursuant to Section 41470 may not be leased pursuant to this section.

(b) The West Contra Costa Unified School District shall notify the Controller at the time the district enters into a lease agreement pursuant to subdivision (a). That notice shall set forth a schedule of the rental payments payable under the lease agreement and shall include the name and address of the trustee to whom the right to receive the rental payments has been assigned.

(c) Upon written notification by the trustee that the school district has not made one or more of the rental payments required by the terms of the lease, the Controller shall pay to the trustee from Section A of the State School Fund the defaulted rental payment. That payment by the Controller shall not exceed the amount of any apportionment entitlement of the district to moneys in Section A of the State School Fund, less any payments required in that fiscal year to repay any state loans made to the district. The Controller shall withhold the amount of any payment made under this subdivision, including reimbursement of the Controller's administrative costs as

determined under a schedule approved by the California Debt Advisory Commission, from subsequent apportionments to the West Contra Costa Unified School District from Section A of the State School Fund.

(d) Nothing in this section shall be construed to obligate the state to make any payment to, or on behalf of, the West Contra Costa Unified School District from Section A of the State School Fund in any amount, pursuant to any particular allocation formula, or to make any other payment to, or on behalf of, the district, including, but not limited to, any payment of those rental payments.

(e) Any apportionments made by the Controller pursuant to subdivision (c) shall be deemed to be an allocation to the West Contra Costa Unified School District for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution, and for purposes of Chapter 2 (commencing with Section 41200) of Part 24.

17461. (a) The governing board of any school district that has, by majority vote, established a standard rate or rates for the lease pursuant to this article of its real property may, by majority vote, delegate to the officer or employee as the governing board may designate, the power to enter into any lease, for and on behalf of the district, of any real property of the school district, with respect to which real property either the district has received only one sealed proposal that conforms with the existing standard rate or rates, from a responsible bidder, and no oral bid that would meet the requirements of Section 17473, or the lease is to be entered into pursuant to Section 17480.

(b) The governing board of any school district may, by majority vote, delegate to such officer or employee as the governing board may designate, the power to enter into any lease, permit, or agreement for the use by the district of buildings or other facilities if the use is to be granted to the district without charge.

17462. The funds derived from the sale of surplus property shall be used for capital outlay or for costs of maintenance of school district property that the governing board of the school district determines will not recur within a five-year period. Proceeds from a lease of school district property with an option to purchase may be deposited into a restricted fund for the routine repair of district facilities, as defined by the State Allocation Board, for up to a five-year period. In addition, the proceeds may be deposited in the general fund of the district for any general fund purpose if the school district governing board and the State Allocation Board have determined that the district has no anticipated need for additional sites or building construction for the five-year period following the sale or lease, and the district has no major deferred maintenance requirements. A school district that sold or leased real property pursuant to Section 17455 and that deposited the interest earned on those proceeds in the general fund of the school district in the 1986–87 or the 1987–88 fiscal years, may continue to deposit the interest into the general fund for

operating expenses through June 30, 1991. In the 1991–92 fiscal year, and each fiscal year thereafter for five fiscal years, the school district shall reduce the deposit of interest by 20 percent and shall use the reduction in interest for capital outlay or for costs of deferred maintenance of school district property. The State Allocation Board may grant a school district permission to change the five-year and 20 percent requirement to 10 years and 10 percent, if the State Allocation Board determines that the individual circumstances of the district warrants the change.

The proceeds may also be deposited into a special reserve fund for capital outlay, for costs of maintenance of school district property that the governing board determines will not recur within a five-year period, or for the future maintenance and renovation of schoolsites if the district governing board and the State Allocation Board have determined that the district has no anticipated need for schoolsites or building construction or major deferred maintenance projects for a five-year period following the sale or lease. Proceeds deposited in the special reserve fund shall not be available for general operating expenses as provided in Section 42842.

17463. Notwithstanding Section 17462, a school district having an average daily attendance of less than 10,001 in any fiscal year may deposit any and all interest earned on the funds derived from the sale in that fiscal year of surplus property into the general fund of the district for any general fund purpose, subject to the following conditions:

(a) Prior to that deposit, the district shall submit to the State Allocation Board a capital outlay plan for the district for a period of five years following that sale, together with a declaration of the finding by the governing board of the school district that the school facilities needs of the district can be met over that five-year period without funding or other assistance from any state school facilities funding program. No later than the date upon which that initial five-year period concludes, the district shall submit to the State Allocation Board a capital outlay plan for the district for the subsequent five-year period.

(b) Prior to the decision to place that interest money into the district's general fund, the governing board of the school district shall consider the extent to which it is necessary or appropriate to expend that money to meet the district's needs relative to capital outlay, facilities, modernization, and deferred maintenance. In addition, as to any interest money deposited into the district's general fund pursuant to this section, the governing board shall consider the extent to which it is necessary or appropriate to expend the money to meet the district's needs relative to ongoing maintenance prior to expending that money for any other purpose.

(c) A school district that deposits interest into its general fund pursuant to the authority set forth in this section shall not be eligible during the 10-year period described in subdivision (a) for funding or

other assistance under Chapter 12 (commencing with Section 17000) or Chapter 14 (commencing with Section 17085) of Part 10, Sections 17582 to 17592, inclusive, or any other state school facilities funding program.

(d) If a school district seeks state funding pursuant to Chapter 22 (commencing with Section 17000), Chapter 14 (commencing with Section 17085) of Part 10, Sections 17582 to 17592, inclusive, or any other state school facilities funding program, on or after the expiration of the 10-year period specified in subdivision (c), any state funding received by the district from the program shall be reduced by any remaining funds derived from the sale of that surplus property by the district and any unencumbered interest earned on those funds.

17464. Except as provided for in Article 2 (commencing with Section 17230) of Chapter 1, the sale or lease with an option to purchase of real property by a school district shall be in accordance with the following priorities and procedures.

(a) First, the property shall be offered for park or recreational purposes pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, in any instance in which that article is applicable.

(b) Second, the property shall be offered for sale or lease with an option to purchase, at fair market value in both of the following ways:

(1) In writing, to the Director of General Services, the Regents of the University of California, the Trustees of the California State University, the county and city in which the property is situated, and to any public housing authority in the county in which the property is situated.

(2) By public notice to any public district, public authority, public agency, public corporation, or any other political subdivision in this state, to the federal government, and to nonprofit charitable corporations existing on December 31, 1979, and organized pursuant to Part 3 (commencing with Section 10200) of Division 2 of Title 1 of the Corporations Code then in effect or organized on or after January 1, 1980, as a public benefit corporation under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. Public notice shall consist of at least publishing its intention to dispose of the real property in a newspaper of general circulation within the district, or if there is no newspaper of general circulation in the district, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall specify that the property is being made available to all public districts, public authorities, public agencies, and other political subdivisions or public corporations in this state, and to other nonprofit charitable or nonprofit public benefit corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or more often, with at least five days

intervening between the respective publication dates not counting the publication dates, are sufficient. The written notice required by paragraph (1) shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the school district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may determine which of such offers to accept.

(c) Third, the property may be disposed of in any other manner authorized by law.

This section shall become operative January 1, 1988.

17465. (a) As used in this section, the terms "district," "special education local plan area," and "county office" have the same meaning as prescribed by Part 30 (commencing with Section 56000).

(b) The governing board of a school district that adopts a resolution of intent to lease vacant classrooms shall first offer to lease the classrooms for special education programs that are provided by either other districts that comprise part of the special education local plan area in which the leasing district is included or by the county office having jurisdiction over the leasing district, to the pupils of the leasing district, in whole or in part.

(c) Upon adoption of the resolution, the governing board shall notify, in writing, other districts or the county office, as specified in subdivision (b), of its intent to lease vacant classrooms. The notice shall describe the vacant classrooms, shall specify that the lease shall not exceed a term of 99 years and that the lease payment and other terms of the lease are subject to negotiation, and shall state that the offer to lease is valid for no more than 60 days after receipt thereof.

(d) Notwithstanding Section 17466, the governing board may include in its resolution a time for a public meeting of the governing board to be held at its regular place of meeting at which sealed proposals to lease will be received and considered, and, notwithstanding Section 17469, may post copies of the resolution and publish notice of the adoption of the resolution. However, the governing board shall not act on any proposal prior to the first of the following conditions occurring:

(1) Receipt from the county superintendent or the public education agency, as appropriate, of its intent to lease the classrooms or of its intent not to do so.

(2) Expiration of the 60-day period prescribed by subdivision (c).

(e) An entity desiring to lease the vacant classrooms shall, within 60 days from receipt of the notification, inform the governing board, in writing, of its intent to lease or not to lease the classrooms.

(f) (1) The lease payments and other terms of the lease for vacant classrooms leased to other districts or to the county office, as specified in subdivision (b), shall be negotiated by the entity desiring to lease the vacant classrooms and the governing board. Any entity eligible to lease vacant classrooms pursuant to this section and any governing board may negotiate lease payments prior to the availability of the vacant classrooms.

(2) The lease payments shall not exceed the district's actual costs for maintenance, operation, and custodial services for the leased classrooms.

(3) If more than one governing board offers to lease classrooms, the entity desiring to lease such classrooms may elect to negotiate either individually with each district, or jointly, with some or all of such districts. If the entity elects joint negotiations, the lease payments shall not exceed the participating districts' average actual costs for maintenance, operation, and custodial services for the leased classrooms.

(g) If the governing board and the entity desiring to lease the classrooms are unable to complete negotiations for the lease and arrive at a mutually satisfactory lease within the same 60-day period that the entity has to inform the governing board of its intent to lease or not lease, the governing board may lease the classrooms in accordance with the provisions of this article.

(h) If vacant classrooms are available in both operating and nonoperating schools, the governing board, prior to adopting a resolution of intent to lease, shall consider which school would provide the environment least restrictive to the needs of handicapped pupils or individuals with exceptional needs, as appropriate, for whom the county superintendent or public education agency provides special education programs.

17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.

17467. In lieu of the declaration of intention to lease real property provided in Section 17466, the governing board of any school district having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year may publish a notice three times in a period of not less than 15 days in a newspaper of general circulation published in

the district. The notice shall describe the property proposed to be leased in such manner as to identify it and shall specify the minimum rental and terms upon which it will be leased. The notice shall fix a time not less than 15 days thereafter for a public meeting of the governing board to be held at its regular place of meeting at which proposal to lease will be received and considered.

The governing board by majority vote may adopt a ruling delegating to such officer or employee of the district as the board may designate, authority to perform the duties prescribed in this section.

Bids received under this section shall be received, accepted, or rejected in accordance with the provisions of this article.

17468. If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the sealed proposal or stated in or with the oral bid, which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

17469. Notice of the adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district, not less than 15 days before the date of the meeting, and by publishing the notice not less than once a week for three successive weeks before the meeting in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.

17470. (a) The governing board of a school district that intends to sell real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice of the public meeting prescribed by Section 17466, in writing, by certified mail, at least 60 days prior to the meeting.

(b) The governing board of a school district shall not be required to accord the former owner the right to purchase the property at the tentatively accepted highest bid price nor to offer to sell the property to the former owner at the tentatively accepted highest bid price.

17471. Whenever it is proposed to lease real property and the governing board unanimously determines in the resolution that in its opinion, the monthly rental value of the property does not exceed the sum of fifty dollars ($50), the resolution need not be posted and may, before the date of the meeting, be published in two successive issues of a weekly newspaper or in five successive issues of a daily newspaper. The newspaper in which the notice is published shall be one published in the district and having a general circulation there; or if there is no newspaper, then one having a general circulation in the district; or if there is no newspaper, then in one having a general

circulation in a county in which the district or any part thereof is situated.

17472. At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

17473. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.

17474. In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.

17475. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.

17476. The governing body may at the session, if it deems such action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

17477. (a) (1) If the governing board has complied with the provisions of this article, and no proposals are submitted or the proposals submitted do not conform with all terms and conditions specified in the resolution of intent to lease, the governing board may within one year thereafter, or one year after the passage of 30 days from the rejection of a public entity's nonconforming proposal, as appropriate, lease such real property, together with any personal property located thereon, to any lessee, at a price not less than fair market value in accordance with any terms and conditions agreed

upon by the governing board and the lessee, except that the term of a lease shall not exceed three years. Sections 17461, 17464, and 17466 to 17469, inclusive, and Sections 17471 to 17473, inclusive, shall not apply to the lease.

(2) The governing board may by majority vote delegate an officer or employee of the district, or any other third person, to secure a lessee and to negotiate the terms and conditions of the lease. However, the lease shall not be executed unless the governing board by majority vote, at a public meeting, approves the lease.

(3) If a public entity has submitted a nonconforming proposal, the governing board shall not take any action pursuant to this subdivision until 30 days after the rejection of the proposal.

(b) Subdivision (a) shall not apply if a public entity has submitted a proposal that does not conform with all the terms and conditions specified in the resolution of intent to lease, and if the public entity requests, in writing, within 30 days from the rejection of its proposal, that the governing board lease the real property, subject to the resolution of intent, in accordance with this article.

17478. Any resolution of acceptance of any bid made by the governing body authorizes and directs the president of the governing body, or other presiding officer, or the members thereof, to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessee of all the terms or conditions of his or her contract to be performed concurrently therewith.

17479. Nothing in Sections 17455 to 17542, inclusive, shall prevent the governing board of any school district from acquiring, leasing or subleasing property pursuant to Section 1261 of the Military and Veterans Code.

17480. The governing board of any school district may, without complying with any other provision of this article, let in the name of the district any buildings, grounds, or space therein, together with any personal property located thereon, not needed for school classroom buildings upon any terms and conditions as may be agreed upon by the governing board of the district and the lessee thereof for a period not exceeding 30 separate or consecutive calendar days or portions thereof in each fiscal year.

17481. In addition to any other authority to lease real property, the governing board of a school district, by a two-thirds vote of its members, may lease, for a term not exceeding three months, school district property having a residence thereon, which cannot be developed for district purposes because of the unavailability of funds. The lease shall be upon any terms and conditions that the parties thereto may agree and may be entered into without complying with any provisions in this code except as provided in this section.

17482. The governing board of a school district may, with the approval of the county board of supervisors, sell or lease any building of the district together with the site upon which the building is located, without complying with any other provisions of this article,

provided that the county board of supervisors finds that all of the following conditions exist:

(a) The sale or lease is to be made to an incorporated nonprofit tax-exempt community or civic organization with a membership comprised predominantly of persons residing in the community in which the building and site are situated.

(b) The building is not suitable for school purposes.

(c) The building has an historic value and its preservation and utilization for the benefit of the community will best be ensured by sale or lease to an organization specified in subdivision (a).

(d) The sale or lease is to be executed for a consideration to enure to the school district reflecting the fair market value of the property, or its fair rental value, as the case may be, except that the sale may be executed for a consideration that is less than the fair market value of the property if all of the following conditions exist:

(1) More than 50 percent of the buildings on the site have been designated as historically significant by the State Historical Resources Commission.

(2) For a period of 25 years, commencing with the date that possession of the property is transferred, the building or buildings designated pursuant to paragraph (1) shall be used and maintained for public benefit as an historical resource, and the site shall otherwise be available for public access and use, including, but not limited to, park and recreational uses. Any violation of this condition shall result in the automatic reversion of title to the property so transferred, without remuneration, to the transferor school district. The condition set forth in this paragraph does not prohibit any use of the site that is necessary or appropriate to its use and maintenance for historical purposes.

(3) The consideration paid is equal to or greater than the sum of the actual cost of the acquisition of the property by the school district and the actual cost of any capital improvements made to the property.

(e) Adequate provision has been made in connection with the sale or lease transaction to protect the district against all civil liabilities which might arise in connection with any use of the building and site.

17483. The failure to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.

17484. The governing board of any school district, constituting the governing body of an elementary district, a high school district, or any two of those districts, may sell any building, structure, or other fixture, belonging to one of its respective districts to another district governed by it, for an amount to be fixed by the governing body, without advertisement for or receipt of bids or compliance with any other provisions of this code.

Whenever any property is sold under this section it shall be removed from the premises of the district selling it within 60 days from the date of the sale.

Article 5. Surplus School Playground, Playing Field, and Recreational Property

17485. The Legislature is concerned that school playgrounds, playing fields, and recreational real property will be lost for those uses by the surrounding communities even if those communities in their planning process have assumed that the properties would be permanently available for recreational purposes. It is the intent of the Legislature in enacting this article to allow school districts to recover their investment in surplus property while making it possible for other agencies of government to acquire the property and keep it available for playground, playing field or other outdoor recreational and open-space purposes.

17486. This article shall apply to any schoolsite owned by a school district, which the governing board determines to sell or lease, and with respect to which the following conditions exist:

(a) Either the whole or a portion of the schoolsite consists of land which is used for school playground, playing field, or other outdoor recreational purposes and open-space land particularly suited for recreational purposes.

(b) The land described in subdivision (a) has been used for one or more of the purposes specified therein for at least eight years immediately preceding the date of the governing board's determination to sell or lease the schoolsite.

(c) No other available publicly owned land in the vicinity of the schoolsite is adequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes, as determined by the governing body of the public agency which proposes to purchase or lease land from the school district, pursuant to Section 17492.

17487. As used in this article, "schoolsite" means a parcel of land, or two or more contiguous parcels, which is owned by a school district. "Governing board" means the governing board of the school district which owns the schoolsite.

17488. The governing board of any school district may sell or lease any schoolsite containing land described in Section 17486, and, if the governing board decides to sell or lease such land, it shall do so in accordance with the provisions of this article.

17489. Notwithstanding Section 54222 of the Government Code, the governing board, prior to selling or leasing any schoolsite containing land described in Section 17486, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17490, shall first offer to sell or lease that portion of the schoolsite consisting of land described in Section 17486, excluding that portion

retained by the governing board pursuant to Section 17490, to the following public agencies in accordance with the following priorities:

(a) First, to any city within which the land may be situated.

(b) Second, to any park or recreation district within which the land may be situated.

(c) Third, to any regional park authority having jurisdiction within the area in which the land is situated.

(d) Fourth, to any county within which the land may be situated.

The governing board shall have discretion to determine whether the offer shall be an offer to sell or an offer to lease.

An entity which proposes to purchase or lease a schoolsite offered by a school district shall notify the district of its intention, in writing, within 60 days after receiving written notification from the district of its offer to sell or lease.

17490. In determining what portion of a schoolsite shall be offered for sale or lease pursuant to this article, the governing board may retain any part of the schoolsite containing structures or buildings, together with such land adjacent thereto which, as determined by the governing board, must be included in order to avoid reducing the value of that part of the schoolsite containing such structures or buildings to less than 50 percent of fair market value.

17491. (a) Except as otherwise provided in subdivision (b) or (e), the price at which land described in Section 17486, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17490, is sold pursuant to this article shall not exceed the school district's cost of acquisition, calculated as a pro rata cost of acquiring the entire parcel comprising the schoolsite, adjusted by a factor equivalent to the percentage increase or decrease in the cost of living from the date of purchase to the year in which the offer of sale is made, plus the cost of any improvement to the recreational and open-space portion of the land which the school district has made since its acquisition of the land. In no event shall the price be less than 25 percent of the fair market value of the land described in Section 17486 or less than the amount necessary to retire the share of local bonded indebtedness plus the amount of the original cost of the approved state aid applications on the property, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17489, at the time of the offer.

These provisions shall apply to land that the school district acquired by gift or for consideration.

(b) A school district that offers a portion of a schoolsite for sale may offer such portion of property for sale at its fair market value, provided the school district offers an equivalent size alternative portion of that schoolsite for school playground, playing field, or other recreational and open-space purposes.

(c) Land which is leased pursuant to this article shall be leased at an annual rate of not more than 1/20th of the maximum sales price determined pursuant to subdivision (a) of this section, adjusted

annually by a factor equivalent to the percentage increase or decrease in the cost of living for the immediately preceding year.

(d) The percentage of annual increase or decrease in the cost of living shall be the amount shown for January 1st of the appropriate year by the then current Bureau of Labor Statistics Consumers Price Index for the area in which the schoolsite is located.

(e) Whenever a school district closes a schoolsite and sells any land described in Section 17486 pursuant to this article to help pay only for capital outlay costs incurred directly as a result of the transfer of pupils from the closed school to another school or other schools of the district, the sale price of the property determined pursuant to subdivision (a) shall be increased by an amount equal to the additional costs incurred due to the school closure.

17492. The governing body of a public agency which proposes to purchase or lease land from a school district pursuant to this article shall first make a finding, approved by a vote of two-thirds of its members, that public lands in the vicinity of the schoolsite are inadequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes.

17493. (a) No public agency may purchase surplus school property from a school district pursuant to this article unless it has first adopted a plan for the purchase of surplus school property. The plan shall designate the surplus site or sites all or a portion of which the public agency desires to purchase at the price established pursuant to this article and shall designate at least 70 percent of the total surplus school acreage as property which the agency does not desire to purchase at the price established pursuant to this article. Where the plan indicates that the agency desires to purchase only a portion of a schoolsite at the price established pursuant to this article, it shall designate the percent of the property to be so purchased and provide a description of the general location of the property to be purchased, without designating the metes and bounds.

(b) Any property designated by public agencies as surplus schoolsites which the agencies do not wish to purchase, pursuant to subdivision (a), may be sold or leased by a school district without regard to this article.

(c) This section shall become operative on April 1, 1982.

17494. Any land purchased or leased by a public agency pursuant to this article shall thereafter be maintained by such agency for playground, playing field, or other outdoor recreational and open-space uses. Land which prior to its sale or lease was used for playground or playing field purposes, shall continue to be maintained for such use by the acquiring agency, unless the governing body of that agency, by a two-thirds vote at a public hearing, determines that there is no longer a significant need for the land to be so used, in which case the land may thereafter be used for other outdoor recreational or open-space purposes. The school district may, at any

time, reacquire the land at a price calculated in the manner prescribed in Section 17491, and the rights of reacquisition provided in this section shall be set forth in the deed or other instrument of transfer. If the governing board of the public agency determines that the land is no longer needed for playground, playing field, or other outdoor recreational and open-space purposes, the public agency shall offer the property to the school district for reacquisition under this section, and the school district shall notify the public agency within 60 days of its intent to reacquire the land. If the school district intends to sell the property within one year of the reacquisition date, the school district may finance the reacquisition of the land by lien against the proceeds to be obtained from the sale of the land by the school district. If the school district fails to give the public agency timely notice of its intent to reacquire the property, or if it fails to exercise its right of reacquisition, the public agency may use or dispose of the property.

For purposes of this section, "cost of acquisition," as used in Section 17491, shall refer to the cost at which the land was acquired by the public agency.

17495. The sale or lease of land by a school district pursuant to this article shall be subject to, and governed by, the provisions of Article 2 (commencing with Section 17230) of Chapter 1 and Article 4 (commencing with Section 17455), except to the extent that the provisions of this article are inconsistent with a provision or provisions of Article 2 or 4, in which event the provisions of this article shall govern the sale or lease.

17496. Failure by the school district to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.

17497. Notwithstanding the other provisions of this article, any school district governing board may designate not more than two surplus schoolsites as exempt from the provisions of this article for each planned schoolsite acquisition if the school district has an immediate need for an additional schoolsite and is actively seeking to acquire an additional site, and may exempt not more than one surplus schoolsite if the district is seeking immediate expansion of the classroom capacity of an existing school by 50 percent or more.

The exemption provided for by this section shall be inapplicable to any schoolsite which, under a lease executed on or before July 1, 1974, with a term of 10 years, was leased to a city of under 100,000 population for park purposes, was improved at city expense, and used for public park purposes.

17498. A school district having a schoolsite described in Section 17486 may, as an alternative to sale or lease of the land pursuant to the foregoing provisions of this article, enter into other forms of agreement concerning the disposition of the property with any entity enumerated in Section 17489, in accordance with the priorities therein specified, including, but not limited to each of the following:

(a) An agreement to lease to such entity all or part of the schoolsite for a specified term, with an option to purchase such properties at the end of the term.

(b) An agreement granting to the entity a permanent open-space easement for recreational use over a portion of the leased site.

(c) If the lessee or a grantee under an agreement is an entity having zoning powers, an agreement requiring the entity to rezone any portion of the property retained by the school district in accordance with conditions specified in the agreement, to the extent that rezoning in accordance with the conditions is in compliance with applicable laws of the state.

17499. (a) No more than 30 percent of the total surplus school acreage owned by a school district may be purchased or leased by public agencies pursuant to this article.

(b) The right of any public agency to purchase or lease surplus school property pursuant to this article shall exist only with respect to an amount of surplus school acreage within its jurisdictional boundaries which, when added to the surplus school acreage within its jurisdictional boundaries already purchased or leased pursuant to this article, will not exceed 30 percent of the surplus school acreage owned by the school district which is within the jurisdictional boundaries of that agency.

(c) For purposes of this section, "surplus school acreage" of a school district means property which is owned by a district and not used for school purposes, including, but not limited to, undeveloped property and property which contains school buildings that are not in use as a result of a school closure and which is not subject to any lease or agreement executed on or before July 1, 1974, for a term in excess of six years, in which any city containing a population of less than 100,000 had use of the property for park purposes on January 1, 1981, and had improved the property.

(d) Nothing in this section shall be construed to deny local agencies the opportunity to purchase at full market value all or part of the 70 percent of the total surplus school acreage which is not affected by this article.

17500. This article shall not apply to any school district having more than 400,000 pupils in average daily attendance.

Article 7. Leasing for Production of Gas

17510. The governing board of a school district may, upon complying with this article, enter into and be a party to a community lease to which a city or other public agency and one or more private persons or private agencies are also parties for the leasing of the parcels of lands owned by the district and the other parties for the extraction and taking of gas not associated with oil, on the terms and conditions that the governing board of the district may prescribe.

The lease may be entered into without complying with any provisions of this code except as provided in this article.

17511. The board shall not enter into and be a party to any lease unless the following conditions have been met:

(a) A resolution authorizing that action and prescribing the terms of the lease has been adopted by the unanimous vote of all the members elected or appointed to the board.

(b) The resolution has been published in a newspaper of general circulation published in the district, or if there be no newspaper, in a newspaper having a general circulation in the district, once a week for three weeks prior to the execution of the lease by the board.

17512. No well for the production of gas shall be drilled on any land owned by the district and leased pursuant to this article.

Article 8. Joint Occupancy

17515. Any school district may enter into leases and agreements relating to real property and buildings to be used jointly by the district and any private person, firm, or corporation pursuant to this article. As used in this article, "building" includes onsite and offsite facilities, utilities and improvements that, as agreed upon by the parties, are appropriate for the proper operation or function of the building to be occupied jointly by the district and the private person, firm, or corporation. It also includes the permanent improvement of school grounds.

Any building, or portion thereof, that is used by a private person, firm, or corporation pursuant to this section shall be subject to the zoning and building code requirements of the local jurisdiction in which the building is situated.

Section 53094 of the Government Code shall not be applicable to uses of school district property or buildings authorized by this section, except in the case of property or buildings used solely for educational purposes.

17516. (a) Before the governing board of a school district enters into a lease or agreement pursuant to this article, it shall own a site upon which a building to be used by the district and private person, firm, or corporation may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites.

(b) This section shall not apply to any building to be acquired by purchase pursuant to Article 2 (commencing with Section 17110) of Chapter 16 of Part 10.

17517. The term of any lease or agreement entered into by a school district pursuant to this article shall not exceed 66 years.

17518. The governing board of a school district may let to any private person, firm, or corporation, any real property that belongs to the district if the instrument by which the property is let requires the lessee therein to construct on the demised premises, or provide

for the construction thereon of, a building or buildings for the joint use of the school district and the private person, firm, or corporation during the term of the agreement.

However, title to that portion of the building to be occupied by the private individual, firm, or corporation shall remain exclusively the personal property of the private party during the term of the lease and the title to that portion of the building to be occupied by the district shall vest in the district upon completion thereof and acceptance thereof by the school district. No rental fee or other charge for the use of the building shall be paid by the district.

17519. Any lease of real property by a school district to a private person, firm, or corporation pursuant to this article shall be upon the terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions of this code except as provided in this article. However, any lease or agreement pursuant to this article shall be subject to Article 7 (commencing with Section 35230) of Chapter 2 of Part 21.

17520. Before entering into a lease or agreement pursuant to this article, the governing board of a school district shall comply with Section 17521.

17521. For the purposes of receiving proposals for the joint occupancy of a building to be constructed on school property, the board shall, in a regular open meeting, adopt a resolution declaring its intention to consider the proposals. The resolution shall describe the proposed site on which the building to be jointly occupied is to be constructed in a manner so as to identify the site, shall specify the intended use of that portion of the building that is to be occupied by the district, and shall fix a time not less than 90 days thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which meeting the board shall receive and consider all plans or proposals submitted.

17522. Notice of adoption of the resolution and the time and place of holding the meeting shall be given by publishing the resolution at least once a week for three weeks in a newspaper of general circulation published in the district if there is one, or if none is published in the district, in a newspaper published in the county.

17523. At the time and place fixed in the resolution for the meeting of the governing board, the board shall meet and consider all plans and proposals submitted for the joint occupancy of the building to be constructed on the proposed schoolsite.

17524. (a) After considering all proposals submitted, the governing board of the school district may, subject to Section 17525, select the plan or proposal that best meets the needs of the school district and enter into a contract incorporating that plan or proposal either as submitted or as revised by the governing board of the school district. However, the governing board shall not approve any proposal nor enter into a lease or contract incorporating a proposal until the governing board has submitted the proposal to the State

Board of Education, and the State Board of Education has approved the proposal. The State Board of Education shall, within 45 days of the date of submission, notify the governing board of its approval or disapproval.

(b) The governing board shall require any person, firm, or corporation with whom it enters into a lease or agreement pursuant to this article to file one of the following, as determined by the governing board:

(1) A bond for the performance of the lease or agreement.

(2) An irrevocable letter of credit issued by a state or national bank for the performance of the lease or agreement.

17525. Any building constructed for the use of a school district pursuant to this article is subject to Sections 17280 to 17313, inclusive, and all other provisions of this code relating to the physical structure of school buildings.

17526. The provisions of this article prevail over any provisions of law that conflict therewith.

Article 9. Joint Use

17527. (a) The governing board of any school district may enter into agreements to make vacant classrooms or other space in operating school buildings available for rent or lease to other school districts, educational agencies, except private educational institutions which maintain kindergarten or grades 1 to 12, inclusive, governmental units, nonprofit organizations, community agencies, professional agencies, commercial and noncommercial firms, corporations, partnerships, businesses, and individuals, including during normal school hours if the school is in session.

(b) The governing board shall give first priority in leasing or renting vacant classroom space or other space to educational agencies for conducting special education programs and second priority to other educational agencies.

17528. As used in this article, "building" includes onsite and offsite facilities, utilities, and improvements which, as agreed upon by the parties, are appropriate for the proper operation or function of the building to be jointly occupied and used. It also includes the permanent improvement of school grounds.

17529. Prior to entering into a lease or agreement pursuant to this article, the school district governing board shall determine that the proposed joint occupancy and use of school district property or buildings will not do any of the following:

(a) Interfere with the educational program or activities of any school or class conducted upon the real property or in any building.

(b) Unduly disrupt the residents in the surrounding neighborhood.

(c) Jeopardize the safety of the children of the school.

17530. The governing board of a school district entering into a lease pursuant to this article shall comply with the applicable provisions of Article 4 (commencing with Section 17455).

17531. (a) Except as provided in subdivision (b) of this section and Section 17532, the amount of classroom space leased pursuant to this article in any schoolsite during normal school hours shall not exceed 45 percent of the total classroom space of that school, and in no event shall the leased classroom space in the school district during normal school hours exceed 30 percent of the district's total classroom space in operating schools.

(b) The governing board of a school district may, upon a two-thirds vote, enter into lease agreements which exceed the 45 percent limit per school upon making a finding that the leases are compatible with the educational purpose of the school. The board, however, shall not exceed, pursuant to this subdivision, the 30 percent limit of classroom space for the entire school district.

(c) The provisions of this section shall not apply to agreements for the lease of classroom space entered into by districts on or before March 4, 1981.

17532. The governing board of a school district may lease vacant classroom space the total area of which exceeds the 30 percent districtwide limit of classroom space available pursuant to this article, if a lease is for any day care center, nursery school, or special education class.

17533. A local agency having general planning jurisdiction may require adherence to appropriate zoning ordinances, use permits, construction or safety codes, by a school district seeking to lease a portion of a school building for uses other than public or education-related uses.

17534. (a) Except as provided in subdivision (b), the term of any agreement entered into by a school district pursuant to this article shall not exceed five years.

(b) The provisions of subdivision (a) shall not apply to agreements under or pursuant to which capital outlay improvements are made on school property for park and recreation purposes by public entities and nonprofit corporations.

17535. (a) Except as provided in subdivision (b), no agreement entered into by a school district pursuant to this article shall rent or lease vacant classrooms or other space in operating schools for less than fair market rental for comparable facilities.

(b) A district may enter into an agreement to rent or lease vacant classrooms or other space in operating schools to public entities for less than fair market rental for comparable facilities.

Article 10. Exchange of Property

17536. The governing board of a school district may exchange any of its real property for real property of another person or private

business firm. Any exchange shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions in this code except as provided in this article.

17537. Before ordering any exchange of real property the board shall adopt, by a two-thirds vote of its members, a resolution declaring its intention to exchange the property. The resolution shall describe the properties to be exchanged in a manner to identify them, and the terms and conditions, not including the price, upon which they will be exchanged.

17538. The governing board of any school district which has acquired title to property included within an application which has been approved by the State Allocation Board for state school building aid and which property is to be used as an access roadway to the schoolsite may exchange the property for other property to be used as an access roadway which abuts a state highway, if in the opinion of the Division of Highways in the Department of Transportation there is objection to the first access roadway, and if in the opinion of the governing board the property acquired by the exchange will afford more safety to the pupils of the district.

Article 13. Sale or Lease of Personal Property by One District to Another

17540. The governing board of any school district may sell any personal property or school supplies belonging to the district to the federal government or its agencies, to the state, to any county, city and county, city or special district, or to any other school district or any agency eligible under the federal surplus property law, (40 U.S.C. Sec. 484(j)(3)) and the governing board of another school district may purchase the property, for an amount equal to the cost thereof plus the estimated cost of purchasing, storing, and handling the property, without advertisement for or receipt of bids or compliance with any other provisions of this code. The governing board of any school district may purchase any personal property or school supplies for the purpose of selling them, pursuant to this section.

This section does not authorize the purchase, for the purpose of resale, of standard school supplies and equipment by any elementary school district governed by school trustees.

17541. The provisions of Section 17540 shall be applicable to a sale of personal property from a unified school district whose boundaries are coterminous with a city or city and county to that city or city and county.

17542. The governing board of any school district may sell or lease used personal property belonging to the district to the federal government or its agencies, to the state, to any county, city and county, city or special district, or to any other school district, and the governing board of another school district may purchase or lease the

property. The selling price and the terms of sale, or the lease price and the terms of lease shall be fixed by the governing boards of the school districts effecting the sale or lease, and approved by the county superintendent of schools. The sale or lease may be made without advertisement for or receipt of bids, or compliance with any other provisions of this code.

Article 14. Sale of Personal Property

17545. (a) The governing board of any school district may sell for cash any personal property belonging to the district if the property is not required for school purposes, or if it should be disposed of for the purpose of replacement, or if it is unsatisfactory or not suitable for school use. There shall be no sale until notice has been given by posting in at least three public places in the district for not less than two weeks, or by publication for at least once a week for a period of not less than two weeks in a newspaper published in the district and having a general circulation there. If there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. The board shall sell the property to the highest responsible bidder, or shall reject all bids.

(b) The governing board may choose to conduct any sale of personal property authorized under this section by means of a public auction conducted by employees of the district or other public agencies, or by contract with a private auction firm. The board may delegate to the district employee responsible for conducting the auction the authority to transfer the personal property to the highest responsible bidder upon completion of the auction and after payment has been received by the district.

17546. (a) If the governing board, by a unanimous vote of those members present, finds that the property, whether one or more items, does not exceed in value the sum of two thousand five hundred dollars ($2,500), it may be sold at private sale without advertising, by any employee of the district empowered for that purpose by the board.

(b) Any item or items of property having previously been offered for sale pursuant to Section 17545, but for which no qualified bid was received, may be sold at private sale without advertising by any employee of the district empowered for that purpose by the board.

(c) If the board, by a unanimous vote of those members present, finds that the property is of insufficient value to defray the costs of arranging a sale, the property may be donated to a charitable organization deemed appropriate by the board, or it may be disposed of in the local public dump on order of any employee of the district empowered for that purpose by the board.

17547. The money received from the sale shall be placed to the credit of the fund from which the original expenditure for the purchase of the property was made or in the general or reserve fund of the district.

17548. The governing board of any school district may dispose of personal property belonging to the district for the purpose of replacement by providing in the notice calling for bids for furnishing new materials, articles, or supplies that each bidder shall agree in his or her bid to purchase the property being replaced and to remove it from the school grounds and shall state in his or her bid the amount which he or she will deduct from the price bid for furnishing new materials, articles, or supplies as the purchase price for the personal property being purchased from the district. The board shall let the contract to any responsible bidder whose net bid is the lowest, or shall reject all bids.

17549. The governing board of any school district may enter into contracts with manufacturers or suppliers for the exchange of household appliances and equipment belonging to the district and used for instructional purposes for new property of like class and kind for a similar use without advertising for or taking bids. The cost to the district for the exchange shall not exceed the excess, if any, of the manufacturer's or supplier's selling price of the new property over the original cost to the district of the property being disposed of by the district, plus any applicable tax.

17550. The governing board of any school district may, when calling for bids and letting contracts for constructing new school buildings, or repairing, altering, adding to, or reconstructing existing school buildings, or demolishing existing school buildings, require each bidder for the performance of the work to agree in his or her bid to purchase and to remove from the school grounds all old materials required by the specifications to be removed from any existing school building on the same school grounds and not required for school purposes and to state in his or her bid the amount which he or she will deduct from the price bid for the work as the purchase price of the old materials. The board shall let the contract to any responsible bidder whose net bid is the lowest, or shall reject all bids.

17551. The governing board of a school district may authorize any officer or employee of the district to sell to any pupil personal property of the district which has been fabricated by such pupil, at the cost to the district of the materials furnished by the district and used therein.

17552. The governing board of a school district may sell to persons enrolled in classes for adults maintained by the district any materials that may be necessary for the making of articles by those persons in those classes. The materials shall be sold at not less than the cost thereof to the district and any article made therefrom shall be the property of the person making it.

17553. A school district may, in accordance with regulations adopted by the governing board of the district and for educational use, sell, give, or exchange for similar published materials, published materials prepared by the district in connection with the curricular and special services that the district is authorized to perform. Unless restricted by the regulations of the governing board, the sale or gift may be made to, and the exchange may be made with, any person, political subdivision, public officer or agency, or educational institution. The distribution of the published material in accordance with this section is declared to be a public purpose and in furtherance of Article IX, Section 1, of the Constitution.

A school district may also license the use of copyrights held by the district, to the same persons or entities and for the same purposes as provided in the above paragraph.

The district shall grant a license to any public agency organized under the authority of this state, unless an exclusive license has previously been granted a private publisher.

Any charge which may be assessed a public agency for the license to use the copyright or for materials, to which the district holds the copyright, shall not exceed the cost to the district of the preparation and reproduction of the materials.

Any granting of a license, by a school district, to reproduce copyrighted material is declared to be for a public purpose in furtherance of Article XI, Section 1, of the Constitution.

17554. Notwithstanding any other provision of law, the governing board of any school district owning land upon which agricultural products are grown may enter into agreements with an agricultural cooperative or association for the purpose of maintaining, harvesting or selling the products.

17555. Notwithstanding any other provision of this article, the governing board of any school district may sell or lease any personal property belonging to the district to any private educational institution for use in any summer school which the institution offers in a facility of the district used under a lease or agreement entered into pursuant to Section 17527.

Article 15. Dedication of Real Property

17556. The governing board of any school district may, pursuant to this article, dedicate or convey to the state, or any political subdivision or municipal corporation thereof, for public street or highway purposes, either with or without consideration and without a vote of the electors of the district first being taken, any real property belonging to the district, either in fee or any lesser estate or interest therein, including abutter's right of access to any public street or highway; and may dedicate or convey to any public corporation, or private corporation engaged in the public utility business, without a vote of the electors of the district first being taken, an easement to

lay, construct, reconstruct, maintain, and operate water, sewer, gas, or storm drain pipes or ditches, electric or telephone lines, and access roads used in connection therewith, over and upon any land belonging to the school district, upon such terms and conditions as the parties thereto may agree.

17557. Before ordering the dedication or conveyance of any property the governing board shall in regular open meeting by a two-thirds vote of all its members adopt a resolution declaring its intention to dedicate or convey the property. The resolution shall describe the property proposed to be dedicated or conveyed in such manner as to identify it, and shall specify the purposes for which and the terms upon which it will be dedicated or conveyed, and shall fix a time not less than 10 days thereafter for a public meeting of the governing board to be held at its regular place of meeting for a public hearing upon the question of making the dedication or conveyance.

17558. Notice of adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the members of the board, or by a majority thereof, in three public places in the district not less than 10 days before the date of the meeting, and by publishing the notice once not less than five days before the date of the meeting in a newspaper of general circulation, published in the district, if there is one, or, if there is no such newspaper published in the district, then in a newspaper published in the county in which the district or any part thereof is situated and having a general circulation in the district.

17559. At the time and place fixed in the resolution for the meeting of the governing board the public hearing shall be held, and the governing board may at the meeting, or at any other meeting of the governing board held within 60 days thereafter, unless a protest is entered, adopt a resolution by a two-thirds vote of all its members authorizing and directing the president of the governing board, or any other presiding officer, or the secretary, or the members thereof, to execute a deed of dedication or conveyance of the property and to deliver it. Upon the delivery and acceptance of the deed the dedication or conveyance is fully effective.

17560. A petition protesting against the proposed dedication or conveyance signed by at least 10 percent of the qualified electors of the district, as shown by the affidavit of one of the petitioners, may be filed with the governing board at the meeting held at the time and place fixed in the resolution. If a protest is filed, the governing board shall, before taking any further action on the proposed dedication or conveyance, submit the question of whether the proposed dedication or conveyance should be made, to the superintendent of schools of the county having jurisdiction over the district, whose decision is final. If the superintendent approves the proposed dedication or conveyance, the board may proceed as provided in Section 17559. If the superintendent of schools does not approve the proposed

dedication or conveyance, no further proceedings shall be had thereon.

17561. Whenever school districts are required to improve and dedicate real property to the centerline of streets or highways adjacent to a schoolsite or forming an intersection at a schoolsite location, and when such street or highway rights-of-way are being conveyed to the city or county or by the city or county to the school district, the requirements of this article shall be deemed satisfied solely by posting a notice of intention to convey in an appropriate location before conveyance.

CHAPTER 5. PROPERTY MAINTENANCE AND CONTROL

Article 1. Duties of Governing Board

17565. The governing board of any school district shall furnish, repair, insure against fire, and in its discretion rent the school property of its districts. The governing board may also insure the property against other perils. The insurance shall be written in any admitted insurer, or in any nonadmitted insurer to the extent and subject to the conditions prescribed in Section 1763 of the Insurance Code. Insurance on property of a district may be, in the discretion of the governing board, of the deductible type of coverage. By deductible type of coverage is meant a form of insurance under which the insurance becomes operative when the loss and damage exceeds an amount stipulated in the policy or policies.

The governing board, in their notice of bid for any school district construction, may indicate that it may elect to assume the cost of fire insurance by adding the coverage to the district's existing policy and in that event bids made on the construction shall be made in the alternative, with and without the fire insurance coverage included, and the governing board shall make its election as to who shall secure and pay for the insurance at the time of accepting the bid.

17566. (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 17565.

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.

17567. Nothing in this code shall be construed to prohibit two or more school districts from exercising, through a joint powers agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the powers prescribed in Section 17566 in accordance with the terms and conditions set forth in that section and in Section 17565.

17568. In districts situated within or partly within cities having a population of over five hundred thousand (500,000) as determined by the 1920 federal census any board of education may establish a fund in the county treasury for the purpose of covering fire losses to school property in lieu of carrying fire insurance in admitted insurers as provided in Section 17565. In the fund shall be placed sums, to be

provided in the budget of the district, as will create an amount which, together with investments made from the fund, will be sufficient in the judgment of the board of education upon the advice of competent actuaries to protect the board of education against losses by fire on all or any part of the school property within its jurisdiction. Nothing contained herein shall be construed as prohibiting the board of education from providing protection against fire losses partly by means of the fund and partly by means of fire insurance written by admitted insurers as provided in Section 17565.

The fund shall be considered as separate and apart from all other funds of the district and the balance therein shall not be considered as being part of the working cash of the district in compiling annual budgets or fixing annual tax rates.

Warrants shall be drawn on, or transfers made from, the fund so created only to reimburse or indemnify the school district for losses as herein specified, and for the payment of claims, administrative costs, related services, and to provide for deductible insurance amounts and the purchase of excess insurance. The warrants or transfers shall be within the purpose of the fund as established by resolution of the governing board.

The cash placed in the fund may be invested and reinvested by the county treasurer with the advice and consent of the board of education in securities which are legal investments for surplus county funds in this state. The income derived from such investments together with interest earned on uninvested funds shall be considered revenue of and be deposited in the fund.

The county treasurer shall make quarterly reports to the board of education as to the condition of the fund, using as a basis for the report the cost or market value, whichever may be the lower, of the securities held as investments plus the cash in the fund.

17569. The governing board of any school district may grade, pave, construct sewers, or otherwise improve streets and other public places in front of real property owned or controlled by it, and also may construct in immediate proximity to any school or site owned or controlled by the district, pedestrian tunnels, overpasses, footbridges, sewers and water pipes when required for school or administrative purposes, may acquire property, easements and rights-of-way for such purpose, and may appropriate money to pay the cost and expense of the improvements, whether made by the board under contract executed by the board, or under contracts made in pursuance of any of the general laws of the state respecting street improvements, or under other contracts made in pursuance of the charter of any county or municipality.

17570. Any provision to the contrary notwithstanding, the governing board of any school district, other than a city school district with over 50,000 pupils in average daily attendance during the preceding fiscal year, may construct pedestrian walks, footbridges, and pedestrian tunnels when required for the safety of pupils

attending the schools of the district, may acquire easements and rights-of-way for those purposes, and may appropriate money to acquire such easements and rights-of-way and to pay the cost and expense of the improvements, whether made by the board under contract executed by the board, or under contracts made in pursuance of any of the general laws of the state respecting street improvements, or under other contracts made in pursuance of the charter of any county or municipality. Pedestrian walks, footbridges, and pedestrian tunnels shall be constructed, and such easements or rights-of-way for those purposes shall be acquired, within one mile of the school for the pupils of which the walks, bridges, and tunnels are necessary.

17571. The governing board of any school district may install and maintain a lighting system in any underpass in the vicinity of a schoolhouse.

17572. The governing board of any school district may appropriate money to pay assessments, for the improvement of streets or other public places, levied against any real property owned by, or under the control of the board, when the property is included within an assessment district formed in pursuance of any general law of the state or under the charter of any municipality. The assessments may be paid out of any funds belonging to the school district, except funds derived from the sale of bonds or required by law to be used for teachers' salaries.

17573. The governing board of every school district shall provide a warm, healthful place in which children who bring their own lunches to school may eat the lunches.

17574. The governing board of a school district may construct a mobilehome site on the grounds of any district facility or facilities maintained by the district, including all necessary appurtenances and fixtures, and may pay the cost of utilities, insurance, and necessary services, for the purpose of enabling a responsible person or persons to install and occupy a mobilehome on such site. Such person or persons, who need not be classified as employees of the district, shall, in return for being permitted to install and occupy a mobilehome on the district facility site on terms and conditions acceptable to the governing board, agree to maintain any surveillance over the facility grounds as the school district governing board requires, and to report to district authorities illegal or suspicious activities that are observed.

17575. The governing board of any school district, when leasing a building for housing of school district employees, may lease such building for any period they deem necessary.

17576. The governing board of every school district shall provide, as an integral part of each school building, or as part of at least one building of a group of separate buildings, sufficient patent flush water closets for the use of the pupils. In school districts where the water

supply is inadequate, chemical water closets may be substituted for patent flush water closets by the board.

This section shall apply to all buildings existing on September 19, 1947, or constructed after such date.

17577. In addition to the other powers granted the governing board of each school district may provide sewers and drains adequate to treat and/or dispose of sewage and drainage on or away from each school property. For this purpose it may construct adequate systems or acquire adequate disposal rights in systems constructed or to be constructed by others for these purposes without regard to their proximity. The cost thereof may be paid from the building fund, including any bond moneys therein.

17578. The governing board of each district maintaining a high school shall provide for the annual cleaning, sterilizing, and necessary repair of football equipment of their respective schools pursuant to Sections 39614 and 39616.

17579. All football equipment actually worn by pupils shall be cleaned and sterilized at least once a year. Football equipment used in spring training shall be cleaned and sterilized before it is used in the succeeding fall term.

17580. Any contract with a dealer or craftsman for the repair of football equipment belonging to the district or the state college shall specifically state or describe the materials to be used by the dealer or craftsman in repairing such equipment.

17581. (a) The Legislature finds and declares that the quality of protective equipment worn by participants in high school interscholastic football is a significant factor in the occurrence of injuries to such participants and that it is therefore necessary to insure minimum standards of quality for the equipment in order to prevent unnecessary injuries to such participants.

(b) No football helmets shall be worn by participants in high school interscholastic football unless the equipment has been certified for use by the National Operating Committee on Standards for Athletic Equipment or any other recognized certifying agency in the field.

This section shall not be construed as relieving school districts from the duty of maintaining football protective equipment in a safe and serviceable condition.

17582. (a) The governing board of each school district may establish a restricted fund to be known as the "district deferred maintenance fund" for the purpose of major repair or replacement of plumbing, heating, air conditioning, electrical, roofing, and floor systems, the exterior and interior painting of school buildings, the inspection, sampling, and analysis of building materials to determine the presence of asbestos-containing materials, the encapsulation or removal of asbestos-containing materials, and any other items of maintenance approved by the State Allocation Board. Funds deposited in the district deferred maintenance fund may be received

from any source whatsoever, and shall be accounted for separately from all other funds and accounts and retained in the district deferred maintenance fund for purposes of this section.

(b) Funds deposited in the district deferred maintenance fund shall only be expended for maintenance purposes as provided pursuant to subdivision (a).

(c) The governing board of each school district shall have complete control over the funds and earnings of funds once deposited in the district deferred maintenance fund, provided that no funds deposited in the district deferred maintenance fund pursuant to subdivision (a) or (b) of Section 17584 may be expended by the governing board for any purpose except those specified in subdivision (a) of this section.

17583. Notwithstanding Section 17582, whenever the state funds provided pursuant to Sections 17584 and 17585 are insufficient to fully match the local funds deposited in the deferred maintenance fund, the governing board of each school district may transfer the excess local funds deposited in that fund to any other expenditure classifications in other funds of the district. A resolution providing for the transfer shall be approved by a two-thirds vote of the governing board members and filed with the county superintendent of schools and the county auditor.

17584. (a) Whenever, in any given fiscal year, a school district has budgeted, exclusive of state matching funds and district funds previously matched pursuant to subdivision (b), in its deferred maintenance fund established pursuant to Section 17582 an amount equal to, or greater than, that amount the district expended from its general fund for major maintenance, repair, or modernization of existing school buildings, as specified in Section 17582, exclusive of categorical aid funds and any proceeds from the sale of district property which were expended for the purpose of the district deferred maintenance account, in either the 1978–79 or 1979–80 fiscal year, adjusted annually to the current fiscal year in conformance with the percentage change in the district revenue limit computed pursuant to Section 42237 or 42238, the Superintendent of Public Instruction shall so certify to the State Allocation Board.

(b) The State Allocation Board shall apportion, from the State School Deferred Maintenance Fund, to school districts an amount equal to one dollar ($1) for each one dollar ($1) of local funds up to a maximum of $^1/_2$ percent of the district's current-year revenue limit average daily attendance multiplied by the average, per unit of average daily attendance, of the total general funds and adult education funds budgeted by districts of similar size and type, as defined in Section 42238.4, for the prior fiscal year, exclusive of any amounts budgeted for capital outlay or debt service, to the extent of funds available pursuant to Chapter 13 (commencing with Section 17080) of Part 10.

(c) Notwithstanding subdivision (a), in order to be eligible to receive state aid pursuant to subdivision (b), no district shall be required to budget from local district funds an amount greater than $^1/_2$ percent of the district's current-year revenue limit average daily attendance, multiplied by the average, per unit of average daily attendance, of the total general funds and adult education funds budgeted by districts of similar size and type, as defined in Section 42238.4 for the prior fiscal year, exclusive of any amounts budgeted for capital outlay or debt service.

17585. (a) School districts may submit applications to the State Allocation Board for deferred maintenance funding in addition to the amounts specified in Section 17584. In order to be eligible for an additional apportionment, a school district shall do all of the following:

(1) Certify that if an additional apportionment is provided, the district will have matched the additional apportionment amount with an equal amount of district funds that have not been previously used as a match for state aid.

(2) Certify an additional claim of not greater than one-half of 1 percent of the district's current-year revenue limit average daily attendance, multiplied by the average, per unit of average daily attendance, of the total general funds and adult education funds budgeted by districts of similar size and type, as defined in Section 42238.4 for the prior fiscal year, excluding any amounts budgeted for capital outlay or debt service, but including adult education funds.

(3) Certify that any additional funds will be used to meet deferred maintenance identified in the district's five-year deferred maintenance plan.

(b) The State Allocation Board shall establish rules and regulations regarding the formulas used to apportion additional funds pursuant to this section.

(c) It is the intent of the Legislature that state funds for deferred maintenance be drawn first from excess bond repayments by school districts, revenues pursuant to subdivision (f) of Section 6217 of the Public Resources Code, and proceeds from existing general obligation bonds.

17586. Notwithstanding any limitations imposed as a result of actions taken by the State Allocation Board pursuant to Section 17462, a school district shall be eligible to receive an apportionment pursuant to subdivision (b) of Section 17584, if it meets all of the following criteria:

(a) There are excess revenues that resulted from the sale of surplus sites upon which there was no encumbrance to the board.

(b) The Superintendent of Public Instruction has verified all of the following:

(1) The district had a fiscal emergency in any one or both of the 1987–88 and 1988–89 fiscal years.

(2) The fiscal emergency was caused primarily by required expenditures.

(3) The district has taken reasonable steps to address the fiscal emergency.

17587. (a) Notwithstanding the limitations of Section 17584, the State Allocation Board may each year reserve an amount not to exceed 10 percent of the funds transferred from any source to the State School Deferred Maintenance Fund for apportionments to school districts, in instances of extreme hardship. The apportionment shall be in addition to the apportionments made pursuant to Section 17584. Not less than one-half of all funds made available by this section shall be apportioned to school districts that had an average daily attendance, excluding summer session attendance, of less than 2,501 during the prior fiscal year.

An extreme hardship shall exist in a school district when the State Allocation Board determines the existence of all of the following:

(1) That the district has deposited in its deferred maintenance fund an amount equal to at least 0.5 percent of the total general funds and adult education funds budgeted by the district for the fiscal year, exclusive of any amounts budgeted for capital outlay or debt service.

(2) That the district has a critical project on its five-year plan which if not completed in one year could result in serious damage to the remainder of the facility or would result in a serious hazard to the health and safety of the pupils attending the facility.

(3) That the total funds deposited by the district and the state pursuant to Section 17584 are insufficient to complete the project.

(b) As a result of the determination made in subdivision (a), the State Allocation Board may increase the apportionment to a school district by the amount it determines necessary to complete the critical project.

(c) Notwithstanding subdivision (a), in any fiscal year in which the State Allocation Board has apportioned all funding from the State School Deferred Maintenance Fund for which school districts have qualified under Section 17584, the board may apportion any amount remaining in that fund for the purposes of this section.

17588. As a result of the determination made in Section 17587, the State Allocation Board may do any of the following:

(a) Increase the apportionment to an eligible school district by the amount it determines necessary to complete the critical project, and require a contribution by the district.

(b) Waive repayment by the district, in whole or in part.

(c) Reduce state apportionments pursuant to Section 17584 in future years to offset the increased apportionment.

The State Allocation Board shall develop and adopt regulations for the application of subdivisions (a), (b), and (c). The regulations may give consideration to a school district's financial resources, ongoing deferred maintenance needs, and the nature of the project for which the hardship apportionment is requested.

The waiver authorized in subdivision (b) may be applied by the board to any repayment otherwise required by law, regardless of apportionment date.

17589. The State Allocation Board shall develop board policies for the apportionment of funds appropriated for the containment or removal of asbestos materials in schools pursuant to Section 49410. The policies shall provide for the allocation of funds on a matching basis, or the board may determine, based on each application, to increase the allocation to any school district by the amount it determines is necessary to complete critical projects. In making policies pursuant to this section, the board may establish funding priorities based on a determination in each instance as to the imminence of the health hazard posed by the asbestos materials.

17590. The Asbestos Abatement Fund is hereby created, and notwithstanding Section 13340 of the Government Code, all moneys deposited in this fund are continuously appropriated to be administered by the State Allocation Board for the purpose of making allocations to school districts and county offices of education pursuant to Sections 17589 and 49410.

17591. Each district desiring an apportionment pursuant to Section 39619 shall file with the State Allocation Board and receive approval of a five-year plan of the maintenance needs of the district over such period. This plan may be amended from time to time. Any expenditure of funds from the district deferred maintenance fund shall conform to the plan approved by the State Allocation Board.

17592. From any moneys in the State School Deferred Maintenance Fund, the board shall make available to the Director of General Services such amounts as it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

Article 2. Duties of District Clerks

17593. The clerk of each district except a district governed by a city or city and county board of education shall, under the direction of the governing board, keep the schoolhouses in repair during the time school is taught therein, and exercise a general care and supervision over the school premises and property during the vacations of the school.

Article 3. Contracts

17595. Nothing in this code shall preclude the governing board of any school district from purchasing materials, equipment or supplies through the Department of General Services pursuant to Section 14814 of the Government Code.

17596. Continuing contracts for work to be done, services to be performed, or for apparatus or equipment to be furnished, sold, built,

installed, or repaired for the district, or for materials or supplies to be furnished or sold to the district may be made with an accepted vendor as follows: for work or services, or for apparatus or equipment, not to exceed five years; for materials or supplies, not to exceed three years.

17597. In addition to utilizing the procedures specified in Article 14 (commencing with Section 17545) of Chapter 4, any school district or any county board of education may, by direct sale or otherwise, sell to a purchaser any electronic data processing equipment, other major items of equipment, or any relocatable building owned by, or to be owned by, the school district or county board, if the purchaser agrees to lease the equipment or building back to the school district or county for use by the school district or county following the sale.

The approval by the governing board of the school district or of the county superintendent of schools of the sale and leaseback shall be given only if the governing board of the school district or the county superintendent of schools finds, by resolution, that the equipment is data processing equipment, another major item of equipment, or a relocatable building within the meaning of this section and that the sale and leaseback is the most economical means for providing the electronic data processing equipment, other major items of equipment, or relocatable building to the school district or county. For purposes of determining the area of existing adequate school construction under the Leroy F. Greene State School Building Lease-Purchase Law of 1976, any portable relocatable classroom acquired under this section and used for classroom purposes shall be considered owned by the district.

17598. The governing board of a school district may contract for electromechanical or electronic data processing work.

17599. Nothing contained in this article shall be construed to limit the authority of any school district to contract for electromechanical or electronic data processing work to be done or related services to be performed with any other public agency pursuant to the provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code or Section 11000 or 11001 of this code.

17600. The governing board of any district defined hereafter, in addition to any other authority granted by law, may employ as classified employees, in accordance with rules and regulations established by the personnel commission, any certificated employees of the district or districts during vacation periods, or on any other day or days when the certificated employee is not required to perform services for the district, to repair or build apparatus or equipment related to their duties as certificated employees even though the total cost of labor exceeds one thousand dollars ($1,000). This section applies only when the average daily attendance of any school district, or of two or more school districts governed by governing boards of

identical personnel, is 400,000 or more, as shown by the annual report of the county superintendent of schools for the preceding school year.

17601. Notwithstanding any limitations imposed by this article specifically with respect to electromechanical or electronic data processing work to be done or related services to be performed, the governing board of a school district, the boundaries of which are coterminous with those of the City and County of San Francisco, may contract for such work to be done or related services to be performed, without regard to such limitations.

17602. The governing board of any school district may purchase from the federal government or any agency thereof any surplus property, as defined in the Surplus Property Act of 1944, in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

17603. The governing board of any school district shall determine the method of payment for construction contracts, including progress payments for completed portions of the work or for materials delivered on the ground or stored subject to the control of the board and unused.

17604. Wherever in this code the power to contract is invested in the governing board of the school district or any member thereof, the power may by a majority vote of the board be delegated to its district superintendent, or to any persons that he or she may designate, or if there be no district superintendent then to any other officer or employee of the district that the board may designate. The delegation of power may be limited as to time, money or subject matter or may be a blanket authorization in advance of its exercise, all as the governing board may direct. However, no contract made pursuant to the delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, the approval or ratification to be evidenced by a motion of the board duly passed and adopted. In the event of malfeasance in office, the school district official invested by the governing board with the power of contract shall be personally liable to the school district employing him or her for any and all moneys of the district paid out as a result of the malfeasance.

17605. The governing board by majority vote may adopt a rule, delegating to any officer or employee of the district as the board may designate, the authority to purchase supplies, materials, apparatus, equipment, and services. No rule shall authorize any officer or employee to make any purchases involving an expenditure by the district in excess of the amount specified by Section 20111 of the Public Contract Code. The rule shall prescribe the limits of the delegation as to time, money, and subject matter. All transactions entered into by the officer or employee shall be reviewed by the governing board every 60 days.

In the event of malfeasance in office, the school district officer or employee invested by the governing board with the power to contract shall be personally liable for any and all moneys of the district paid out as a result of the malfeasance.

17606. The governing board of any school district with an average daily attendance of not less than 60,000 may by majority vote authorize its district superintendent, or such person as he or she may designate, to expend up to one hundred dollars ($100) per transaction for work done, compensation for employees or consultants, and purchases of equipment, supplies, or materials. Ratification by the governing board shall not be required with respect to transactions entered into pursuant to this section. In the event of malfeasance in office, the school district official invested by the governing board with authority to act under this section shall be personally liable for any and all moneys of the district paid out as a result of the malfeasance.

CHAPTER 6. DEVELOPMENT FEES, CHARGES, AND DEDICATIONS

17620. (a) (1) The governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement against any development project within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities, subject to any limitations set forth in Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code. This fee, charge, dedication, or other requirement may be applied to construction only as follows:

(A) To new commercial and industrial construction. The chargeable covered and enclosed space of a commercial or industrial development project, as defined in Section 65995 of the Government Code, shall not be deemed to include the square footage of any structure existing on the site of that development project as of the date the first building permit is issued for any portion of that development project.

(B) To new residential construction.

(C) To other residential construction, only if the resulting increase in assessable space, as defined in Section 65995 of the Government Code, exceeds 500 square feet. The calculation of the "resulting increase in assessable space" for this purpose shall reflect any decrease in assessable space in the same residential structure that also results from that construction. Where authorized under this paragraph, the fee, charge, dedication, or other requirement is applicable to the total resulting increase in assessable space.

(2) For purposes of this section, "development project" means any project undertaken for the purpose of development, and includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

(3) For purposes of this section, "construction or reconstruction of school facilities" does not include any item of expenditure for any of the following:

(A) The regular maintenance or routine repair of school buildings and facilities.

(B) The inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials, except where incidental to school facilities construction or reconstruction for which the expenditure of fees or other consideration collected pursuant to this section is not prohibited.

(C) The purposes of deferred maintenance described in Section 17582.

(4) The appropriate city or county may be authorized, pursuant to contractual agreement with the governing board, to collect and otherwise administer, on behalf of the school district, any fee, charge, dedication, or other requirement levied under this subdivision. In the event of any agreement authorizing a city or county to collect that fee, charge, dedication, or other requirement in any area within the school district, the certification requirement set forth in subdivision (b) or (c), as appropriate, is deemed to be complied with as to any residential development project within that area upon receipt by that city or county of payment of the fee, charge, dedication, or other requirement imposed on that project.

(5) Fees or other consideration collected pursuant to this section may be expended by a school district for the costs of performing any study or otherwise making the findings and determinations required under subdivisions (a), (b), and (d) of Section 66001 of the Government Code. In addition, an amount not to exceed, in any fiscal year, 3 percent of the fees collected in that fiscal year pursuant to this section may be retained by the school district, city, or county, as appropriate, for reimbursement of the administrative costs incurred by that entity in collecting the fees. When any city or county is entitled, under an agreement as described in paragraph (4), to compensation in excess of that amount, the payment of that excess compensation shall be made from other revenue sources available to the school district.

(b) No city or county, whether general law or chartered, may issue a building permit for any development absent certification by the appropriate school district of compliance by that development project with any fee, charge, dedication, or other requirement levied by the governing board of that school district pursuant to subdivision (a), or of the district's determination that the fee, charge, dedication, or other requirement does not apply to the development project.

(c) If, pursuant to subdivision (c) of Section 17621, the governing board specifies that the fee, charge, dedication, or other requirement levied under subdivision (a) is subject to the restriction set forth in subdivision (a) of Section 66007 of the Government Code, the restriction set forth in subdivision (b) of this section does not apply.

In that event, however, no city or county, whether general law or chartered, may conduct a final inspection or issue a certificate of occupancy, whichever is later, for any residential development project absent certification by the appropriate school district of compliance by that development project with any fee, charge, dedication, or other requirement levied by the governing board of that school district pursuant to subdivision (a).

(d) Neither subdivision (b) nor (c) shall apply to a city or county as to any fee, charge, dedication, or other requirement as described in subdivision (a), or as to any increase in that fee, charge, dedication, or other requirement, except upon the receipt by that city or county of notification of the adoption of, or increase in, the fee or other requirement in accordance with subdivision (c) of Section 17621.

17621. (a) Any resolution adopting or increasing a fee, charge, dedication, or other requirement pursuant to Section 17620, 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 of the Government Code, with Section 54994.1 of the Government Code, and with the procedures for mailed notice set forth in Section 54992 of the Government Code. The adoption, increase, or imposition of any fee, charge, dedication, or other requirement pursuant to Section 17620 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 of the Government Code.

(d) Any party on whom a fee, charge, dedication, or other requirement has been directly imposed pursuant to Section 17620 may protest the establishment or imposition of that fee, charge, dedication, or other requirement in accordance with Section 66020 of the Government Code, except that the procedures set forth in Section 66021 of the Government Code 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 of the Government Code, 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.

17622. (a) No fee, charge, dedication, or other requirement may be levied by any school district pursuant to Section 17620 upon any greenhouse or other space that is covered or enclosed for agricultural purposes, unless and until the district first complies with subdivisions (b) and (c).

(b) The school district governing board shall make a finding, supported by substantial evidence, of both of the following:

(1) The amount of the proposed fees or other requirements and the location of the land, if any, to be dedicated, bear a reasonable relationship and are limited to the needs of the community for elementary or high school facilities caused by the development.

(2) The amount of the proposed fees or other requirements does not exceed the estimated reasonable cost of providing for the construction or reconstruction of the school facilities necessitated by the development projects from which the fees or other requirements are to be collected.

(c) In determining the amount of the fees or other requirements, if any, to be levied on the development of any structure as described in subdivision (a), the school district governing board shall consider the relationship between the proposed increase in the number of employees, if any, the size and specific use of the structure, and the cost of the construction. No fee, charge, dedication, or other form of requirement, as authorized under Section 17620, shall be applied to the development of any structure described in subdivision (a) where the governing board finds either that the number of employees is not increased as a result of that development, or that housing has been provided for those employees, to the extent of any increase, by their employer, against which housing a fee, charge, or dedication, or other form of requirement has been applied under Section 17620. In developing the finding described in this section, the governing board shall consult with the county agricultural commissioner or the county director of the cooperative extension service.

17623. In the event the fee authorized pursuant to Section 17620 is levied by two nonunified school districts having common territorial jurisdiction, in a total amount that exceeds the maximum fee authorized under Section 65995 of the Government Code, the fee revenue for the area of common jurisdiction shall be distributed in the following manner:

(a) The governing boards of the affected school districts shall enter into an agreement specifying the allocation of fee revenue and the duration of the agreement. A copy of that agreement shall be transmitted by each district to the State Allocation Board.

(b) In the event the affected school districts are unable to reach an agreement pursuant to subdivision (a), the districts shall jointly

submit the dispute to a three-member arbitration panel composed of one representative chosen by each of the districts and one representative chosen jointly by both of the districts. The decision of the arbitration panel shall be final and binding upon both districts for a period of three years.

17624. (a) Any school district that has imposed or, subsequent to the operative date of this section, imposes, any fee, charge, dedication, or other requirement under Section 17620 against any development project that subsequently meets the description set forth in subdivision (b), shall repay or reconvey, as appropriate, that fee, charge, dedication, or other requirement to the person or persons from whom that fee, charge, dedication, or other requirement was collected, less the amount of the administrative costs incurred in collecting and repaying the fee, charge, dedication, or other requirement.

(b) This section applies to any development project for which the building permit, including any extensions, expires on or after January 1, 1990, without the commencement of construction, as defined in subdivision (c) of Section 65995 of the Government Code.

17625. Notwithstanding any other law, any fee, charge, dedication, or other form of requirement levied by the governing board of a school district under Section 17620 may apply, as to any manufactured home or mobilehome, only pursuant to compliance with all of the following conditions:

(1) The fee, charge, dedication, or other form of requirement is applied to the initial location, installation, or occupancy of the manufactured home or mobilehome within the school district.

(2) The manufactured home or mobilehome is to be located, installed, or occupied on a space or site on which no other manufactured home or mobilehome was previously located, installed, or occupied.

(3) The manufactured home or mobilehome is to be located, installed, or occupied on a space in a mobilehome park, or on any site or in any development outside a mobilehome park, on which the construction of the pad or foundation system commenced after September 1, 1986.

(b) Compliance on the part of any manufactured home or mobilehome with any fee, charge, dedication, or other form of requirement, as described in subdivision (a), or certification by the appropriate school district of that compliance, shall be required as a condition of the following, as applicable:

(1) The close of escrow, where the manufactured home or mobilehome is to be located, installed, or occupied on a mobilehome park space, or on any site or in any development outside a mobilehome park, as described in subdivision (a), and the sale or transfer of the manufactured home or mobilehome is subject to escrow as provided in Section 18035 or 18035.2 of the Health and Safety Code.

(2) The approval of the manufactured home or mobilehome for occupancy pursuant to Section 18551 or 18613 of the Health and Safety Code, in the event that paragraph (1) does not apply.

(c) No fee or other requirement levied under Section 17620 shall be applied to any of the following:

(1) Any manufactured home or mobilehome located, installed, or occupied on a space in a mobilehome park on or before September 1, 1986, or on any date thereafter, if construction on that space, pursuant to a building permit, commenced on or before September 1, 1986.

(2) Any manufactured home or mobilehome located, installed, or occupied on any site outside of a mobilehome park on or before September 1, 1986, or on any date thereafter if construction on that site pursuant to a building permit commenced on or before September 1, 1986.

(3) The replacement of or addition to a manufactured home or mobilehome located, installed, or occupied on a space in a mobilehome park, subsequent to the original location, installation, or occupancy of any manufactured home or mobilehome on that space.

(4) The replacement of a manufactured home or mobilehome that was destroyed or damaged by fire or any form of natural disaster.

(5) A manufactured home or mobilehome accessory structure, as defined in Section 18008.5 or 18213 of the Health and Safety Code.

(6) The conversion of a rental mobilehome park to a subdivision, cooperative, or condominium for mobilehomes, or its conversion to any other form of resident ownership of the park, as described in Section 50561 of the Health and Safety Code.

(d) Where any fee or other requirement levied under Section 17620 is required as to any manufactured home or mobilehome that is subsequently replaced by a permanent residential structure constructed on the same lot, the amount of that fee or other requirement shall apply toward the payment of any fee or other requirement under Section 17620 applied to that permanent residential structure.

(e) Notwithstanding any other provision of law, any school district that, on or after January 1, 1987, collected any fee, charge, dedication, or other form of requirement from any manufactured home, mobilehome, mobilehome park, or other development, shall immediately repay the fee, charge, dedication, or other form of requirement to the person or persons who made the payment to the extent the fee, charge, dedication, or other form of requirement collected would not have been authorized under subdivision (a). This subdivision shall not apply, however, to the extent that, pursuant to Section 16 of Article I of the California Constitution, it would impair the obligation of any contract entered into by any school district, on or before the effective date of this section.

(f) For purposes of this section, "manufactured home," "mobilehome," and "mobilehome park" have the meanings set forth

in Sections 18007, 18008, and 18214, respectively, of the Health and Safety Code.

(g) (1) Whenever a manufactured home or a mobilehome owned by a person 55 years of age or older who is also a member of a lower income household as defined by Section 50079.5 of the Health and Safety Code, and which has been moved from a mobilehome park space located in one school district, where the mobilehome owner has resided, to a space or lot located in a mobilehome park or a subdivision, cooperative, or condominium for mobilehomes or manufactured homes located in another school district, is subject to any fee or other requirement under Section 17620, this section, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code, the district in which the manufactured home or mobilehome has been newly located may waive the fee or other requirement under Section 53080, this section, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code, or otherwise shall be required to grant the homeowner the necessary approval for occupancy of the home, and permission to pay the amount of the fee or other requirement thereafter, in installments, over a period totaling no less than 36 months. A school district may require that the installments be paid monthly, quarterly, or every six months during the 36-month period, and that the fee be secured as a lien perfected against the mobilehome or manufactured home pursuant to Section 18080.7 of the Health and Safety Code.

(2) Costs of filing the lien and reasonable late charges or interest may be added to the amount of the lien. This subdivision does not apply where a school facilities fee, charge, or other requirement is imposed pursuant to Section 65995.2 of the Government Code.

17626. (a) A fee, charge, dedication, or other requirement authorized under Section 17620, whether or not allowable under Chapter 6 (commencing with Section 66010) of Division 1 of Title 7 of the Government Code, may not be applied to the reconstruction of any residential, commercial, or industrial structure that is damaged or destroyed as a result of a disaster, except to the extent the square footage of the reconstructed structure exceeds the square footage of the structure that was damaged or destroyed. That square footage comparison shall be made, in the case of a commercial or industrial structure, on the basis of chargeable covered and enclosed space, as defined in Section 65995 of the Government Code, or, in the case of a residential structure, on the basis of assessable space, as defined in Section 65995 of the Government Code.

(b) The following definitions apply for the purposes of this section:

(1) "Disaster" means a fire, earthquake, landslide, mudslide, flood, tidal wave, or other unforeseen event that produces material damage or loss.

(2) "Reconstruction" means the construction of property that replaces, and is equivalent in kind to, the damaged or destroyed property.

CHAPTER 7. ENERGY EFFICIENCY

17650. The Legislature finds and declares that it is in the interest of the state and of the people thereof for the state to aid school districts in finding cost-effective methods of conserving energy in school buildings maintained by the districts. The Legislature also finds that while many districts may desire to participate in energy conservation programs designed to reduce the steadily rising costs of meeting the energy needs of school buildings, that the costs involved in improving existing school facilities to become more energy efficient are often prohibitive.

It is the intent of the Legislature in enacting this chapter to encourage school districts to retrofit school buildings so as to conserve energy and reduce the costs of supplying energy.

17651. (a) School districts may borrow funds from federal or state regulated financial institutions for the purposes of design and construction costs associated with retrofitting school buildings to become more energy efficient. School districts shall only be authorized to borrow an amount which does not exceed that which can be repaid from energy cost avoidance savings accumulated from the improvement of school facilities.

(b) Any savings and loan association may make loans or advances of credit pursuant to subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings and loan associations are permitted to undertake under Section 6705.7 of the Financial Code.

17652. To the extent that these services are available, school districts shall arrange for the preaudit and postaudit of school buildings by investor-owned or municipal utility companies or by independent energy audit companies or organizations which are recognized by federal or state regulated financial institutions. The preaudit shall identify the type and amount of work necessary to retrofit the buildings and shall include an estimate of projected energy savings. The postaudit shall be conducted upon completion of the retrofitting of the school buildings to ensure that the project satisfies the recommendations of the preaudit.

17653. School districts taking action under this chapter shall contract with qualified businesses capable of retrofitting school buildings. To the extent that lists of qualified businesses are made available to school districts by investor-owned or municipal utility companies or federal or state regulated financial institutions, school districts may utilize the services of these businesses.

SEC. 4. Part 10.5 (commencing with Section 17900) of the Education Code is repealed.

SEC. 5. Part 23 (commencing with Section 38000) is added to the Education Code, to read:

PART 23. SUPPLEMENTAL SERVICES

CHAPTER 1. SECURITY DEPARTMENTS

38000. (a) The governing board of any school district may establish a security department under the supervision of a chief of security or a police department under the supervision of a chief of police, as designated by, and under the direction of, the superintendent of the school district. In accordance with Chapter 5 (commencing with Section 45100) of Part 25, the governing board may employ personnel to ensure the safety of school district personnel and pupils and the security of the real and personal property of the school district. In addition, a school district may assign a school police reserve officer who is deputized pursuant to Section 35021.5 to a schoolsite to supplement the duties of school police personnel pursuant to this section. It is the intention of the Legislature in enacting this section that a school district police or security department is supplementary to city and county law enforcement agencies and is not vested with general police powers.

(b) The governing board of a school district that establishes a security department or a police department shall set minimum qualifications of employment for the chief of security or chief of police, respectively, including, but not limited to, prior employment as a peace officer or completion of any peace officer training course approved by the Commission on Peace Officer Standards and Training. A chief of security or chief of police shall comply with the prior employment or training requirement set forth in this subdivision as of January 1, 1993, or a date one year subsequent to the initial employment of the chief of security or chief of police by the school district, whichever occurs later. This subdivision shall not be construed to require the employment by a school district of any additional personnel.

38001. Persons employed and compensated as members of a police department of a school district, when appointed and duly sworn, are peace officers, for the purposes of carrying out their duties of employment pursuant to Section 830.32 of the Penal Code.

38002. Moneys transferred into the general fund of any school district pursuant to Section 1463.12 of the Penal Code may be made available for the following purposes:

(a) The training of persons employed and compensated as members of a police department of a school district, pursuant to the requirements or approval of the Commission on Peace Officer Standards and Training.

(b) The training of persons employed and compensated as members of a police department of a school district in other public safety skills, including, but not limited to, all of the following:

(1) First aid.

(2) Rescue.

(3) Cardiopulmonary resuscitation.

(4) Emergency medical technician training.

(5) Juvenile procedures.

(6) Specialized safety equipment.

38003. Persons employed and compensated as members of a security or police department of a school district shall be supplied with and authorized to wear a badge bearing the name of the school district. The employee shall carry a suitable identification card bearing his or her photograph and signature and the signature of the superintendent of the school district. The employee shall also carry such other identification data as may be required by local law enforcement agencies. The governing board may direct the wearing of a distinctive uniform and shall prescribe same. The costs of required uniforms, equipment, identification badges, and cards shall be borne by the district.

38004. The governing board of a school district which establishes a security or police department may provide and maintain motor vehicles for the use of the department. Any vehicle, when operated in the performance of his or her duties by any member of the police department, is an authorized emergency vehicle and may be equipped and operated as such as provided by the Vehicle Code.

38005. The governing board of any school district may contract with a private licensed security agency to insure the safety of school district personnel and pupils and the security of the real and personal property of the school district when the personnel normally required to provide such service fail to do so because of an emergency including, but not limited to, war, epidemic, fire, flood, or work stoppage; or when such an emergency necessitates additional security services.

This section shall apply only if the governing board by a majority vote makes a specific finding that an emergency exists, and that this finding is included in the board minutes.

CHAPTER 2. TRANSPORTATION

Article 1. General Provisions

38020. The governing board of any school district may provide for the transportation of pupils to and from school whenever in the judgment of the board such transportation is advisable and good reasons exist therefor. The governing board may purchase or rent and provide for the upkeep, care, and operation of vehicles, or may contract and pay for the transportation of pupils to and from school

by common carrier or municipally owned transit system, or may contract with and pay responsible private parties for the transportation. Such contracts may be made with the parent or guardian of the pupil being transported. A governing board may allow the transportation in schoolbuses owned or operated by the district of preschool or nursery school pupils. No state reimbursement may be received by a district for the transportation of such pupils.

Whenever the term "municipally owned transit system" appears in this article, it means a transit system owned by a city, or by a district created under Part 1 (commencing with Section 24501) of Division 10 of the Public Utilities Code.

38021. The governing board of any school district may contract with the county superintendent of schools to provide necessary transportation services. The county superintendent of schools, acting pursuant to such a contract, shall have all the powers and duties granted to governing boards by this article.

38022. The governing board of any school district may contract for the transportation of matriculated or enrolled adults, or provide transportation to adults in district-owned equipment for educational purposes other than to and from school.

Any district which contracts to provide or provides transportation to adults pursuant to this section may charge adults all or part of the costs of contracting for or providing such transportation services.

38023. In order to procure the service at the lowest possible figure consistent with proper and satisfactory service, the governing board shall, whenever an expenditure of more than ten thousand dollars ($10,000) is involved, secure bids pursuant to Sections 20111 and 20112 of the Public Contract Code whenever it is contemplated that a contract may be made with a person or corporation other than a common carrier or a municipally owned transit system or a parent or guardian of the pupils to be transported. The governing board may let the contract for the service to other than the lowest bidder.

38024. (a) Continuing contracts for the furnishing of transportation of pupils in school districts to and from school, if made, shall be made for a term not to exceed five years. Such contracts shall be renewable at the option of the school district and the party contracting to provide transportation services, jointly, at the end of each term of the contract. The contract as renewed shall include, other than the rates of the previous contract, all of the terms and conditions of the previous contract, including any provisions increasing rates based on increased costs.

(b) Continuing contracts may be made for the lease or rental of schoolbuses, not to exceed five years, except that if such a lease or rental contract provides that the district may exercise an option either to purchase the buses or to cancel the lease at the end of each annual period during the period of the contract, such contract may be made for a term not to exceed 10 years.

(c) Notwithstanding any other provisions of law to the contrary, continuing contracts executed under the provisions of this section may be negotiated annually within the contract period when economic factors indicate such negotiation is necessary to maintain an equitable pricing structure. Such renegotiation shall be subject to the approval of both contracting parties.

(d) Any rental, lease, or lease-purchase of a schoolbus shall comply with all applicable provisions of Article 3 (commencing with Section 17450) of Chapter 4 of Part 10.5.

38025. In bidding on contracts to be made pursuant to Section 39803, bidders may include in their bids abstractions of their quotations indicating the pricing structure used to compute the annual lease or rental payments for the sole purpose of identifying that portion of each annual lease or rental payment which may represent tax exemption reimbursement to the vendor, lessor or to their assignees.

38026. In lieu of providing in whole or in part for the transportation of a pupil attending the schools of a district, the governing board may pay to the parents or guardian of the pupil a sum not to exceed the cost of actual and necessary travel incurred in transporting such pupils to and from the regular day schools of the district. No payments shall be made pursuant to this section unless it will be more economical to make the payments than to provide for said transportation.

38027. In lieu of furnishing transportation to pupils attending the schools of a school district, the governing board may pay to the parents or guardian of each pupil the cost of food and lodging of the pupil at a place convenient to the schools. The amount paid on account of each pupil shall not exceed the estimated cost to the district of providing for the transportation of the pupil to and from his or her home and the school he or she attends.

38028. When the governing board of any school district provides for the transportation of pupils to and from schools in accordance with the provisions of Section 38020, or between the regular full-time day schools they would attend and the regular full-time occupational training classes attended by them as provided by a regional occupational center or program, the governing board of the district may require the parents and guardians of all or some of the pupils transported, to pay a portion of the cost of such transportation in an amount determined by the governing board.

The amount determined by the board shall be no greater than the statewide average nonsubsidized cost of providing such transportation to a pupil on a publicly owned or operated transit system as determined by the Superintendent of Public Instruction, in cooperation with the Department of Transportation.

For the purposes of this section, "nonsubsidized cost" means actual operating costs less federal subventions.

The governing board shall exempt from these charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board.

No charge under this section shall be made for the transportation of handicapped children.

Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of pupils in the schools.

38029. The governing board of any school district may allow pupils entitled to attend the school of the district, but in attendance at a school other than a public school, under the provisions of Section 48222, transportation upon the same terms and in the same manner and over the same routes of travel as is permitted pupils attending the district school.

The allowance of this section shall be restricted to actual transportation when furnished by the district to children attending the district school, and nothing in this section shall be construed to authorize or permit in lieu of transportation payments of money to parents or guardians of children attending private schools.

38030. (a) In no case shall the sum of the state aid received and the parent fees collected in a fiscal year exceed actual operating cost of home-to-school transportation in that fiscal year.

(b) If excess fees are collected due to errors in estimated costs, fees shall be reduced in succeeding years.

(c) The governing board shall certify to the county superintendent that districts have levied fees in accordance with law, and that fees have been reduced and excess fee revenue eliminated whenever excess fees have been charged.

Article 2. State Reimbursement

38040. Notwithstanding any other law, the governing board of any school district may provide, beginning in the 1975–1976 fiscal year, for the transportation to and from public school of pupils who have attained the age of three years and nine months and are enrolled in classes established pursuant to Section 52023, whenever in the judgment of the board, transportation is advisable and good reasons exist therefor. A governing board may allow for the transportation of parents of pupils enrolled in these classes for the purpose of accompanying their children to and from the attendance center offering the early primary classes.

Districts shall receive state reimbursements for the transportation of these pupils pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24.

Article 3. Schoolbuses

38045. A schoolbus is any motor vehicle designed, used, or maintained for the transportation of any school pupil at or below the

12th-grade level to or from a public or private school or to or from public or private school activities, except the following:

(a) A motor vehicle of any type carrying only members of the household of the owner thereof.

(b) A motortruck transporting pupils who are seated only in the passenger compartment, and a passenger vehicle designed for and when actually carrying not more than 10 persons, including the driver, except any vehicle or truck transporting two or more handicapped pupils confined to wheelchairs.

(c) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned or operated transit system, only during the time it is on a scheduled run and is available to the general public or on a run scheduled in response to a request from a handicapped pupil confined to a wheelchair, or from a parent of the handicapped pupil, for transportation to or from nonschool activities. However, the motor vehicle is designed for and actually carries not more than 16 persons and the driver, is available to eligible persons of the general public, and the school does not provide the requested transportation service.

(d) A school pupil activity bus as defined in Section 38046.

(e) A motor vehicle operated by a carrier licensed by the Interstate Commerce Commission which is transporting pupils on a school activity entering or returning to the state from another state or country.

(f) A state-owned motor vehicle being operated by a state employee upon the driveways, paths, parking facilities, or grounds specified in Section 21113 of the Vehicle Code that are under the control of a state hospital under the jurisdiction of the State Department of Developmental Services where the posted speed limit is not more than 20 miles per hour. The motor vehicle may also be operated for a distance of not more than one-quarter mile upon a public street or highway that runs through the grounds of a state hospital under the jurisdiction of the State Department of Developmental Services, if the posted speed limit on the public street or highway is not more than 25 miles per hour and if all traffic is regulated by posted stop signs or official traffic control signals at the points of entry and exit by the motor vehicle.

38046. A "school pupil activity bus" is any motor vehicle, other than a schoolbus, operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned or operated transit system, or by a passenger charter-party carrier, used under a contractual agreement between a school and carrier to transport school pupils at or below the 12th-grade level to or from a public or private school activity, or used to transport pupils to or from residential schools, when the pupils are received and discharged at off-highway locations where a parent or adult designated by the parent is present to accept the pupil or place the pupil on the bus. As used in this section, "common carrier," "publicly owned or operated transit system," and

"passenger charter-party carrier" mean carriers in business for the principal purpose of transporting members of the public on a commercial basis. This section shall not apply to a motor vehicle operated by a carrier licensed by the Interstate Commerce Commission transporting pupils on a school activity trip entering or returning to the state from another state or country.

The driver of a school pupil activity bus shall be subject to the regulations adopted by the California Highway Patrol governing schoolbus drivers, except that the regulations shall not require drivers to duplicate training or schooling that they have otherwise received which is equivalent to that required pursuant to the regulations, and the regulations shall not require drivers to take training in first aid. However, a valid certificate to drive a school pupil activity bus shall not entitle the bearer to drive a schoolbus.

38047. The State Board of Education shall adopt reasonable regulations relating to the use of schoolbuses by school districts and others. The regulations shall not include the safe operation of schoolbuses which regulations shall be adopted instead by the Department of the California Highway Patrol pursuant to Section 34500 of the Vehicle Code.

The Department of the California Highway Patrol shall adopt regulations relating to the safe operation of schoolbuses which shall include requiring school district governing boards to include in their schoolbus driver training programs, the proper actions to be taken in the event that a schoolbus is hijacked.

38048. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a schoolbus or school pupil activity bus shall receive instruction in schoolbus emergency procedures and passenger safety. The county superintendent of schools, superintendent of the school district, or owner/operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a schoolbus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6, inclusive, shall be provided with written information on schoolbus safety. The information shall include, but not be limited to, all of the following:

(A) A list of schoolbus stops near each pupil's home.

(B) General rules of conduct at schoolbus loading zones.

(C) Red light crossing instructions.

(D) Schoolbus danger zone.

(E) Walking to and from schoolbus stops.

(2) At least once in each school year, all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, who receive home-to-school transportation shall receive safety instruction which includes, but is not limited to, proper loading and unloading procedures, including escorting by the driver, proper passenger

conduct, bus evacuation, and location of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit. As part of the instruction, pupils shall evacuate the schoolbus through emergency exit doors.

(3) Prior to departure on a school activity trip, all pupils riding on a schoolbus or school pupil activity bus shall receive safety instruction which includes, but is not limited to, location of emergency exits, and location and use of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit.

(b) The following information shall be documented each time the instruction required by paragraph (2) of subdivision (a) is given:

(1) Name of school district, county office of education, or private school.

(2) Name and location of school.

(3) Date of instruction.

(4) Names of supervising adults.

(5) Number of pupils participating.

(6) Grade levels of pupils.

(7) Subjects covered in instruction.

(8) Amount of time taken for instruction.

(9) Bus driver's name.

(10) Bus number.

(11) Additional remarks.

The information recorded pursuant to this subdivision shall remain on file at the district or county office, or at the school, for one year from the date of the instruction, and shall be subject to inspection by the Department of the California Highway Patrol.

38049. The name or names of the particular school or schools to which a schoolbus conveys pupils may be painted on the side of the bus, in the manner prescribed by the Department of the California Highway Patrol.

38050. Any officer, agent, or employee of a school district, or any other person knowingly operating, or permitting or directing the operation of a schoolbus in violation of any regulation or order of the Department of the California Highway Patrol, and any person knowingly operating a school bus without possessing the qualifications required by the Department of the California Highway Patrol for schoolbus operators, is guilty of a misdemeanor.

38051. (a) Except as provided in subdivision (b), any officer, agent, or employee of a school district, office of the county superintendent of schools, or joint powers agency, or any other person, knowingly operating, or permitting or directing the operation of a schoolbus, when it is loaded with schoolchildren in excess of the limits of its seating capacity, is guilty of a misdemeanor.

(b) The governing board of any school district, office of the county superintendent of schools, or joint powers agency may adopt a district policy establishing plans for the evacuation of pupils in case

of any emergency which may provide, where necessary, for the loading of schoolchildren on a schoolbus in excess of the limits of its seating capacity.

(c) As used in this subdivision, "emergency" means a natural disaster or hazard which requires that pupils be moved immediately in order to ensure their safety.

38052. (a) The governing board of any school district may use schoolbuses to transport persons for purposes of community recreation as provided in Sections 10900 to 10915, inclusive, of this code. The transportation may be provided on any day or days throughout the school year.

(b) Any school district which files forms with the Superintendent of Public Instruction covering the annual report of transportation expense in connection with reimbursement for transportation shall show on said forms the total mileage of schoolbuses used in providing transportation for community recreation purposes. The Superintendent of Public Instruction, in accordance with regulations adopted by him or her, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting persons for community recreation.

38053. During any national emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, the governing board of a school district may operate any bus owned or under lease to the district for the transportation of pupils of the district engaged in the harvesting of crops to and from the places of harvest and shall require the payment of a reasonable charge for transportation furnished.

38054. The governing board of any school district may use and operate any bus owned or under lease to the district for the transportation of pupils to and from their places of employment during the summer in connection with any summer employment program for youth. The governing board shall require the payment of a reasonable charge for transportation so furnished. The governing board shall, in accordance with Section 35208, adequately insure against the liability of the district, members of the board, and officers and employees of the district in connection with the furnishing of transportation.

38055. The governing board of any school district may provide for the transportation of employees of the district and of parents of pupils of the district to and from educational activities authorized by the district.

38056. Each schoolbus shall be equipped with one or more fire extinguishers bearing the approval of the laboratories of the National Board of Fire Underwriters, Underwriters' Laboratories Incorporated, or any other nationally recognized testing laboratory, and located in an easily accessible place in the driver's compartment.

Each schoolbus shall be equipped with one or more fire extinguishers with an aggregate rating of at least 8-B, C units, as rated by the Underwriters' Laboratories Incorporated. Carbon tetrachloride fire extinguishers shall not be used on schoolbuses.

38057. Guide dogs, signal dogs, and service dogs trained to provide assistance to individuals with a disability may be transported in a schoolbus when accompanied by disabled pupils enrolled in a public or private school or by disabled teachers employed in a public or private school or community college or by persons training the dogs.

38058. The governing board of any school district may enter into a contract under the terms of which the school district grants the use of any schoolbus which is owned or leased by the school district to any federal, state, or local governmental agency for the purpose of providing transportation for employees of the agency to or from their places of employment, or both, if the following conditions are satisfied:

(a) No public transportation is reasonably available to the agency's employees at their place of employment.

(b) The school district normally provides transportation for pupils residing on the governmental agency's property to or from school, or both.

(c) The transportation of the agency's employees does not interfere with the school district's use of schoolbuses for school transportation purposes.

(d) All schoolbus warning lights and exterior lettering or signs that identify the bus as a schoolbus are covered or removed during operation by the federal, state, or local governmental agency.

(e) Mechanical condition of a schoolbus during operation by the federal, state, or local governmental agency is maintained so as to meet or exceed those regulations promulgated by the State Department of Education pursuant to Section 38047 governing the operation of schoolbuses.

(f) Accurate records are maintained which reflect the actual number of miles any schoolbus is driven during times of operation by the federal, state, or local governmental agency, which records are to be made available to the Superintendent of Public Instruction in connection with the annual report of transportation expense made by the school district. The Superintendent of Public Instruction, in accordance with Section 38052, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting employees of a federal, state, or local governmental agency pursuant to this section.

38059. The following requirements shall be included in any agreement entered into between a school district and a publicly owned transit system under which the school district grants the use

of any schoolbus which is owned or leased by it to the transit system for public transportation purposes:

(a) All schoolbus warning lights and exterior lettering or signs that identify the bus as a schoolbus are covered or removed during operation by the transit system.

(b) Mechanical condition of a schoolbus during operation by the transit system is maintained so as to meet or exceed those regulations promulgated by the State Board of Education pursuant to Section 38047 governing the operation of schoolbuses.

(c) Accurate records are maintained which reflect the actual number of miles any schoolbus is driven during times of operation by the transit system.

Article 4. Special Services

38065. The governing board of any school district may contract for the transportation of pupils attending schools within the district to and from any exposition or fair, school activities, or other activities which the governing board determines to be for the benefit of the pupils, in this state, and may pay for the transportation out of any funds of the district available for the purpose.

CHAPTER 3. CAFETERIAS

Article 1. Establishment and Use

38080. The term "cafeteria" as used in this code is considered synonymous with the term "food service."

38081. The governing board of any school district may establish cafeterias in the schools under its jurisdiction whenever in its judgment it is advisable to do so.

38082. Food shall not be sold at any cafeteria operated by a school district to anyone except pupils and employees of any school district, members of the governing board thereof, and members or employees of the fund or association maintaining the cafeteria; provided, however, that nothing herein contained shall prohibit the use of the cafeteria facilities by any work or harvest camp maintained by or within the district, and by persons entitled to use the school under the Civic Center Act; and provided further, that the governing board of any school district operating a cafeteria may exempt by formal resolution of the board other individuals and organizations from the operation of this section including senior citizens participating in any program conducted pursuant to Chapter 6 (commencing with Section 9500) of Division 8.5 of the Welfare and Institutions Code.

38083. Perishable foodstuffs and seasonal commodities needed in the operation of cafeterias may be purchased by the school district in accordance with rules and regulations for such purchase adopted

by the governing board of said district notwithstanding any provisions of this code in conflict with such rules and regulations.

38084. The food served shall be sold to the patrons of the cafeterias at such a price as will pay the cost of maintaining the cafeterias, exclusive of the costs made a charge against the funds of the school district by this chapter, and items made a charge against the funds of the school district by resolution of the governing board under authority of this chapter.

38085. A minimum of 50 percent of the items, other than foods reimbursed under Chapters 13 (commencing with Section 1751) and 13A (commencing with Section 1771) of Title 42 of the United States Code, offered for sale each schoolday at any schoolsite by any entity or organization during regular school hours shall be selected from the following list:

(a) Milk and dairy products, including cheese, yogurt, frozen yogurt, and ice cream.

(b) Full-strength fruit and vegetable juices and fruit drinks containing 50 percent or more full-strength fruit juice, and fruit nectars containing 35 percent or more full-strength fruit juice.

(c) Fresh, frozen, canned, and dried fruits and vegetables.

(d) Nuts, seeds, and nut butters.

(e) Nonconfection grain products, as defined by regulation of the United States Food and Drug Administration, including crackers, bread sticks, tortillas, pizza, pretzels, bagels, muffins, and popcorn.

(f) Meat, poultry, and fish, and their products, including beef jerky, tacos, meat turnovers, pizza, chili and sandwiches.

(g) Legumes and legume products, including bean burritos, chili beans, bean dip, roasted soy beans, and soups.

(h) Any foods which would qualify as one of the required food components of the Type A lunch which is defined in and reimbursable under the National School Lunch Act (Chapter 13 (commencing with Section 1751) of Title 42 of the United States Code).

For the purposes of this section, "item" shall be defined as each separate kind of food offered for sale as a separate unit.

Article 2. Cafeterias, Funds and Accounts

38090. Money received for the sale of food or for any services performed by the cafeterias may be paid into the county treasury to the credit of the "cafeteria fund" of the particular school district.

38091. The cafeteria fund shall be used only for those expenditures authorized by the governing board as necessary for the operation of school cafeterias, including, but not limited to, expenditures for the lease or purchase of additional cafeteria equipment for the central food processing plant, vending machines and their installation and housing, and computer equipment and related software.

Whenever a cafeteria fund is operated pursuant to these provisions, the governing board may authorize the establishment of one or more cafeteria revolving accounts. For accounting purposes, a cafeteria revolving account is to be treated as a revolving cash account of the cafeteria fund, providing that the receipt of income and expenditures made from a cafeteria revolving account become recorded as income and expenditures of the cafeteria fund. Appropriate transfers, replenishments, and deposits between the cafeteria fund and a cafeteria revolving account may occur as are necessary to comply with accounting requirements. A cafeteria revolving account may receive and expend moneys in the same manner and for the same purposes as authorized for a cafeteria account.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, may also make expenditures from the cafeteria fund for the construction, alteration, or improvement of a central food processing plant, for the installation of additional cafeteria equipment for the central food processing plant, and for the lease or purchase of vehicles used primarily in connection with the central food processing plant.

38092. The governing board of any school district with an average daily attendance of over 100,000 may allow as an expenditure from the cafeteria fund or account a share of money agreed upon pursuant to a contract, which is generated from the joint sale of items between the cafeteria and an associated student body student store. The expenditure must result from an agreement entered into by the cafeteria and the associated student body in which pupils will participate in the operation of the store.

38093. The governing board of any school district may establish an account for each cafeteria established in a school of the district, or for all cafeterias established in the schools of the district, in one or more banks. The account shall be known as "The Cafeteria Account of (insert name of district) District." If the account is established for one of several cafeterias, it shall be known as "The Cafeteria Account of the (insert name of school) School of (insert name of district) District." All receipts of the cafeteria, or cafeterias, as the case may be, derived from the sale of food shall be deposited in the account and shall be expended only for the maintenance of the cafeteria, or cafeterias, exclusive of items made a charge against the funds of the school district by this chapter, and items made a charge against the funds of the school district by resolution of the governing board under authority of this chapter.

38094. The governing board of the district shall designate an employee or employees of the district to have custody of the account or accounts, who shall be responsible for the payment into the account or accounts of all moneys required to be paid into the account or accounts, and for all expenditures therefrom, subject to any regulations that the governing board prescribes.

38095. Upon the order of the governing board of any district having a cafeteria fund in the county treasury and establishing an account, or accounts, the county treasurer shall deposit the money in the fund to the account, or accounts, and shall notify the county auditor and county or city and county superintendent of schools of his action. If the money is to be deposited in more than one account, the governing board of the district shall designate the amount to be placed in each account.

Article 3. Cafeterias, Allocation of Charges

38100. The cost of housing and equipping cafeterias is a charge against the funds of the school district. However, when the governing board of a school district deems it necessary, the governing board may make the cost of the lease or purchase of additional cafeteria equipment for a central food processing plant, and of vending machines and their installation and housing, a charge against cafeteria funds. If school district funds are expended for the lease or purchase of additional cafeteria equipment for a central food processing plant, or for the lease, purchase, installation, or housing of vending machines, the governing board may at any time within five years after the expenditure reimburse school district funds from cafeteria funds.

The governing board of a school district may by resolution make the cost of maintenance of the physical plant used in connection with cafeterias, the cost of replacement of equipment and the cost of telephone charges, water, electricity, gas, coal, wood, fuel oil, and garbage disposal a charge against the funds of the school district.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, may also make the cost of the construction, alteration, or improvement of a central food processing plant and the installation of additional cafeteria equipment a charge against cafeteria funds. If district funds are expended for these purposes, the governing board also may at any time within five years after the expenditure reimburse district funds from cafeteria funds.

38101. (a) The governing board of any school district may authorize expenditures from the cafeteria fund or cafeteria account only for those charges from that fund or account that are defined in the California School Accounting Manual or are reported to the State Department of Education on form J-380, as revised April 1990.

(b) A food service program shall not be charged more than once for expenditures for the same service. If a food service program is being charged for a service as a direct cost, the school district shall not also allocate that cost as a direct support cost or indirect cost.

(c) For purposes of this section, an "indirect cost" shall be limited to the lesser of the school district's prior year indirect cost rate as

approved by the State Department of Education or the statewide average approved indirect cost for the second prior fiscal year.

(d) Any charges to, or transfers from, a food service program shall indicate when the charge or transfer was made and shall be accompanied by a written explanation of the purpose of, and basis for, the expenditure.

(e) Nothing in this section authorizes a school district to charge a food service program any charges prohibited by state or federal law or regulation.

(f) If the State Department of Education and the Department of Finance concur that a school district has violated this section, the Superintendent of Public Instruction shall direct that school district to transfer double the amount improperly transferred to the district's general fund from that fund to the district's cafeteria fund or cafeteria account for the subsequent fiscal year which is then to be used for the improvement of the district's food service program. If the school district fails to make that transfer as directed, the superintendent shall reduce the school district's regular apportionment determined pursuant to Section 42238 and increase the district's child nutrition allowance determined pursuant to Section 41350 by double the amount improperly transferred to the district's general fund and that amount is then to be used for improvement of the food service program.

(g) It is the intent of the Legislature in enacting this section that responsible school district officials be held fully accountable for the accounting and reporting of food service programs and that minor and inadvertent instances of noncompliance be resolved in a fair and equitable manner to the satisfaction of the Superintendent of Public Instruction and the Department of Finance.

(h) The Superintendent of Public Instruction, with the approval of the Department of Finance, may waive up to the full transfer amount in subdivision (f) if he or she determines that the noncompliance involved is minor or inadvertent, or both.

38102. The governing board of any school district operating school cafeterias may establish and maintain a cafeteria fund reserve for the purchase, lease, maintenance, or replacement of cafeteria equipment, to be known as the cafeteria equipment reserve. The funds for this reserve are to be derived from the sales of food in the school cafeterias in an amount to be determined by the governing board and may be accumulated from year to year until expended for this purpose. Funds in the cafeteria equipment reserve shall only be used for the purchase, lease, maintenance, or replacement of cafeteria equipment.

Nothing in this section shall prohibit any school district from replacing cafeteria equipment from district funds as provided in Section 38100.

38103. The governing board of a school district shall employ persons for food service positions as part of the classified service,

except that school districts may utilize the services of volunteers for programs that provide meals for senior citizens as authorized pursuant to Chapter 6 (commencing with Section 9500) of Division 8.5 of the Welfare and Institutions Code. Wages, salaries, and benefits, including employer retirement contributions for food service personnel, shall be paid from the general fund of the school district or from the cafeteria fund, at the discretion of the governing board and upon approval of the county superintendent of schools who has responsibility for a countywide payroll/retirement system under Sections 42646 and 85260. Expenses of the general fund under this section for the costs of wages, salaries, and benefits, including employer retirement contributions and other purposes classed as food service, shall be excluded from the definition of "current expense of education" as defined in Section 41372. The governing board may, at any time, order reimbursement from the cafeteria fund or account to the general fund of the district for payments under this section in such amounts as it prescribes but not to exceed food service employee salary, wage and benefit costs actually incurred.

Any reimbursements in excess of the amount actually required shall be refunded to the cafeteria fund or account not later than the close of the current fiscal year.

The reimbursements from the cafeteria fund or account shall be considered expenses of the cafeteria fund or account, as the case may be, and only those payments made from the general fund that are not reimbursed from the cafeteria fund or account shall be considered expenses of the general fund.

Accounting for those transactions shall be as prescribed in Section 41010.

CHAPTER 4. MISCELLANEOUS PROVISIONS

Article 1. Apparatus and Supplies

38110. The county board of education shall on or before the first day of February of each year establish rules and regulations under which any school district in the county shall, except as provided in Section 40002, purchase standard school supplies and equipment through the county superintendent of schools, or when so directed by him or her, through a county purchasing agent.

When the county superintendent of schools purchases standard school supplies without directing their purchase through the county purchasing agent or other county, city, or school district agent or agency, he or she shall make such purchase from the lowest responsible bidder who shall give such security as the county superintendent of schools requires, or else reject all bids. For the purpose of securing bids, the county superintendent of schools shall publish at least once a week for two weeks in a newspaper of general circulation published in the county, a notice calling for bids stating

where the list and specifications of standard school supplies and equipment to be furnished may be obtained and the time when, and the place where bids will be opened.

The county board of education shall list as standard school supplies and equipment such supplies and equipment as can be advantageously purchased in quantity. The list of standard school supplies shall be accompanied by a table of specifications giving the minimum grade, quality, substance, or other standard required for the purchase of each item listed.

The cost of advertising for bids and the cost of preparation of a table of specifications shall be paid from the county general fund.

The provisions of this section shall not apply to counties of the first or second class containing no more than three districts with an average daily attendance of less than 2,500.

38111. The governing board of each school district shall, except as otherwise provided in this code, purchase school furniture, including musical instruments, and apparatus, and such other articles as are necessary for the use of schools, and may, in its discretion, purchase uniforms and other regalia for the use of school bands, orchestras and choirs, and including uniforms and equipment necessary for the use of athletic teams. The provisions of Article 1 of Chapter 4 of Division 5 of Title 1 of the Government Code shall not apply to the purchase of musical instruments made pursuant to this section. Any such articles purchased shall always remain the property of the school district purchasing them. Only such books, apparatus, uniforms, and equipment shall be purchased by the governing board of an elementary school district, if the board is not a city board of education, as have been adopted by the county board of education having jurisdiction over the district.

38112. (a) Except as provided in subdivision (b), the governing board of any school district may purchase any necessary school supplies and equipment, including standard school supplies and equipment listed by the county board of education, in the manner provided in this chapter, or the governing board of any school district may purchase such supplies and equipment directly from the vendor. Such direct purchase may be as a single district or two or more districts acting as a cooperative.

(b) An elementary school district having an average daily attendance of less than 2,500 during the preceding fiscal year may purchase standard school supplies and equipment directly from a vendor only by means of a purchasing cooperative representing a total average daily attendance in excess of 2,500 and then only if the county superintendent of schools has on file a document certifying the school district's membership in such a cooperative.

38113. The clerk of each district shall, under the direction of the board of trustees, provide all school supplies authorized by this chapter.

38114. The cost of maintaining schoolbuses may be paid out of any funds of the district except funds derived from the sale of bonds and funds required by law to be set aside for teachers' salaries.

38115. The superintendent of schools of each county may transfer at the beginning of any school year from the funds of the school districts of the county which elect to purchase equipment and supplies in accordance with Section 38110, to the school supply revolving fund, which fund is continued in existence, a sum not to exceed 10 percent of the amount to be received during the school year by each district from the State School Fund.

38116. If in any county a school supply revolving fund is not established, payment for school supplies and equipment purchased through the county superintendent of schools or through the county purchasing agent shall be made by order of the governing board of the school district purchasing them, in the same manner as other payments are made from school district funds.

38117. The governing board of each school district throughout the state shall provide for each schoolhouse under its control, a suitable Flag of the United States, which shall be hoisted above each schoolhouse during all school sessions and on school holidays, weather permitting.

The governing board of each school district shall provide smaller and suitable United States Flags to be displayed in each schoolroom at all times during the school sessions.

The governing board of each school district shall enforce this section.

38118. Writing and drawing paper, pens, inks, blackboards, blackboard erasers, crayons, lead pencils, and other necessary supplies for the use of the schools, shall be furnished under direction of the governing boards of the school districts.

38119. The governing board of a school district may rent or lease personal property needed for district purposes, including the renting or leasing of caps and gowns for seniors who participate in high school graduation ceremonies.

38120. The governing board of any school district may lend school band instruments, music, uniforms, and other regalia to persons who are or have been, during the prior school year, members of the school band for use by them on excursions to foreign countries whether or not such an excursion is sanctioned by the governing board.

The governing board may require the borrower to make a deposit or take other measures to insure that the items borrowed will be returned in usable condition.

Article 2. Use of School Property

38130. This article shall be known and may be cited as the Civic Center Act.

38131. (a) There is a civic center at each and every public school facility and grounds within the state where the citizens, parent-teachers' associations, Camp Fire girls, Boy Scout troops, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment pertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside.

(b) The governing board of any school district may grant the use of school facilities or grounds as a civic center upon the terms and conditions the board deems proper, subject to the limitations, requirements, and restrictions set forth in this article, for any of the following purposes:

(1) Public, literary, scientific, recreational, educational, or public agency meetings.

(2) The discussion of matters of general or public interest.

(3) The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization that has no suitable meeting place for the conduct of the services, provided the governing board charges the church or religious organization using the school facilities or grounds a fee as specified in subdivision (d) of Section 40043.

(4) Child care or day care programs to provide supervision and activities for children of preschool and elementary school age.

(5) The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies.

(6) Supervised recreational activities including, but not limited to, sports league activities for youths that are arranged for and supervised by entities, including religious organizations or churches, and in which youths may participate regardless of religious belief or denomination.

(7) Other purposes deemed appropriate by the governing board.

38132. Notwithstanding Section 38134, the governing board of any school district shall grant the use of school buildings, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The governing board shall cooperate with these agencies in furnishing and maintaining such services as the governing board may deem necessary to meet the needs of the community.

38133. The management, direction, and control of school facilities under this article is vested in the governing board of the school

district which shall promulgate all rules and regulations necessary to provide, at a minimum, for the following:

(1) Aid, assistance, and encouragement to any of the activities authorized in Sections 40041 and 40041.5.

(2) Preservation of order in school facilities and on school grounds, and protection of school facilities and school grounds, including, if the governing board deems necessary, appointment of a person who shall have charge of the school facilities and grounds for purposes of their preservation and protection.

(3) That the use of school facilities or grounds is not inconsistent with the use of the school facilities or grounds for school purposes or interferes with the regular conduct of schoolwork.

38134. (a) The governing board of any school district shall authorize the use of any school facilities or grounds under its control, when an alternative location is not available, to nonprofit organizations, and clubs or associations organized to promote youth and school activities, including, but not limited to:

(1) Girl Scouts, Boy Scouts, Camp Fire, Inc.

(2) Parent-teachers' associations.

(3) School-community advisory councils.

This subdivision shall not apply to any group that uses school facilities or grounds for fundraising activities that are not beneficial to youth or public school activities of the district, as determined by the governing board.

(b) Except as otherwise provided by law, the governing board may charge an amount not to exceed its direct costs for use of its school facilities. Each governing board that decides to levy these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs.

(c) The governing board of any school district may charge an amount not to exceed its direct costs for use of its school facilities by any entity, including a religious organization or church, that arranges for and supervises sports league activities for youths as described in paragraph (6) of subdivision (b) of Section 38131.

(d) The governing board of any school district that authorizes the use of school facilities or grounds for the purpose specified in paragraph (3) of subdivision (b) of Section 38131 shall charge the church or religious denomination an amount at least equal to the district's direct costs.

(e) In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts are not expended for the welfare of the pupils of the district or for charitable purposes, a charge shall be levied for the use of school facilities or grounds which charge shall be equal to fair rental value.

(f) If any group activity results in the destruction of school property, the group may be charged for an amount necessary to repay the damages, and further use of facilities may be denied.

(g) As used in this section, "direct costs" to the district for the use of school facilities or grounds means those costs of supplies, utilities, janitorial services, services of any other district employees, and salaries paid school district employees necessitated by the organization's use of the school facilities and grounds of the district.

(h) As used in this section, "fair rental value" means the direct costs to the district, plus the amortized costs of the school facilities or grounds used for the duration of the activity authorized.

(i) Any school district authorizing the use of school facilities or grounds under subdivision (a) shall be liable for any injuries resulting from the negligence of the district in the ownership and maintenance of those facilities or grounds. Any group using school facilities or grounds under subdivision (a) shall be liable for any injuries resulting from the negligence of that group during the use of those facilities or grounds. The district and the group shall each bear the cost of insuring against its respective risks and shall each bear the costs of defending itself against claims arising from those risks. Notwithstanding any other provision of law, this subdivision shall not be waived. Nothing in this subdivision shall be construed to limit or affect the immunity or liability of a school district under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, for injuries caused by a dangerous condition of public property.

38135. Any use, by any individual, society, group, or organization for the commission of any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government of the United States or of the state by force, violence, or other unlawful means shall not be permitted or suffered.

Any individual, society, group, or organization which commits any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government by force, violence, or other unlawful means while using school property pursuant to the provisions of this chapter is guilty of a misdemeanor.

38136. No governing board of a school district shall grant the use of any school property to any person or organization for any use in violation of Section 38135.

For the purpose of determining whether or not any individual, society, group, or organization applying for the use of the school property intends to violate Section 38135, the governing board shall require the making and delivery to the governing board, by the applicant of a written statement of information in the following form:

STATEMENT OF INFORMATION

The undersigned states that, to the best of his or her knowledge, the school property for use of which application is hereby made will not be used for the commission of any act intended to further any program or movement the purpose of which is to accomplish the

overthrow of the government of the United States by force, violence or other unlawful means;

That _____, the organization on whose behalf he or she is making application for use of school property, does not, to the best of his or her knowledge, advocate the overthrow of the government of the United States or of the State of California by force, violence, or other unlawful means, and that, to the best of his or her knowledge, it is not a Communist action organization or Communist front organization required by law to be registered with the Attorney General of the United States. This statement is made under the penalties of perjury.

_____

(Signature)

The school board may require the furnishing of additional information as it deems necessary to make the determination that the use of school property for which application is made would not violate Section 38135.

Any person applying for the use of school property on behalf of any society, group, or organization shall be a member of the applicant group and, unless he or she is an officer of the group, must present written authorization from the applicant group to make the application.

The governing board of any school district may, in its discretion, consider any statement of information or written authorization made pursuant to the requirements of this section as being continuing in effect for the purposes of this section for the period of one year from the date of the statement of information or written authorization.

38137. Written statements of information as required by Section 38136 need not be under oath, but shall contain a written declaration that they are made under the penalty of perjury, and any person so signing the statements who willfully states therein as true any material matter which he or she knows to be false, is subject to the penalties prescribed for perjury in the Penal Code.

38138. Notwithstanding the provisions of this article or any other provisions of law, when a nonpartisan charitable organization organized under the laws of this state has constructed or will construct, subject to the provisions of Article 3 (commencing with Section 39140) of Chapter 2 of this part, a school athletic and youth center facility at no cost to a school district, upon a school-district-owned site to be owned by and for the benefit of the school occupying the site, the governing board of the school district, in accepting the donation and prescribing the conditions and restrictions with respect thereto, may permit the general use of the facility under the provisions of this article for specified supervised recreational activities which are sponsored by or conducted by the donor organization, and may also permit the donor organization to

use the facility for this purpose at times when the facility is not being used by the school district for the educational program and related school activities of the designated beneficiary school, unless the use and occupancy of the facility by the donor organization would otherwise interfere with the regular conduct of the school. Any use granted to the donor organization shall, however, immediately and forever terminate if the donor organization denies the use of the facility to any person because of their race, religion, creed, national origin, ancestry, or sex.

This section shall apply only to elementary school districts in San Diego County which had an average daily attendance of 425 or less during the 1970–71 school year, and which, during the 1970–71 school year, had a modified assessed valuation per pupil in average daily attendance of between forty-five thousand dollars ($45,000) and fifty thousand dollars ($50,000).

38139. (a) Public primary schools shall post at an appropriate area restricted to adults information regarding missing children provided by the Department of Justice pursuant to Section 11114.1 of the Penal Code.

(b) Public secondary schools shall post at an appropriate area information regarding missing children provided by the Department of Justice pursuant to Section 11114.1 of the Penal Code.

Article 3. Farm Labor Driver Training Course

38150. The State Department of Education shall develop or approve a course for the training of schoolbus, school pupil activity bus, and farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for an examination for certification pursuant to Sections 12517 and 12519 of the Vehicle Code. The department shall seek the advice and assistance of the Department of Motor Vehicles and the Department of the California Highway Patrol in developing or approving such a course.

The department shall train or approve the necessary instructional personnel to conduct the course. For schoolbus and school pupil activity bus training, the department shall provide for and approve the course outline and lesson plans used in the course. For farm labor vehicle training, the department shall approve the course outline and lesson plans used in the course.

Article 4. Specialized Vehicle Driver Training Courses

38155. (a) This article governs the minimum training required for drivers to obtain or renew a certificate described in Section 12517, 12519, or 12804.6 of the Vehicle Code.

(b) As used in this article, "department" means the State Department of Education.

38156. (a) The department shall develop or approve courses for training school pupil activity bus (SPAB), transit bus, schoolbus, and farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for certification pursuant to Sections 12517, 12519, and 12804.6 of the Vehicle Code. The department shall seek the advice and assistance of the Department of Motor Vehicles and the Department of the California Highway Patrol in developing or approving those courses.

(b) The department shall train or approve the necessary instructional personnel to conduct the driver training courses. For all schoolbus and school pupil activity bus (SPAB) driver instructor training, the department shall provide for and approve the course outline and lesson plans used in the course. For transit bus and farm labor vehicle driver training, the department shall approve the course outline and lesson plans used in the course.

(c) All courses of study and training activities required by this article shall be approved by the department and given by, or in the presence of, an instructor in possession of a valid school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate of the appropriate class.

(d) As an alternative to subdivisions (a), (b), and (c), instructors who have received a certificate from the Transportation Safety Institute of the United States Department of Transportation indicating that they have completed the Mass Transit Instructor Orientation and Training (Train-the-Trainer) course may approve courses of instruction and train transit bus drivers in order to meet the requirements for certification pursuant to Section 12804.6 of the Vehicle Code.

38157. (a) An original applicant for a certificate to drive a schoolbus, as defined by Section 545 of the Vehicle Code, shall have successfully completed a minimum 40-hour course of instruction. The course shall include at least 20 hours of classroom instruction in, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class. The course shall also include at least 20 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course. Applicant behind-the-wheel training shall include driving vehicles comparable to those vehicles that will be driven by the applicant to transport pupils. All behind-the-wheel training shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 38160.

(b) Except as provided in subdivision (c), a driver who is holding a driver certificate or endorsement described in Section 38158, and is seeking a schoolbus certificate of the appropriate class, shall have successfully completed a minimum of five hours of classroom

instruction, including, but not limited to, schoolbus laws and regulations, defensive driving, student loading and unloading, and the exceptional child. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class. The driver shall also complete at least three hours of behind-the-wheel training in defensive driving practices, lane control, railroad grade crossing procedures, and student loading and unloading.

(c) A driver who has received training by an instructor who has received a certificate as described in subdivision (d) of Section 38156 may not be certified to drive a schoolbus in the manner described in subdivision (b).

38158. An original applicant for a certificate to drive any bus defined by Section 546 or 642 of the Vehicle Code shall have successfully completed a minimum 35-hour course of instruction. The course shall include at least 15 hours of classroom instruction, including, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course, or other classroom curricula which the department has certified meets or exceeds the standards in its curricula. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class, except that an instructor who has received a certificate as described in subdivision (d) of Section 38156 may provide the training for an original applicant for a certificate to drive a bus defined by Section 642 of the Vehicle Code. The course shall also include at least 20 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course, or at least 20 hours of other behind-the-wheel training or driving experience which the department has certified meets or exceeds the standards of its training course. Applicant behind-the-wheel training shall include driving vehicles comparable to those vehicles that will be used to transport passengers. All behind-the-wheel training for a certificate to drive a bus defined by Section 546 of the Vehicle Code shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 38160. All behind-the-wheel training for a certificate to drive a bus defined by Section 642 of the Vehicle Code shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 38160, or the delegated behind-the-wheel trainer as designated by the instructor certified pursuant to subdivision (d) of Section 38156.

This section shall become operative on January 1, 1993.

38159. An original applicant for a certificate to drive a farm labor vehicle shall have successfully completed a minimum 20-hour course of instruction. The course shall include at least 10 hours of classroom instruction, including, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course. All classroom

instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class. The course shall also include at least 10 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course. Applicant behind-the-wheel training shall include driving vehicles comparable to those that will be driven by the applicant to transport farm passengers. All behind-the-wheel training shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 38160.

38160. (a) All behind-the-wheel training required to obtain certificates pursuant to Sections 12517 and 12519 of the Vehicle Code shall be performed by a state-certified instructor or by a delegated behind-the-wheel trainer who has been certified or approved by the department to conduct the required training.

(b) A delegated behind-the-wheel trainer is a person selected to assist a state-certified instructor in the behind-the-wheel training of drivers. Selected persons shall be trained by state-certified instructors and approved by the department prior to conducting any behind-the-wheel training. The minimum standards for the selection of a delegated behind-the-wheel trainer are as follows:

(1) One year experience as a driver of the appropriate type and size vehicle immediately preceding the date of selection as a delegated behind-the-wheel trainer.

(2) Possession of the appropriate license, certificates, and endorsements needed to drive and train in a particular type and size vehicle.

(3) A high school diploma or General Education Development equivalent.

(4) A driving record with no chargeable accidents within the past three years immediately preceding the date of selection.

(5) Successful completion of all training in the latest edition of the Instructor's Behind-the-Wheel Training Guide for California's Bus Driver's Training Course given by, and in the presence of, a state-certified instructor of the appropriate class.

(6) Successful completion of a written assessment test on current laws, regulations, and policies given by, and in the presence of, a state-certified instructor of the appropriate class.

(7) Successful completion of a driving test and a behind-the-wheel training performance test on all phases of behind-the-wheel and vehicle inspection training. The test shall be given by, and in the presence of, a state-certified instructor of the appropriate class.

(c) The state-certified instructor shall train and document the qualifications and competence of each delegated behind-the-wheel trainer to be utilized in training. All training required by this section shall be documented on the State Department of Education Training Certificate T-01, and signed by a state-certified school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver

instructor of the appropriate class, and by the delegated behind-the-wheel trainer. The signatures shall certify that the instruction was given to, and received by, the delegated behind-the-wheel trainer and that the delegated behind-the-wheel trainer displayed a level of competency necessary to train drivers to drive authorized vehicles in a safe and competent manner. The completed State Department of Education Training Certificate T-01 shall be submitted to the department in Sacramento, along with all other required documents, when requesting approval of a delegated behind-the-wheel trainer.

(d) The department may disapprove the eligibility of a delegated behind-the-wheel trainer for any of the following causes:

(1) The state-certified instructor authorizing the competency of the delegated behind-the-wheel trainer has requested disapproval.

(2) The employer of the delegated behind-the-wheel trainer has requested disapproval.

(3) The delegated behind-the-wheel trainer has voluntarily requested disapproval.

(4) The delegated behind-the-wheel trainer failed to comply with Section 40087.

(5) The delegated behind-the-wheel trainer failed to comply with Section 40084.5.

(6) The delegated behind-the-wheel trainer does not possess a valid driver's license, appropriate endorsements, or special driver's certificate of the appropriate class.

(7) The delegated behind-the-wheel trainer's driver's license or special driver's certificate has been suspended or revoked.

(e) A delegated behind-the-wheel trainer may be limited in behind-the-wheel training as determined by the department.

38161. Applicants seeking to renew a certificate to drive a schoolbus as defined in Section 545 of the Vehicle Code or a school pupil activity bus as defined in Section 546 of the Vehicle Code shall have successfully completed at least 10 hours of original or renewal classroom instruction, or behind-the-wheel or in-service training during each 12 months of certificate validity. In-service training credit may be given by a state-certified driver instructor of the appropriate class to an applicant for attending or participating in appropriate driver training workshops, driver safety meetings, driver safety conferences, and other activities directly related to passenger safety and driver training. During the last 12 months of the special driver certificate validity, the 10 hours required shall consist of classroom instruction covering, but not limited to, current laws and regulations, defensive driving, accident prevention, emergency procedures, and passenger loading and unloading. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the busdriver certificate. All training required by

Section 38166 may be accepted in lieu of the requirements of this section.

38162. Applicants seeking to renew a certificate to drive a transit bus as defined in Section 642 of the Vehicle Code shall have successfully completed at least eight hours of original or renewal classroom instruction, or behind-the-wheel or in-service training during each 12 months of certificate validity. In-service training credit may be given by a state-certified driver instructor of the appropriate class, or an instructor certified pursuant to subdivision (d) of Section 38156, to an applicant for attending or participating in appropriate driver training workshops, driver safety meetings, driver safety conferences, and other activities directly related to passenger safety and driver training. During the last 12 months of the validity of the certificate, the eight hours required shall consist of classroom instruction covering, but not limited to, current laws and regulations, defensive driving, accident prevention, emergency procedures, and passenger loading and unloading. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the busdriver certificate. All training required by Section 38166 may be accepted in lieu of the requirements of this section.

This section shall become operative on January 1, 1993.

38163. Applicants seeking to renew a certificate to drive a farm labor vehicle shall have successfully completed two hours of classroom instruction for each 12 months of certificate validity covering, but not limited to, current laws and regulations, accident prevention, and defensive driving. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the farm labor vehicle driver license or certificate. All training required in Section 38166 may be accepted in lieu of the requirements of this section.

38164. (a) Except as provided in subdivision (b), driver training required by this article shall be properly documented on the State Department of Education Training Certificate T-01, and signed by a state-certified school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor of the appropriate class, and by the driver or applicant. The signatures certify that the instruction was given to, and received by, the applicant or driver, and that the applicant or driver displayed a level of competency necessary to drive the vehicle in a safe and competent manner. The applicant or driver shall present the completed State Department of Education Training Certificate T-01, to the examining state agency when applying for an endorsement or certificate, or, for renewal of an endorsement or certificate.

(b) Driver training provided by an instructor certified pursuant to subdivision (d) of Section 38156 shall be documented on a form

developed by the Department of Motor Vehicles, with the consultation of the department. The form shall be signed by the instructor and by the applicant or driver. The signatures certify that the instruction was given to, and received by, the applicant or driver, and that the applicant or driver displayed a level of competency necessary to drive the vehicle in a safe and competent manner. The applicant or driver shall present the completed form to the Department of Motor Vehicles when applying for a certificate or for renewal of a certificate.

38165. (a) An applicant for a school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate shall successfully complete the appropriate instructor course given or approved by the department.

(b) An applicant for the course shall possess:

(1) A valid driver's license and endorsement valid for driving the vehicles for which the driver instructor rating is sought.

(2) A certificate or endorsement valid for driving the vehicles for which the driver instructor rating is sought.

(3) Five years of experience as a driver in the appropriate vehicle category, or two years experience of that driving experience and three years equivalent experience driving vehicles that require a class A or B driver's license.

(4) A high school diploma or General Education Development (GED) equivalent.

(5) A driving record with no chargeable accidents within the past three years preceding the date of application for the instructor certificate.

The department may waive any or all of the requirements of this subdivision as it determines is necessary to ensure that there are an adequate number of state-certified instructors in the state.

(c) (1) A state-certified schoolbus driver instructor of the appropriate class may instruct all applicants for a schoolbus, school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver's certificate.

(2) A state-certified school pupil activity bus (SPAB) driver instructor of the appropriate class may instruct all applicants for a school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver's certificate, but not a schoolbus certificate.

(3) A state-certified transit bus instructor of the appropriate class may instruct all applicants for a transit bus or farm labor driver's certificate, but not a school pupil activity bus (SPAB) or a schoolbus certificate.

(4) A state-certified farm labor vehicle driver instructor may instruct applicants only for a certificate to drive a farm labor vehicle.

(d) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate shall be valid until suspended, revoked, or canceled if it is accompanied by a valid driver's license and a special driver's certificate or valid driver's

license and endorsement of the appropriate class or is limited to classroom or in-service training only.

(e) The department may suspend or revoke a school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate for any of the following causes:

(1) The certificate holder failed to comply with Section 38164.

(2) The certificate holder failed to comply with Section 38160.

(3) The certificate holder has committed an act listed in Section 13369 of the Vehicle Code or Section 13370 of that code.

(f) The department shall revoke a schoolbus, school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver instructor certificate if the certificate holder falsified a State Department of Education Training Certificate T-01, T-02, or T-03.

(g) The department may cancel the driver instructor certificate for any of the following causes:

(1) The certificate holder has voluntarily requested cancellation.

(2) The certificate holder has his or her driving privilege suspended or revoked.

(3) The certificate holder has failed to meet the provisions required for retention of the driver instructor certificate. This includes failure to meet the instructor training requirements prescribed by Section 38166.

(4) The certificate holder does not possess a valid driver's license, endorsement, or special driver's certificate of the appropriate class.

(h) The department shall by regulation adopt an instructor certificate appeals procedure for subdivisions (e), (f), and (g).

(i) The Department of Motor Vehicles or the Department of the California Highway Patrol may disallow the driver training documentation provided pursuant to Section 38164 signed by any driver instructor certified pursuant to Section 38156 if either of those departments finds that the instructor's certificate would have been suspended, revoked, or canceled for any of the reasons designated in subdivision (e), (f), or (g).

38166. (a) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor with no instructional limitations shall conduct at least 20 hours of instruction each 12 months that includes at least 10 hours of behind-the-wheel and 10 hours of classroom training, which need not be given in a single session. A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor limited to either classroom or behind-the-wheel training only shall conduct at least 10 hours of instruction each 12 months that includes at least 10 hours of behind-the-wheel or classroom training depending on the limitation. The training need not be given in a single session. A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor limited to in-service training only shall conduct at least 10 hours of in-service training each 12 months. All school pupil activity bus (SPAB), transit bus, schoolbus, and farm labor vehicle

driver instructor training conducted by department staff may be accepted in lieu of the requirements of this subdivision.

(b) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor may be limited to classroom instruction, behind-the-wheel training or in-service training only, and prohibited from recording, documenting, or signing for any training required by this article, as determined by the department.

(c) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor shall be limited to behind-the-wheel instruction in vehicles that the instructor is qualified to drive.

(d) All school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor training required by subdivision (a) shall be properly documented on a State Department of Education Training Certificate T-01, and signed by the state-certified instructor at the end of each 12-month training period. The signature certifies that the required instruction was conducted during the 12-month training period. Upon renewal of the instructor driver's license, endorsement, or certificate, the completed instructor training record, recorded on the State Department of Education Training Certificate, shall be submitted to the department in Sacramento.

38167. The department may assess fees to any instructor applicant who will be training drivers of any vehicle as defined in Section 642 of the Vehicle Code. The fee shall not be more than necessary to offset the department's reasonable costs.

38168. Employers shall take all action necessary to make available to every transit busdriver required to be trained pursuant to Section 38158 or 38162 the opportunity to be trained without the loss of wages or benefits.

SEC. 6. Part 23 (commencing with Section 39001) of the Education Code is repealed.

SEC. 7. Section 53080 of the Government Code is repealed.

SEC. 8. Section 53080.1 of the Government Code is repealed.

SEC. 9. Section 53080.15 of the Government Code is repealed.

SEC. 10. Section 53080.2 of the Government Code is repealed.

SEC. 11. Section 53080.3 of the Government Code is repealed.

SEC. 12. Section 53080.4 of the Government Code is repealed.

SEC. 13. Section 53080.6 of the Government Code is repealed.

SEC. 14. Section 53081 of the Government Code is repealed.

SEC. 15. To the extent that the provisions of this act are substantially the same as existing statutory provisions relating to the same subject matter, the provisions shall be construed as restatements and continuations of existing statutory provisions and not as a new enactment.

SEC. 16. The Legislature finds and declares that the enactment of this act, in view of the nonsubstantive statutory changes made, will

not result in new or additional costs to local agencies charged with any duties or responsibilities in connection therewith.

SEC. 17. Any section of any act enacted by the Legislature during the 1996 calendar year prior to the enactment of this act, that amends, amends and renumbers, adds, repeals and adds, or repeals a section, article, chapter, or part, that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act until January 1, 1998, at which time Sections 1 to 16 of this act shall become operative.

SEC. 18. The provisions of this act are severable. If any provisions of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

CHAPTER 278

An act to amend Section 35789.5 of, and to add Section 35790.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 35789.5 of the Vehicle Code is amended to read:

35789.5. (a) The Legislature finds and declares all of the following:

(1) Current restrictions on the movement on the highways of manufactured homes in excess of 14 feet in width has caused the closure of some manufactured housing manufacturing facilities, that have, in turn, relocated to other states in order to compete with interstate commerce.

(2) Those restrictions on the movement of manufactured homes could cause the closure of at least three more manufacturing facilities within the next 12 months, thereby laying off some 500 employees, while at the same time those manufacturing facilities relocate to other states.

(3) The Department of Transportation has a policy allowing permitted loads in excess of 14 feet in width for the general trucking industry and the boating industry.

(4) The Legislature supports allowing the movement on the highways of manufactured homes in excess of 14 feet in width, with appropriate safeguards, because this policy will result in both of the following:

(A) Enable the manufactured housing industry to produce homes for export to other states, thereby keeping jobs within the state and benefiting the state's economy.

(B) Permit the building of manufactured homes with eaves, which provide structural and aesthetic benefits to the homes.

(b) The Legislature further finds and declares that allowing the movement on the highways of manufactured homes that are 16 feet in width, with appropriate safeguards, will benefit the state's economy and will allow production of more affordable and aesthetic manufactured homes.

SEC. 2. Section 35790.1 is added to the Vehicle Code, to read:

35790.1. In addition to the requirements and conditions contained in Section 35790 and notwithstanding any other provision of law, all of the following conditions and specifications shall be complied with to move any manufactured home, as defined in Section 18007 of the Health and Safety Code, that is in excess of 14 feet in total width, but not exceeding 16 feet in total width, exclusive of lights and devices provided for in Sections 35109, 35110, and 35112, upon any highway under the jurisdiction of the entity granting the permit:

(a) For the purposes of width requirements under this code, the overall width of manufactured housing specified in this section shall be the overall width, including roof overhang, eaves, window shades, porch roofs, or any other part of the manufactured house that cannot be removed for the purposes of transporting upon any highway.

(b) Unless otherwise exempted under this code, all combinations of motor vehicles and manufactured housing shall be equipped with service brakes on all wheels. Service brakes required under this subdivision shall be adequate, supplemental to the brakes on the towing vehicle, to enable the combination of vehicles to comply with the stopping distance requirements of Section 26454.

(c) In addition to the requirements contained in Section 26304, the breakaway brake device on any manufactured housing unit equipped with electric brakes shall be powered by a wet cell rechargeable battery that is of the same voltage rating as the brakes and has sufficient charge to hold the brakes applied for not less than 15 minutes.

(d) Notwithstanding any other provision of this code, the weight imposed upon any tire, wheel, axle, drawbar, hitch, or other suspension component on a manufactured housing unit shall not exceed the manufacturer's maximum weight rating for the item or component.

(e) In addition to the requirements in subdivision (d), the maximum allowable weight upon one manufactured housing unit axle shall not exceed 6,000 pounds, and the maximum allowable weight upon one manufactured housing unit wheel shall not exceed 3,000 pounds.

(f) Manufactured housing unit tires shall be free from defects, have at least $^{2}/_{32}$ of an inch tread depth, as determined by tire tread wear indicators, and shall comply with specifications and requirements contained in Section 3280.904(b)(8) of Title 24 of the Code of Federal Regulations.

(g) Manufactured housing unit manufacturers shall provide transporters with a certification of compliance document, certifying the manufactured housing unit complies with the specifications and requirements contained in subdivisions (d), (e), and (f). Each certification of compliance document shall identify, by serial or identification number, the specific manufactured housing unit being transported and shall be signed by a representative of the manufacturer. Each transporter of manufactured housing units shall have in his or her immediate possession a copy of the certification of compliance document and shall make the document available upon request by any member of the Department of the California Highway Patrol, any authorized employee of the Department of Transportation, or any regularly employed and salaried municipal police officer or deputy sheriff.

(h) Manufactured housing unit dealers shall provide transporters with a certification of compliance document, specifying that all modifications, equipment additions, or loading changes by the dealer have not exceeded the gross vehicle weight rating of the manufactured housing unit or the axle and wheel requirements contained in subdivisions (d), (e), and (f). Each certification of compliance document shall identify, by serial or identification number, the specific manufactured housing unit being transported and shall be signed by a representative of the dealer. Each transporter of manufactured housing units shall have in his or her immediate possession a copy of the certification of compliance document and shall make the document available upon request by any member of the Department of the California Highway Patrol, any authorized employee of the Department of Transportation, or any regularly employed and salaried municipal police officer or deputy sheriff.

(i) Transporters of manufactured housing units shall not transport any additional load in, or upon, the manufactured housing unit that has not been certified by the manufactured housing unit's manufacturer or dealer.

(j) Every hitch, coupling device, drawbar, or other connections between the towing unit and the towed manufactured housing unit shall be securely attached and shall comply with Subpart J of Part 3280 of Title 24 of the Code of Federal Regulations.

(k) Manufactured housing units shall be equipped with an identification plate, specifying the manufacturer's name, the manufactured housing unit's serial number, the gross vehicle weight rating of the manufactured housing unit, and the gross weight of the cargo that may be transported in or upon the manufactured housing

unit without exceeding the gross vehicle weight rating. The identification plate shall be permanently attached to the manufactured housing unit and shall be positioned adjacent to, and meet the same specifications and requirements applicable to, the certification label required by Subpart A of Part 3280 of Title 24 of the Code of Federal Regulations.

(*l*) Manufactured housing units shall be subject to all lighting requirements contained in Sections 24603, 24607, 24608, and 24951. When transported during darkness, manufactured housing units shall additionally be subject to Sections 24600 and 25100.

(m) Manufactured housing units shall have all open sides covered by plywood, hard board, or other rigid material, or by other suitable plastics or flexible material. Plastic or flexible side coverings shall not billow or flap in excess of six inches in any one place. Units that are opened on both sides may be transported empty with no side coverings.

(n) Transporters of manufactured housing units shall make available all permits, licenses, certificates, forms, and any other relative document required for the transportation of manufactured housing upon request by any member of the Department of the California Highway Patrol, any authorized employee of the Department of Transportation, or any regularly employed and salaried municipal police officer or deputy sheriff.

(o) The Department of Transportation, in cooperation with the Department of the California Highway Patrol, or the local authority, shall require pilot car or special escort services for the movement of any manufactured housing unit pursuant to this section, and may establish additional reasonable permit regulations, including special routing requirements, as necessary in the interest of public safety and consistent with this section.

(p) The Department of Transportation shall not issue a permit to move a manufactured home that is in excess of 14 feet in total width unless that department determines that all of the conditions and specifications set forth in this section have been met.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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CHAPTER 279

An act to amend Section 6107 of the Public Contract Code, relating to public contracts.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 6107 of the Public Contract Code is amended to read:

6107. (a) As used in this section, "California company" means a sole proprietorship, partnership, joint venture, corporation, or other business entity that was a licensed California contractor on the date when bids for the public contract were opened and meets one of the following:

(1) Has its principal place of business in California.

(2) Has its principal place of business in a state in which there is no local contractor preference on construction contracts.

(3) Has its principal place of business in a state in which there is a local contractor construction preference and the contractor has paid not less than five thousand dollars ($5,000) in sales or use taxes to California for construction related activity for each of the five years immediately preceding the submission of the bid.

(b) (1) When awarding contracts for construction, a state agency shall grant a California company a reciprocal preference as against a nonresident contractor from any state that gives or requires a preference to be given contractors from that state on its public entity construction contracts.

(2) The amount of the reciprocal preference shall be equal to the amount of the preference applied by the state of the nonresident contractor with the lowest responsive bid, except where the resident contractor is eligible for a California small business preference, in which case the preference applied shall be the greater of the two, but not both.

(3) If the contractor submitting the lowest responsive bid is not a California company and has its principal place of business in any state that gives or requires the giving of a preference on its public entity construction contracts to contractors from that state, and if a California company has also submitted a responsive bid, and, with the benefit of the reciprocal preference, the California company's bid is equal to or less than the original lowest responsive bid, the public entity shall award the contract to the California company at its submitted bid price.

(c) (1) The bidder shall certify, under penalty of perjury, that the bidder qualifies as a California company.

(2) A nonresident contractor shall, at the time of bidding, disclose to the awarding agency any and all bid preferences provided to the nonresident contractor by the state or country in which the nonresident contractor has its principal place of business.

(d) The reciprocal preference is waived if the certification described in paragraph (1) of subdivision (c) does not appear on the bid.

(e) This section does not apply if application of this section might jeopardize the receipt of federal funds or the nonresident contractor certifies, under penalty of perjury, in its bid that its state of residency does not give a preference for contractors from that state on its public entity construction contracts.

(f) "Construction related activity" shall include, without limitation, any activity for which a California contractors' license is required.

CHAPTER 280

An act to add Section 1120.2 to the Welfare and Institutions Code, relating to youthful offenders.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 1120.2 is added to the Welfare and Institutions Code, to read:

1120.2. (a) There is in the Department of the Youth Authority a correctional education authority for the purpose of carrying out the education and training of wards committed to the youth authority.

(b) The course of study for wards attending any of grades 7 to 12, inclusive, shall include those courses specified in Article 3 (commencing with Section 51220) of Chapter 2 of Part 28 of the Education Code. The course of study shall meet the model curriculum standards adopted by the Superintendent of Public Instruction pursuant to Section 51226 of the Education Code.

(c) (1) The correctional education authority shall adopt standards of proficiency in basic skills for wards attending a course of study for any of grades 7 to 12, inclusive.

(2) Differential standards and assessment procedures may be adopted for wards for whom an individualized education program has been developed and for whom the regular instructional program has been modified or for wards who have been diagnosed with a learning handicap or disability.

(d) The correctional education authority may issue diplomas of graduation from high school to wards who have completed the

required course of study and meet the standards of proficiency in basic skills adopted by the correctional education authority. The authority may also administer to wards the general educational development tests that have been approved by the State Board of Education.

(e) For purposes of receiving federal funds, the correctional education authority shall be deemed a local educational agency.

SEC. 2. It is the intent of the Legislature that the correctional education authority receive funding in the annual Budget Act as part of the Department of the Youth Authority in the same manner that the current education and training programs operated by the Department of the Youth Authority have been funded.

CHAPTER 281

An act to amend Sections 605 and 706 of, and to add Sections 615, 707, 708, and 709 to, the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), relating to water.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 605 of the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992) is amended to read:

Sec. 605. The authority may impose an annual pumping right assessment, not to exceed twenty dollars ($20) per acre-foot, to construct facilities and acquire property, to retire promissory notes, bond anticipation notes, bonds and certificates of participation and other evidences of indebtedness, and to pay for operations and maintenance of projects constructed by and for the authority. The authority shall impose an assessment pursuant to this section for operation and maintenance purposes only if, and to the extent that, money for operation and maintenance purposes is not received from other sources after reasonable efforts have been made to secure that funding. However, no assessment shall be imposed for water extracted pursuant to a conjunctive use storage agreement between the producer and the water master, which the authority has approved.

SEC. 2. Section 615 is added to the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), to read:

615. The authority may adopt, by resolution, rules and regulations for the collection of pumping rights assessments imposed pursuant to Sections 602 and 605, including, but not limited to, the imposition of late charges, penalties, and interest on unpaid assessments. The

authority may bring a suit in any court having jurisdiction against any holder of a prescriptive pumping right for the collection of any delinquent pumping rights assessments, late charges, penalties, or interest.

SEC. 3. Section 706 of the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992) is amended to read:

Sec. 706. (a) Except as provided in this section, this act shall remain in effect only until July 1, 2002, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 2002, deletes or extends that date.

(b) Upon the repeal of this act, the assets and debts of the authority shall be administered as follows:

(1) The Los Angeles Regional Water Quality Control Board shall dispose of the property and assets as appropriate. The Los Angeles Regional Water Quality Control Board shall receive reimbursement for actual costs incurred related to the disposition of the property and assets. The cost recovery shall be from the proceeds of the disposition pursuant to this section. The proceeds, if any, of the disposition shall be transferred to the Treasurer to be applied to pay the debts of the authority and, if any proceeds remain, shall be transferred to the Treasurer for deposit in the Hazardous Substance Cleanup Fund for use in financing groundwater contamination investigation and remediation in the basin. Preference shall be given in the disposition of assets of the authority to transfers to producers who may be able to use the assets for the benefit of water distribution systems and to provide for continued operation and maintenance of the assets in order to further the purposes of this act.

(2) The Treasurer shall administer the payment of debts of the authority. The Treasurer shall apply the proceeds from the disposition of assets to the payment of the debts. If debts remain after application of the proceeds from disposition of assets, the Treasurer may continue to collect, in lieu of the authority, the pumping right assessments authorized under either (A) Section 602 if the debt relates to administrative costs or (B) Section 605 if the debt is to repay warrants, notes, bonds, and other evidences of indebtedness, or both, to make payments pursuant to leases or installment sale agreements in connection with certificates of participation, to pay for operation and maintenance costs of facilities, and to make payments pursuant to any other financial obligations. All provisions set forth in Article 6 (commencing with Section 601) relating to the levy and collection of the pumping right assessments are not repealed and shall continue in effect until the debts of the authority are paid, as determined by the Treasurer, who shall notify the Secretary of State. Upon receipt by the Secretary of State of the Treasurer's notice, Article 6 (commencing with Section 601) is repealed. The Treasurer's authority to levy and collect assessments under this act is limited

according to the provisions of this act and shall cease when all debts of the authority have been paid.

SEC. 4. Section 707 is added to the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), to read:

707. (a) The board shall commence procedures to institute a limited function status if the board determines, following a public hearing, upon 30 days' notice, that its actions are in accordance with both of the following:

(1) The basinwide groundwater quality management and remediation plan developed and adopted pursuant to Section 406.

(2) Relevant records of decision issued by the United States Environmental Protection Agency that apply within the boundaries of the authority.

(b) If the board makes the determination described in subdivision (a), the authority shall commence negotiations with the water master or a water district selected by the board for a contract, pursuant to which the water master or a water district will act as an operating agency. The contract shall include provisions to do all of the following:

(1) Designate the water master or a water district to act as the operating agency.

(2) Require the operating agency to do all of the following:

(A) Perform administrative services necessary to carry out the functions and duties that the authority would otherwise perform, relating to the funding, operating, maintenance, and repair of the authority's groundwater remediation projects.

(B) Monitor the progress of the groundwater remediation.

(C) Prepare data and reports for submission to the board presenting the status of the authority's projects and the groundwater quality, including a report on the accordance of the operating agency's actions with both of the following:

(i) The basinwide groundwater quality management and remediation plan developed and adopted pursuant to Section 406.

(ii) Relevant records of decision issued by the United States Environmental Protection Agency that apply within the boundaries of the authority.

(3) Provide for the budgeting and reimbursement of the costs and expenses incurred by the operating agency in carrying out the functions and duties of the authority, including a reasonable amount for overhead.

(4) Provide that the use of any funds paid by the authority to the operating agency shall be limited to the reimbursement of the operating agency for costs incurred pursuant to the contract.

(5) Provide that the board, if it determines that the authority is required to return to full function pursuant to subdivision (d), may terminate the contract with the operating agency.

(c) After execution of the operations contract, the authority shall operate in accordance with limited function status. While the

authority is operating according to limited function status, the authority may only perform the following functions:

(1) Receive funds from those sources indicated in subdivision (d) of Section 401.

(2) Establish, levy, and collect pumping rights assessments pursuant to Sections 602 and 605.

(3) Satisfy the obligations of the authority under any bonds, notes, warrants, or other evidence of indebtedness or under any certificates of participation.

(4) Oversee the operating agency's performance of, and enforce the operating agency's obligations under, the operations contract entered into pursuant to subdivision (b), and reimburse the operating agency under that subdivision.

(5) Enter into separate contracts, at the discretion of the board, for other outside services, including, but not limited to, professional, consulting, operating, maintenance, repair, and replacement services and supplies.

(6) Conduct elections for the elected members of the board.

(7) Conduct meetings of the board, not less than semiannually, to perform the limited functions of the authority, including all of the following:

(A) Budget for, and provide reimbursement to, the operating agency.

(B) Receive and review reports from the operating agency and determine if any of the conditions described in Section 708 have been met.

(C) Set pumping rights assessments.

(D) Act upon any other matters within the functions of the authority while it operates under limited function status.

(8) Perform any other administrative functions and other duties reasonably necessary to carry out the limited functions of the authority.

(d) The board may restore the authority to full function if it determines, following a public hearing, and upon 30 days' notice, that a return to full function is required to allow the authority to modify existing projects, to undertake new projects to effectively remedy Superfund-related groundwater contamination, or to take other actions to be in accordance with both of the following:

(1) The basinwide groundwater quality management and remediation plan developed and adopted pursuant to Section 406.

(2) Relevant records of decision issued by the United States Environmental Protection Agency that apply within the boundaries of the authority.

SEC. 5. Section 708 is added to the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), to read:

708. If the authority has instituted limited function status pursuant to Section 707, the authority shall continue in limited function status until one of the following conditions occurs:

(a) This act becomes inoperative or is repealed pursuant to Section 703 or 706, as the case may be.

(b) The board restores the authority to full function pursuant to subdivision (d) of Section 707.

SEC. 6. Section 709 is added to the San Gabriel Basin Water Quality Authority Act (Chapter 776 of the Statutes of 1992), to read:

709. Notwithstanding the implementation of limited function status pursuant to Section 707, the funds of the authority shall be expended only for those purposes expressly authorized by the act.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 282

An act to amend Section 7099.2 of, to add Section 7030.1 to, and to repeal and add Section 7030 of, the Business and Professions Code, relating to contractors.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 7030 of the Business and Professions Code is repealed.

SEC. 2. Section 7030 is added to the Business and Professions Code, to read:

7030. (a) Every person licensed pursuant to this chapter shall include the following statement in at least 10-point type on all written contracts with respect to which the person is a prime contractor:

"Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor

may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826."

(b) At the time of making a bid or prior to entering into a contract to perform work on residential property with four or fewer units, whichever occurs first, a contractor shall provide the following notice in capital letters in at least 10-point roman boldface type or in contrasting red print in at least 8-point roman boldface type:

"STATE LAW REQUIRES ANYONE WHO CONTRACTS TO DO CONSTRUCTION WORK TO BE LICENSED BY THE CONTRACTORS' STATE LICENSE BOARD IN THE LICENSE CATEGORY IN WHICH THE CONTRACTOR IS GOING TO BE WORKING—IF THE TOTAL PRICE OF THE JOB IS $300 OR MORE (INCLUDING LABOR AND MATERIALS).

LICENSED CONTRACTORS ARE REGULATED BY LAWS DESIGNED TO PROTECT THE PUBLIC. IF YOU CONTRACT WITH SOMEONE WHO DOES NOT HAVE A LICENSE, THE CONTRACTORS' STATE LICENSE BOARD MAY BE UNABLE TO ASSIST YOU WITH A COMPLAINT. YOUR ONLY REMEDY AGAINST AN UNLICENSED CONTRACTOR MAY BE IN CIVIL COURT, AND YOU MAY BE LIABLE FOR DAMAGES ARISING OUT OF ANY INJURIES TO THE CONTRACTOR OR HIS OR HER EMPLOYEES.

YOU MAY CONTACT THE CONTRACTORS' STATE LICENSE BOARD TO FIND OUT IF THIS CONTRACTOR HAS A VALID LICENSE. THE BOARD HAS COMPLETE INFORMATION ON THE HISTORY OF LICENSED CONTRACTORS, INCLUDING ANY POSSIBLE SUSPENSIONS, REVOCATIONS, JUDGMENTS, AND CITATIONS. THE BOARD HAS OFFICES THROUGHOUT CALIFORNIA. PLEASE CHECK THE GOVERNMENT PAGES OF THE WHITE PAGES FOR THE OFFICE NEAREST YOU OR CALL 1-800-321-CSLB FOR MORE INFORMATION."

(c) Failure to comply with the notice requirements set forth in subdivision (a) or (b) of this section is cause for disciplinary action.

SEC. 3. Section 7030.1 is added to the Business and Professions Code, to read:

7030.1. (a) A contractor, who has his or her license suspended or revoked two or more times within an eight-year period, shall disclose either in capital letters in 10-point roman boldface type or in contrasting red print in at least 8-point roman boldface type, in a document provided prior to entering into a contract to perform work on residential property with four or fewer units, any disciplinary license suspension, or license revocation during the last eight years resulting from any violation of this chapter by the contractor, whether or not the suspension or revocation was stayed.

(b) The disclosure notice required by this section may be provided in a bid, estimate, or other document prior to entering into a contract.

(c) A violation of this section is subject to the following penalties:

(1) A penalty of one thousand dollars ($1,000) shall be assessed for the first violation.

(2) A penalty of two thousand five hundred dollars ($2,500) shall be assessed for the second violation.

(3) A penalty of five thousand dollars ($5,000) shall be assessed for a third violation in addition to a one-year suspension of license by operation of law.

(4) A fourth violation shall result in the revocation of license in accordance with this chapter.

SEC. 4. Section 7099.2 of the Business and Professions Code is amended to read:

7099.2. (a) The board shall promulgate regulations covering the assessment of civil penalties under this article 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 licensee or applicant for licensure being charged.

(3) The history of previous violations.

(b) Except as otherwise provided by this chapter, no civil penalty shall be assessed in an amount greater than two thousand dollars ($2,000). A civil penalty not to exceed fifteen thousand dollars ($15,000) may be assessed for a violation of Section 7114 or 7118.

CHAPTER 283

An act to amend Section 326.5 of the Penal Code, relating to bingo.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 326.5 of the Penal Code is amended to read:

326.5. (a) Neither this chapter nor Chapter 10 (commencing with Section 330) applies to any bingo game that is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the State Constitution, if the ordinance allows games to be conducted only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701*l* of the Revenue and Taxation Code and by mobilehome park

associations and senior citizens organizations; and if the receipts of those games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games, as provided in subdivisions (j) and (k).

(c) A violation of subdivision (b) shall be punishable by a fine not to exceed ten thousand dollars ($10,000), which fine is deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county that enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by, or whose use is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, shall hold a financial interest in the conduct of a bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profits shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a

bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo games conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) A portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars ($2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(3) The proceeds may be used to pay license fees.

(4) A city, county, or city and county that enacts an ordinance permitting bingo games may specify in the ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars ($5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2).

(*l*) (1) A city, county, or city and county may impose a license fee on each organization that it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars ($50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars ($50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee for law enforcement and public safety costs incurred by the city, county, or city and county that are directly related to bingo activities may be imposed and shall be collected monthly by the city, county, or city and county issuing the license; however, the fee shall not exceed the actual costs incurred in providing the service.

(m) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place where the bingo game is being conducted.

(n) The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars ($250) in cash or kind, or both, for each separate game which is held.

(o) As used in this section, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card that conform to numbers or symbols selected at

random. Notwithstanding Section 330c, as used in this section, the game of bingo includes cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

CHAPTER 284

An act to add Section 42301.13 to the Health and Safety Code, relating to air pollution.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 42301.13 is added to the Health and Safety Code, to read:

42301.13. (a) Notwithstanding any other provision of law, a district shall not require, as part of its permit system or otherwise, that any form of emission offset or emission credit be provided to offset emissions resulting from any activity related to, or involved in, the demolition or removal of a stationary source.

(b) (1) Notwithstanding any other provision of law regulating a district permit system, an owner or operator of an existing portable emissions unit may relocate that equipment within the same air basin if both of the following requirements are met:

(A) The owner or operator provides, not less than 30 days prior to the date that the equipment is relocated, written notice to the district with jurisdiction over the location to which the equipment is relocated, and any additional notice required by federal law.

(B) The existing permit conditions are at least as stringent as the permit requirements in the district with jurisdiction over the location to which the equipment is relocated.

(2) For purposes of this subdivision, "portable emissions unit" means any article, machine, or other contrivance, including an internal combustion engine, that meets all of the following criteria:

(A) Emits or may emit, or results in the emission of, any air contaminant.

(B) Either by itself, or as part of another piece of equipment, is designed to be, and is capable of, being moved from one location to another.

(C) Must be periodically moved from one location to another because of the nature of the operation in which it is used.

(c) Any equipment that is relocated pursuant to subdivision (b) remains subject to all previously imposed permit terms and conditions. If the permitted equipment that is relocated is placed into substantially the same service that it was placed into at its previous location, a district shall not impose any new permit terms or conditions on that equipment, except site-specific terms and conditions or public notice requirements.

CHAPTER 285

An act relating to public utilities.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. The Legislature finds and declares that statutes and regulations have imposed programs and fees, such as low-income assistance and weatherization programs upon regulated natural gas utilities that have public policy goals not directly related to the provision of natural gas service. The costs borne by natural gas utilities to provide these programs have historically been recovered through natural gas rates established by the Public Utilities Commission.

The Legislature also finds that due to changes in state and federal regulations, the monopolies for the provision of natural gas service in California that effectively permitted the commission to allocate the cost of these public policy programs to all natural gas users are being replaced with competitive markets. Natural gas customers may continue to take advantage of the deregulation of the natural gas industries by obtaining service from nonregulated natural gas providers who are not required to provide these programs. These customers thus do not pay the costs of public policy programs.

The Legislature finds that the pending restructuring of the regulation of the electric industry is addressing similar issues regarding the funding of public policy programs for users of electricity. The Legislature finds that there are differences in the status of the restructuring of the electric and natural gas utility industries, to wit, the fact that the natural gas industry has been undergoing deregulation and restructuring for over a decade already, and the fact that users of natural gas may have options for

taking service from providers not regulated by the commission. The presence of nonutility natural gas providers may result in similarly situated natural gas customers having different energy costs solely due to differences in regulatory jurisdiction regarding these public policy program costs. The Legislature also finds that the Public Utilities Commission may not have all the jurisdiction necessary under existing law to correct this imbalance by requiring the customers of nonutility natural gas providers to pay their share of these public policy program costs.

It is the intent of the Legislature to provide these programs in an equitable manner that will ensure that natural gas consumers will provide a fair share of adequate funding for these programs without increasing the program's current funding levels. In order to properly address all of the issues set forth above, it is the intent of the Legislature that the commission, in consultation with the State Board of Equalization, utilities, nonutility natural gas providers, consumers, and other interested parties prepare a report on this topic and submit it to the Legislature.

SEC. 2. (a) On or before July 1, 1997, the California Public Utilities Commission shall prepare and submit a report to the Legislature that recommends an approach to financing existing low-income public policy programs that does not create a competitive imbalance between natural gas providers and nonutility natural gas providers.

(b) The report shall identify the appropriate public policy costs to be included for consideration in this financing approach, what mechanisms are necessary to assure that the costs of these public policy programs are borne equitably by natural gas consumers regardless of their natural gas provider, and which classes of customers should appropriately bear the cost for these public policy programs.

(c) The commission may address these issues and prepare its report by initiating a separate proceeding or through any pending or other proceeding as it deems appropriate.

CHAPTER 286

An act to add Section 23104 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 23104 is added to the Revenue and Taxation Code, to read:

23104. (a) For purposes of this part only, any corporation that is not incorporated under the laws of this state and whose sole activity in this state is engaging in convention and trade show activities, as described in Section 513(d)(3)(A) of the Internal Revenue Code, for seven or fewer calendar days, or any portion thereof, during the income year and that does not derive more than ten thousand dollars ($10,000) of gross income reportable to this state from those activities during that income year is not a corporation doing business in this state.

(b) For purposes of this section, the determination of gross income reportable to this state of a taxpayer shall be made by including the gross income reportable to this state of each member of the "commonly controlled group" (as defined by Section 25105) of which the taxpayer is a member.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 287

An act to add Section 7044.2 to the Business and Professions Code, relating to contractors.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 7044.2 is added to the Business and Professions Code, to read:

7044.2. (a) This chapter does not apply to an admitted surety insurer whenever that surety insurer engages a contractor to undertake the completion of a contract on which a performance or completion bond was issued by the surety insurer, provided all actual construction work is preformed by duly licensed contractors.

CHAPTER 288

An act to amend Section 7827 of the Family Code, relating to parent and child.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 7827 of the Family Code is amended to read:

7827. (a) "Mentally disabled" as used in this section means that a parent or parents suffer a mental incapacity or disorder that renders the parent or parents unable to care for and control the child adequately.

(b) A proceeding under this part may be brought where the child is one whose parent or parents are mentally disabled and are likely to remain so in the foreseeable future.

(c) Except as provided in subdivision (d), the evidence of any two experts, each of whom shall be a physician and surgeon, certified either by the American Board of Psychiatry and Neurology or under Section 6750 of the Welfare and Institutions Code, a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, is required to support a finding under this section. In addition to this requirement, the court shall have the discretion to call a licensed marriage, family, and child counselor, or a licensed clinical social worker, either of whom shall have at least five years of relevant postlicensure experience, in circumstances where the court determines that this testimony is in the best interest of the child and is warranted by the circumstances of the particular family or parenting issues involved. However, the court may not call a licensed marriage, family, and child counselor or licensed clinical social worker pursuant to this section who is the adoption service provider, as defined in Section 8502, of the child who is the subject of the petition to terminate parental rights.

(d) If the parent or parents reside in another state or in a foreign country, the evidence required by this section may be supplied by the affidavits of two experts, each of whom shall be either of the following:

(1) A physician and surgeon who is a resident of that state or foreign country, and who has been certified by a medical organization or society of that state or foreign country to practice psychiatric or neurological medicine.

(2) A licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders and who is licensed in that state or authorized to practice in that country.

(e) If the rights of a parent are sought to be terminated pursuant to this section, and the parent has no attorney, the court shall appoint an attorney for the parent pursuant to Article 4 (commencing with Section 7860) of Chapter 3, whether or not a request for the appointment is made by the parent.

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CHAPTER 289

An act to amend Sections 85200, 85201, and 87500 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 85200 of the Government Code is amended to read:

85200. Prior to the solicitation or receipt of any contribution or loan, an individual who intends to be a candidate for an elective office shall file with the Secretary of State an original and one copy of a statement, signed under penalty of perjury, of intention to be a candidate for a specific office. The copy shall be available to the commission.

For purposes of this section, "contribution" and "loan" do not include any payments from the candidate's personal funds for a candidate filing fee or a candidate statement of qualifications fee.

SEC. 2. Section 85201 of the Government Code is amended to read:

85201. (a) Upon the filing of the statement of intention pursuant to Section 85200, the individual shall establish one campaign contribution account at an office of a financial institution located in the state.

(b) Upon the establishment of an account, an original and one copy of a statement setting forth the name of the financial institution, the specific location, and the account number shall be filed with the Secretary of State within 10 days, except as provided by subdivision (h). The copy shall be available to the commission.

(c) All contributions or loans made to the candidate, to a person on behalf of the candidate, or to the candidate's controlled committee shall be deposited in the account.

(d) Any personal funds which will be utilized to promote the election of the candidate shall be deposited in the account prior to expenditure.

(e) All campaign expenditures shall be made from the account.

(f) Subdivisions (d) and (e) do not apply to a candidate's payment for a filing fee and statement of qualifications from his or her personal funds.

(g) This section does not apply to a candidate who will not receive contributions and who makes expenditures from personal funds of less than one thousand dollars ($1,000) in a calendar year to support his or her candidacy. For purposes of this section, a candidate's payment for a filing fee and statement of qualifications shall not be included in calculating the total expenditures made.

(h) Before expending one thousand dollars ($1,000) or more in a calendar year, any candidate who does not establish a campaign contribution account pursuant to subdivision (g) shall establish one campaign contribution account at an office of a financial institution located in the state and file the information required in the manner prescribed in subdivision (b) with the Secretary of State within five days of establishing the account.

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 a copy to the Secretary of State and 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 to 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 and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the copy to the Secretary of State and 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 to 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 a copy to the Secretary of State and 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 and one copy with the person with whom the candidate's declaration of candidacy is filed, who shall forward the copy to the Secretary of State and 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. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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, 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 purpose of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 290

An act to add Section 13113.9 to the Health and Safety Code, relating to housing.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 13113.9 is added to the Health and Safety Code, to read:

13113.9. (a) For the purposes of this section:

(1) "Burglar bars" are security bars located on the inside or outside of a door or window of a residential dwelling.

(2) "Residential dwelling" means a house, apartment, motel, hotel, or other type of residential dwelling subject to the State Housing Law (Pt. 1.5 (commencing with Sec. 17910), Div. 13) and a manufactured home, mobilehome, and multiunit manufactured housing as defined in Part 2 (commencing with Section 18000) of Division 13.

(b) On or before July 1, 1998, the State Fire Marshal shall develop and adopt regulations for the labeling and packaging of burglar bars addressing the requirements in the California Building Standards Code intended to promote safety in the event of a fire. For this purpose, the regulations shall include specification of the language to be printed on the packaging, the location of the language on the packaging, and the height and stroke of the print type to be utilized. The regulations shall direct the consumer or installer to contact the local fire department or local building official to determine whether the city or county requires that the burglar bars have a release mechanism on the outside for use by the fire department in the event of a fire emergency.

(c) Burglar bars shall not be sold in California at wholesale or retail unless the burglar bars are either labeled or their packaging contains the warning information specified in the regulations adopted pursuant to subdivision (b). This subdivision shall become operative 180 days after the regulations required in subdivision (b) are adopted by the State Fire Marshal.

(d) Any contractor or installer of burglar bars shall provide the owner of the residential dwelling the warning information required pursuant to subdivision (b) prior to installing burglar bars.

(e) No person shall install for profit unopenable burglar bars on a residential dwelling (1) where the California Building Standards Code requires openable burglar bars for emergency escape or rescue, or (2) on mobilehomes, manufactured homes, or multiunit manufactured housing unless at least one window or door to the exterior in each bedroom is openable for emergency escape or rescue. This subdivision shall become operative 180 days after the regulations required in subdivision (b) are adopted by the State Fire Marshal.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime

or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 291

An act to amend Section 22435.1 of, and to add Section 22435.7 to, the Business and Professions Code, relating to shopping carts.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 22435.1 of the Business and Professions Code is amended to read:

22435.1. The provisions of Section 22435.2 shall apply when a shopping cart or a laundry cart has a sign permanently affixed to it that identifies the owner of the cart or the retailer, or both; notifies the public of the procedure to be utilized for authorized removal of the cart from the premises; notifies the public that the unauthorized removal of the cart from the premises or parking area of the retail establishment, or the unauthorized possession of the cart, is a violation of state law; and lists a valid telephone number or address for returning the cart removed from the premises or parking area to the owner or retailer.

SEC. 2. Section 22435.7 is added to the Business and Professions Code, to read:

22435.7. (a) The Legislature hereby finds that the retrieval by local government agencies of shopping carts specified in this section is in need of uniform statewide regulation and constitutes a matter of statewide concern that shall be governed solely by this section.

(b) A shopping cart that has a sign affixed to it in accordance with Section 22435.1 may be impounded by a city, county, or city and county, provided both of the following conditions have been satisfied:

(1) The shopping cart is located outside the premises or parking area of a retail establishment. The parking area of a retail establishment located in a multistore complex or shopping center shall include the entire parking area used by the complex or center.

(2) The shopping cart is not retrieved within three business days from the date the owner of the shopping cart, or his or her agent, receives actual notice from the city, county, or city and county of the shopping cart's discovery and location.

(c) In instances where the location of a shopping cart will impede emergency services, a city, county, or city and county is authorized to immediately retrieve the shopping cart from public or private property.

(d) Any city, county, or city and county that impounds a shopping cart under the authority provided in subdivisions (b) and (c) is authorized to recover its actual costs for providing this service.

(e) Any shopping cart that is impounded by a city, county, or city and county pursuant to subdivisions (b) and (c) shall be held at a location that is both:

(1) Reasonably convenient to the owner of the shopping cart.

(2) Open for business at least six hours of each business day.

(f) A city, county, or city and county may fine the owner of a shopping cart in an amount not to exceed fifty dollars ($50) for each occurrence in excess of three during a specified six-month period for failure to retrieve shopping carts in accordance with this section. An occurrence includes all shopping carts impounded in accordance with this section in a one-day period.

(g) Any shopping cart not reclaimed from the city, county, or city and county within 30 days of receipt of a notice of violation by the owner of the shopping cart may be sold or otherwise disposed of by the entity in possession of the shopping cart.

(h) This section shall not invalidate any contract entered into prior to June 30, 1996, between a city, county, or city and county and a person or business entity for the purpose of retrieving or impounding shopping carts.

CHAPTER 292

An act to amend Section 44011.6 of the Health and Safety Code, relating to air pollution.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 44011.6 of the Health and Safety Code is amended to read:

44011.6. (a) The use of a heavy-duty motor vehicle that emits excessive smoke is prohibited.

(b) (1) As expeditiously as possible, the state board shall develop a test procedure for the detection of excessive smoke emissions from heavy-duty diesel motor vehicles that is feasible for use in an intermittent roadside inspection program. During the development of the test procedure, the state board shall cooperate with the

Department of the California Highway Patrol in conducting roadside inspections.

(2) The state board may also specify visual or functional inspection procedures to determine the presence of tampering or defective emissions control systems in heavy-duty diesel or heavy-duty gasoline motor vehicles. However, visual or functional inspection procedures for heavy-duty gasoline motor vehicles shall not be more stringent than those prescribed for heavy-duty gasoline motor vehicles subject to biennial inspection pursuant to Section 44013.

(3) The chairperson of the state board shall appoint an ad hoc advisory committee which shall include, but not be limited to, representatives of heavy-duty engine manufacturers, carriers of property for compensation using heavy-duty gasoline or heavy-duty diesel motor vehicles, and the Department of the California Highway Patrol. The advisory committee shall cooperate with the state board to develop a test procedure pursuant to this subdivision and shall advise the state board in developing regulations to implement test procedures and inspection of heavy-duty commercial motor vehicles.

(c) Any smoke testing procedures or smoke measuring equipment, including any meter that measures smoke opacity or density and any recorder that stores or records smoke opacity or density measurements, used to test for compliance with this section and regulations adopted pursuant to this section, shall produce consistent and repeatable results. The requirements of this subdivision shall be satisfied by the adoption of Society of Automotive Engineers recommended practice J 1667, "Snap-Acceleration Smoke Test Procedures for Heavy-Duty Diesel Powered Vehicles."

(d) (1) The smoke test standards and procedures adopted and implemented pursuant to this section shall be designed to ensure that no engine will fail the smoke test standards and procedures when the engine is in good operating condition and is adjusted to the manufacturer's specifications.

(2) In implementing this section, the state board shall adopt regulations that ensure that there will be no false failures or that ensure that the state board will remedy any false failures without any penalty to the vehicle owner.

(e) The state board shall enforce the prohibition against the use of heavy-duty motor vehicles that are determined to have excessive smoke emissions and shall enforce any regulation prohibiting the use of a heavy-duty motor vehicle determined to have other emissions-related defects, using the test procedure established pursuant to this section.

(f) The state board may issue a citation to the owner or operator for any vehicle in violation of this section. The regulations may require the operator of a vehicle to submit to a test procedure adopted pursuant to subdivision (b) and this subdivision, and may specify that refusal to so submit is an admission constituting proof of a violation, and shall require that, when a citation has been issued, the

owner of a vehicle in violation of the regulations shall, within 45 days, correct every deficiency specified in the citation.

(g) The department may develop criteria for one or more classes of smog check stations capable of determining compliance with regulations adopted pursuant to this section and may authorize those stations to issue certificates of compliance to vehicles in compliance with the regulations. The department may contract for the operation of smog check stations for heavy-duty motor vehicles pursuant to this subdivision, and only heavy-duty motor vehicles may be inspected at those stations.

(h) In addition to the corrective action required by this section, the owner of a motor vehicle in violation of this section is subject to a civil penalty of not more than one thousand five hundred dollars ($1,500) per day for each day that the vehicle is in violation. The state board may adopt a schedule of reduced civil penalties to be applied in cases where violations are corrected in an expeditious manner. However, the schedule of reduced civil penalties shall not apply where there have been repeated incidents of emissions control system tampering. All civil penalties imposed pursuant to this subdivision shall be collected by the state board and deposited in the Vehicle Inspection and Repair Fund. Funds in the Vehicle Inspection and Repair Fund, when appropriated by the Legislature, shall be available to the state board and the Department of the California Highway Patrol for the conduct of intermittent roadside inspections of heavy-duty motor vehicles pursuant to this section.

(i) Following the adoption of regulations pursuant to this section, the state board may commence inspecting heavy-duty motor vehicles. With the concurrence of the Department of the California Highway Patrol, these inspections may be conducted in conjunction with the safety and weight enforcement activities of the Department of the California Highway Patrol, or at other locations selected by the state board or the Department of the California Highway Patrol. Inspection locations may include private facilities where fleet vehicles are serviced or maintained. The state board and the Department of the California Highway Patrol may conduct these inspections either cooperatively or independently, and the state board may contract for assistance in the conduct of these inspections.

(j) The state board shall inform the Department of the California Highway Patrol whenever a vehicle owner cited pursuant to this section fails to take a required corrective action or to pay a civil penalty levied pursuant to subdivisions (h) and (*l*) in a timely manner. Following notice and opportunity for an administrative hearing pursuant to subdivision (m), the state board may request the Department of the California Highway Patrol to remove the vehicle from service and order the vehicle to be stored. Upon notification from the state board of payment of any civil penalties imposed under subdivision (h) and storage and related charges, the vehicle shall be released to the owner or designee. Upon release of the vehicle, the

owner or designee shall correct every deficiency specified in any citation to that owner with respect to the vehicle.

(k) The state board, in consultation with the Department of the California Highway Patrol, shall prepare and submit to the Legislature a report on the smoke emissions enforcement program conducted under this section, including, but not limited to, its assessment of the effectiveness of the program, the impact of the program on the operations of the Department of the California Highway Patrol, and its recommendations for changes in, alternatives to, or termination of, the program.

(*l*) In addition to the corrective action required by subdivision (f), and in addition to the civil penalty imposed by subdivision (h), the owner of a motor vehicle cited by the state board pursuant to this section shall pay a civil penalty of three hundred dollars ($300) per citation ; except that this penalty shall not apply to the first citation for any schoolbus. All civil penalties imposed pursuant to this subdivision shall be collected by the state board and deposited in the Diesel Emission Reduction Fund, which fund is hereby created. Funds in the Diesel Emission Reduction Fund, when appropriated by the Legislature, shall be available to the State Energy Resources Conservation and Development Commission for research, development, and demonstration programs undertaken pursuant to Section 25617 of the Public Resources Code.

(m) The state board shall adopt regulations that afford an owner cited under this section an opportunity for an administrative hearing consistent with, but not limited to, all of the following: (1) any owner cited under this section may request an administrative hearing within 45 days following either personal receipt or certified mail receipt of the citation; (2) if the owner fails to request an administrative hearing within 45 days, the citation shall be deemed a final order and not subject to review by any court or agency; (3) if the owner requests an administrative hearing and fails to seek review by administrative mandamus pursuant to Section 1094.5 of the Code of Civil Procedure within 60 days after the mailing of the administrative hearing decision, the decision shall be deemed a final order and not subject to review by any other court or agency; and (4) the 45-day period may be extended by the administrative hearing officer for good cause.

(n) Following exhaustion of the review procedures provided for in subdivision (m), the state board may apply to the Superior Court of Sacramento County for a judgment in the amount of the civil penalty. The application, which shall include a certified copy of the final order of the administrative hearing officer, shall constitute a sufficient showing to warrant the issuance of the judgment.

CHAPTER 293

An act to amend Sections 65082, 65089, and 65089.3 of, and add Section 65088.3 to, the Government Code, relating to transportation.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 65082 of the Government Code is amended to read:

65082. (a) A seven-year regional transportation improvement program shall be prepared, adopted, and submitted to the California Transportation Commission on or before December 15 of each odd-numbered year, updated every two years, pursuant to Sections 65080 and 65080.5 and the guidelines adopted pursuant to Section 14530.1, to include projects and programs proposed to be funded, in whole or in part, by funds which are any of the following:

(1) For flexible congestion relief projects, as defined in Section 164.2 of the Streets and Highways Code.

(2) For urban rail transit and commuter rail projects.

Major projects shall include an escalated current cost updated to at least November 1 of the year of submittal, and be listed by relative priority, taking into account need, delivery milestone dates, as defined in Section 14525.5, and the availability of funding.

(b) Congestion management programs adopted pursuant to Section 65089 shall be incorporated into the regional transportation improvement program submitted to the commission by December 15 of each odd-numbered year.

(c) The incorporation of the congestion management program into the regional transportation improvement program required to be submitted to the commission by December 1, 1991, may be delayed for a period not to exceed one year if an environmental impact report is required to be prepared for the congestion management program pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, and the following conditions are met:

(1) The agency, as defined by Section 65088.1, adopts written findings that the congestion management program cannot be incorporated into the regional transportation improvement program by December 1, 1991, due to the time required to prepare an environmental impact report pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) The agency adopts a schedule for development of the congestion management program that will result in its adoption no later than December 1, 1992, and submits a report to the Legislature by July 1, 1992, on the progress of complying with this section.

(3) The agency, county, and cities take every action necessary to assure the congestion management program will be adopted by December 1, 1992.

(d) If the incorporation of the congestion management program into the regional transportation improvement program is delayed pursuant to subdivision (c), both of the following shall apply:

(1) Any project included in the state transportation improvement program or the traffic systems management program prior to December 1, 1992, which is otherwise required to be included in the congestion management program, pursuant to subdivision (e), but which is not included in the congestion management program to be incorporated into the regional transportation improvement program pursuant to subdivision (b), shall be deleted from the state transportation improvement program or the traffic systems management program.

(2) Local projects which are otherwise required to be included in the congestion management program, pursuant to subdivision (e), may be included in the regional transportation improvement program to be submitted to the California Transportation Commission by December 1, 1991. Any local project which is included in the regional transportation improvement program after December 1, 1991, but prior to December 1, 1992, which is otherwise required to be included in the congestion management program, but which is not included in the congestion management program to be incorporated into the regional transportation improvement program pursuant to subdivision (b), shall be deleted from the regional transportation improvement program.

(e) Local projects not included in a congestion management program shall not be included in the regional transportation improvement program. Projects and programs adopted pursuant to subdivision (a) shall be consistent with the seven-year capital improvement program adopted pursuant to paragraph (5) of subdivision (b) of Section 65089, and the guidelines adopted pursuant to Section 14530.1.

(f) Other projects may be included in the regional transportation improvement program if listed separately.

(g) Unless a county not containing urbanized areas of over 50,000 population notifies the Department of Transportation by July 1 that it intends to prepare a regional transportation improvement program for that county, the department shall, in consultation with the affected local agencies, prepare the program for all counties for which it prepares a regional transportation plan.

(h) The regional transportation improvement program may not change the project delivery milestone date of any state project as shown in the prior adopted state transportation program without the consent of the department or other agency responsible for the project delivery.

(i) The requirements for incorporating a congestion management program into a regional transportation improvement program specified in this section do not apply in those counties that do not prepare a congestion management program in accordance with Section 65088.3.

SEC. 2. Section 65089 of the Government Code is amended to read:

65089. (a) A congestion management program shall be developed, adopted, and updated biennially, consistent with the schedule for adopting and updating the regional transportation improvement program, for every county that includes an urbanized area, and shall include every city and the county. The program shall be adopted at a noticed public hearing of the agency. The program shall be developed in consultation with, and with the cooperation of, the transportation planning agency, regional transportation providers, local governments, the department, and the air pollution control district or the air quality management district, either by the county transportation commission, or by another public agency, as designated 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.

(b) The program shall contain all of the following elements:

(1) (A) Traffic level of service standards established for a system of highways and roadways designated by the agency. The highway and roadway system shall include at a minimum all state highways and principal arterials. No highway or roadway designated as a part of the system shall be removed from the system. All new state highways and principal arterials shall be designated as part of the system. Level of service (LOS) shall be measured by Circular 212, by the most recent version of the Highway Capacity Manual, or by a uniform methodology adopted by the agency that is consistent with the Highway Capacity Manual. The determination as to whether an alternative method is consistent with the Highway Capacity Manual shall be made by the regional agency, except that the department instead shall make this determination if either (i) the regional agency is also the agency, as those terms are defined in Section 65088.1, or (ii) the department is responsible for preparing the regional transportation improvement plan for the county.

(B) In no case shall the LOS standards established be below the level of service E or the current level, whichever is farthest from level of service A. When the level of service on a segment or at an intersection fails to attain the established level of service standard, a deficiency plan shall be adopted pursuant to Section 65089.4.

(2) A performance element that includes performance measures to evaluate current and future multimodal system performance for the movement of people and goods. At a minimum, these performance measures shall incorporate highway and roadway system performance, and measures established for the frequency and

routing of public transit, and for the coordination of transit service provided by separate operators. These performance measures shall support mobility, air quality, land use, and economic objectives, and shall be used in the development of the capital improvement program required pursuant to paragraph (5), deficiency plans required pursuant to Section 65089.4, and the land use analysis program required pursuant to paragraph (4).

(3) A travel demand element that promotes alternative transportation methods, including, but not limited to, carpools, vanpools, transit, bicycles, and park-and-ride lots; improvements in the balance between jobs and housing; and other strategies, including, but not limited to, flexible work hours, telecommuting, and parking management programs. The agency shall consider parking cash-out programs during the development and update of the travel demand element.

(4) A program to analyze the impacts of land use decisions made by local jurisdictions on regional transportation systems, including an estimate of the costs associated with mitigating those impacts. This program shall measure, to the extent possible, the impact to the transportation system using the performance measures described in paragraph (2). In no case shall the program include an estimate of the costs of mitigating the impacts of interregional travel. The program shall provide credit for local public and private contributions to improvements to regional transportation systems. However, in the case of toll road facilities, credit shall only be allowed for local public and private contributions which are unreimbursed from toll revenues or other state or federal sources. The agency shall calculate the amount of the credit to be provided. The program defined under this section may require implementation through the requirements and analysis of the California Environmental Quality Act, in order to avoid duplication.

(5) A seven-year capital improvement program, developed using the performance measures described in paragraph (2) to determine effective projects that maintain or improve the performance of the multimodal system for the movement of people and goods, to mitigate regional transportation impacts identified pursuant to paragraph (4). The program shall conform to transportation-related vehicle emission air quality mitigation measures, and include any project that will increase the capacity of the multimodal system. It is the intent of the Legislature that, when roadway projects are identified in the program, consideration be given for maintaining bicycle access and safety at a level comparable to that which existed prior to the improvement or alternation. The capital improvement program may also include safety, maintenance, and rehabilitation projects that do not enhance the capacity of the system but are necessary to preserve the investment in existing facilities.

(c) The agency, in consultation with the regional agency, cities, and the county, shall develop a uniform data base on traffic impacts

for use in a countywide transportation computer model and shall approve transportation computer models of specific areas within the county that will be used by local jurisdictions to determine the quantitative impacts of development on the circulation system that are based on the countywide model and standardized modeling assumptions and conventions. The computer models shall be consistent with the modeling methodology adopted by the regional planning agency. The data bases used in the models shall be consistent with the data bases used by the regional planning agency. Where the regional agency has jurisdiction over two or more counties, the data bases used by the agency shall be consistent with the data bases used by the regional agency.

(d) (1) The city or county in which a commercial development will implement a parking cash-out program that is included in a congestion management program pursuant to subdivision (b), or in a deficiency plan pursuant to Section 65089.4, shall grant to that development an appropriate reduction in the parking requirements otherwise in effect for new commercial development.

(2) At the request of an existing commercial development that has implemented a parking cash-out program, the city or county shall grant an appropriate reduction in the parking requirements otherwise applicable based on the demonstrated reduced need for parking, and the space no longer needed for parking purposes may be used for other appropriate purposes.

(e) Pursuant to the federal Intermodal Surface Transportation Efficiency Act of 1991 and regulations adopted pursuant to the act, the department shall submit a request to the Federal Highway Administration Division Administrator to accept the congestion management program in lieu of development of a new congestion management system otherwise required by the act.

SEC. 3. Section 65089.3 of the Government Code is amended to read:

65089.3. The agency shall monitor the implementation of all elements of the congestion management program. The department is responsible for data collection and analysis on state highways, unless the agency designates that responsibility to another entity. The agency may also assign data collection and analysis responsibilities to other owners and operators of facilities or services if the responsibilities are specified in its adopted program. The agency shall consult with the department and other affected owners and operators in developing data collection and analysis procedures and schedules prior to program adoption. At least biennially, the agency shall determine if the county and cities are conforming to the congestion management program, including, but not limited to, all of the following:

(a) Consistency with levels of service standards, except as provided in Section 65089.4.

(b) Adoption and implementation of a program to analyze the impacts of land use decisions, including the estimate of the costs associated with mitigating these impacts.

(c) Adoption and implementation of a deficiency plan pursuant to Section 65089.4 when highway and roadway level of service standards are not maintained on portions of the designated system.

SEC. 4. Section 65088.3 is added to the Government Code, to read:

65088.3. This chapter does not apply in a county in which a majority of local governments, collectively comprised of the city councils and the county board of supervisors, which in total also represent a majority of the population in the county, each adopt resolutions electing to be exempt from the congestion management program.

CHAPTER 294

An act to amend Section 52523 of the Education Code, relating to adult education.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 52523 of the Education Code is amended to read:

52523. Adult education programs, courses, and classes shall not be used to supplant the regular high school curriculum for high school pupils enrolled in adult education. Adult education shall supplement and enrich the high school pupil's educational experiences. Therefore, adult education, at a minimum, shall meet the following criteria:

(a) All programs, courses, and classes conducted as adult education shall be open to adults and listed in the district's catalog of adult education classes provided to the public and shall be under the supervision and jurisdiction of the adult education administrator as determined by the school district governing board. Adults shall have priority over other students for admission to any adult education class if those adults enroll not later than the regular enrollment period for those classes. The enrollment period shall be published in the course catalog. No course required by the school district for high school graduation or necessary for pupils to maintain satisfactory academic progress shall be offered exclusively through the adult education program. An adult for purposes of this section is a person 18 years of age or older or other person who is not concurrently enrolled in a regular high school program.

(b) Each adult education teacher, whether part time or full time, under contract status or in an hourly position, shall be part of the adult school faculty and shall be under the direct supervision of the authorized adult education administrator.

(c) Enrollment of high school pupils shall be voluntary on the part of the pupil taking the class. Prior to enrollment by a high school pupil in an adult education program, class, or course, the pupil shall have documentation of the counseling session held pursuant to subdivision (b) of Section 52500.1.

(d) Enrollment of a high school pupil in an adult education program, course, or class shall be for sound educational purposes, including, but not limited to, the following:

(1) The adult education program, course, or class is not offered in the regular high school curriculum.

(2) The adult education program, course, or class is needed by the pupil to make up deficient credits for graduation from high school.

(3) The adult education program, course, or class allows the pupil to gain vocational and technical skills beyond that provided by the regular high school's vocational and technical education program.

(4) The adult education program, course, or class, supplements and enriches the high school pupil's educational experience.

(e) A high school pupil shall not be enrolled for apportionment purposes in an adult education program, course, or class that would be considered any of the following:

(1) Physical education.

(2) Driver's training and education.

(3) Vocal and instrumental music.

(4) Band.

(5) Drama.

(6) Preparation of a school yearbook or school newspaper.

(7) Training for, or participation in, athletic camps, cheerleading or spirit organizations, student government, or extracurricular student clubs.

The Superintendent of Public Instruction shall issue a program advisory that further defines the purposes set forth in subdivision (d) and the courses set forth in subdivision (e). The superintendent is authorized to issue, at any time, rules and regulations instead of the program advisory.

CHAPTER 295

An act to amend Section 65008 of the Government Code, relating to planning.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 65008 of the Government Code is amended to read:

65008. (a) Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1) The race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the individuals or group of individuals.

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of low, moderate, or middle income.

(b) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against any residential development or emergency shelter because of the method of financing or the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the owners or intended occupants of the residential development or emergency shelter.

(c) (1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against a residential development or emergency shelter because the development or shelter is intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

(2) For the purposes of this section, "persons and families of middle income" means persons and families whose income does not exceed 150 percent of the median income for the county in which the persons or families reside.

(d) (1) No city, county, city and county, or other local governmental agency may impose different requirements on a residential development or emergency shelter which is subsidized, financed, insured, or otherwise assisted by the federal or state governments or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e).

(2) No city, county, city and county, or other local governmental agency may, because of the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the intended occupants, or because the development is intended for occupancy by persons and families of low, moderate, or middle income, impose different requirements on these residential developments than those

imposed on developments generally, except as provided in subdivision (e).

(e) Notwithstanding the above, nothing in this section or this title shall be construed to prohibit either of the following:

(1) The County of Riverside from enacting and enforcing zoning to provide housing for older persons, in accordance with state or federal law, if that zoning was enacted prior to January 1, 1995.

(2) Any city, county, or city and county from extending preferential treatment to residential developments or emergency shelters assisted by the federal or state governments or by a local public entity, as defined in Section 50079 of the Health and Safety Code, or other residential developments or emergency shelters intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, or agricultural employees, as defined in subdivision (b) of Section 1140.4 of the Labor Code, and their families. This preferential treatment may include, but need not be limited to, reduction or waiver of fees or changes in architectural requirements, site development and property line requirements, building setback requirements, or vehicle parking requirements which reduce development costs of these developments.

(f) "Residential development," as used in this section, means a single-family residence or a multifamily residence, including manufactured homes, as defined in Section 18007 of the Health and Safety Code.

(g) This section shall apply to chartered cities.

(h) The Legislature finds and declares that discriminatory practices which inhibit the development of housing for persons and families of low, moderate, and middle income, or emergency shelters for the homeless, are a matter of statewide concern.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution because of the following circumstances unique to the County of Riverside:

(a) Within the County of Riverside there is an unusually large concentration of senior communities for which the original developers did not impose covenants, conditions, and restrictions limiting occupancy to older persons.

(b) To protect the living arrangements of the older persons residing in those communities, the County of Riverside has adopted and applied thereto a "Senior Citizen District Overlay Zone."

CHAPTER 296

An act to add Section 35700.1 to the Education Code, relating to school district reorganization.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 35700.1 is added to the Education Code, to read:

35700.1. (a) A county superintendent of schools may do any of the following, as necessary, with respect to the reorganization of school districts within the jurisdiction of a county superintendent of schools:

(1) Prior to the initiation of an action to reorganize, a county superintendent of schools may do any of the following:

(A) Provide information, coordination, and guidance to potential petitioners for reorganization and to other parties inquiring about the petition process.

(B) Provide procedural advice and counseling.

(C) Provide information and assistance for community meetings, information sessions, and briefing sessions.

(D) Provide for coordination of media and community relations.

(2) A county superintendent of schools may perform the following duties for the processing and evaluation of multiple petitions to reorganize one or more school districts:

(A) Ensure compliance with all requirements pertaining to the petitions.

(B) Ensure compliance with all required timelines or deadlines for petitions.

(C) Apply new and preexisting evaluation criteria to the petition.

(3) A county superintendent of schools may provide assistance to newly reorganized school districts during the interim period, as follows:

(A) To ensure smooth transitions with minimum disruption to pupils and staff.

(B) To provide advisory and consulting expertise on any of the following:

(i) Board and administrative policies and regulations.

(ii) Personnel policies.

(iii) Curriculum.

(iv) Instructional programs and services.

(v) Financial and budgeting functions.

(vi) Distribution of assets and liabilities.

(b) No funds allocated to the Los Angeles County Office of Education pursuant to the Budget Act shall be used to instigate,

solicit, or promote the development of plans to reorganize a school district or school districts within the jurisdiction of the county office of education; provided, however, that the funds may be used to support the research necessary to review and make recommendations regarding reorganization plans that are submitted to the county office of education.

SEC. 2. The Legislature finds and declares that due to unique circumstances regarding the Los Angeles County Office of Education, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 297

An act to amend Section 741 of the Public Resources Code, relating to forest resources.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 741 of the Public Resources Code is amended to read:

741. (a) The board shall appoint a Range Management Advisory Committee and shall consult with the advisory committee on rangeland resource issues under consideration by the board.

(b) The advisory committee shall consist of 11 members, who shall be selected as follows:

(1) Two members of the general public, who have an interest and background in the conservation of range resources or special knowledge in the protection of range and brushland soils and watersheds.

(2) One member nominated by the Watershed Fire Council of Southern California.

(3) One member nominated by the California Association of Resource Conservation Districts.

(4) Seven members nominated by organizations representing owners of range and brushlands.

(c) Members of the advisory committee shall serve without compensation.

(d) The Secretary of the Resources Agency, the Secretary for Environmental Protection, and the Secretary of Food and Agriculture shall notify the advisory committee of, and are encouraged to consult with the advisory committee on, rangeland resource issues that are under consideration by the Resources

Agency, the California Environmental Protection Agency, and the Department of Food and Agriculture, respectively.

CHAPTER 298

An act to amend Section 46146 of, and to add Section 76002 to, the Education Code, relating to school attendance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 46146 of the Education Code is amended to read:

46146. (a) A day of attendance in grades 11 and 12 is 180 minutes of attendance if the pupil is also enrolled part time in classes of the California State University or the University of California for which academic credit will be provided upon satisfactory completion of enrolled courses.

(b) A day of attendance for any pupil who is also a special part-time student enrolled in a community college under Article 1 (commencing with Section 48800) of Chapter 5 of Part 27 and who will receive academic credit upon satisfactory completion of enrolled courses is 180 minutes of attendance.

(c) Notwithstanding any other provisions of law, for purposes of computing the average daily attendance of a pupil described in subdivision (a) or (b), the 180-minute minimum schoolday permitted by this section shall be computed and reported as attendance for three-quarters of the full 240-minute minimum schoolday prescribed by Section 46141. Commencing with the 1995–96 fiscal year, if a pupil described in subdivision (a) or (b) is in attendance for more than 180 minutes, the average daily attendance of the pupil shall be computed and reported by determining the percentage of the full 240-minute minimum schoolday prescribed by Section 46141 that the pupil was in attendance at the school. No more than one full day of attendance may be reported for any pupil for any schoolday pursuant to this subdivision.

SEC. 2. Section 76002 is added to the Education Code, to read:

76002. For the purposes of receiving state apportionments, a community college may only report full-time equivalent students (FTES) for high school students permitted to attend a community college district pursuant to Sections 48800 and Section 76001 if those students are enrolled in community college classes that are open to the general public.

SEC. 3. Regardless of when this act becomes effective, it is the intent of the Legislature to make changes in state apportionments to school districts for the entire 1995–96 fiscal year. For the purpose of implementing the changes required by Section 1 of this act, the Superintendent of Public Instruction and other public officers shall take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, as apportionments, and disbursements ordered from Section A of the State School Fund and other public funds.

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 provide continuous education for high school pupils seeking higher education opportunities and to allow school districts proper planning time, it is necessary that this act take effect immediately.

CHAPTER 299

An act to amend Section 41704 of, and to add Section 39043.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 39043.5 is added to the Health and Safety Code, to read:

39043.5. "Obscurant" means fog oil released into the atmosphere during military exercises which produces a smoke screen designed to eliminate the detection of persons or objects by visual or electronic means of observation within a localized area.

SEC. 2. Section 41704 of the Health and Safety Code is amended to read:

41704. Section 41701 does not apply to any of the following:

(a) Fires set pursuant to Section 41801.

(b) Agricultural burning for which a permit has been granted pursuant to Article 3 (commencing with Section 41850).

(c) Fires set or permitted by any public officer in the performance of his or her official duty for the improvement of watershed, range, or pasture.

(d) Use of any aircraft to distribute seed, fertilizer, insecticides, or other agricultural aids over lands devoted to the growing of crops or raising of fowl or animals.

(e) Open outdoor fires used only for cooking of food for human beings or for recreational purposes.

(f) The use of orchard and citrus grove heaters which are in compliance with the requirements set forth in Section 41860.

(g) Agricultural operations necessary for the growing of crops or raising of fowl or animals.

(h) The use of other equipment in agricultural operations necessary for the growing of crops or raising of fowl or animals.

(i) Fugitive dust emissions from rock crushing facilities within the Southeast Desert Air Basin, where the facilities were in existence prior to January 1, 1970, at a location where the population density is less than 10 persons per square mile in each square mile within a seven-mile radius of the facilities; provided, however, that under no circumstances shall the emissions cause a measurable degradation of the ambient air quality or create a nuisance. This subdivision does not apply to any rock crushing facilities which (1) process in excess of 100 tons of rock in any 24-hour period, averaged over any period of 30 consecutive days, (2) have 25 or more employees, (3) fail to operate and maintain in good working order any emission control equipment installed prior to January 1, 1978, or (4) undergo a change of ownership after January 1, 1977.

(j) Emissions from vessels using steam boilers during emergency boiler shutdowns for safety reasons, safety and operational tests required by governmental agencies, and where maneuvering is required to avoid hazards.

(k) Emissions from vessels during a breakdown condition, as long as the discharge is reported in accordance with district requirements.

(*l*) The use of visible emission generating equipment in training sessions conducted by governmental agencies necessary for certifying persons to evaluate visible emissions for compliance with Section 41701 or applicable district rules and regulations. Any local or regional authority rule or regulation relating to visible emissions are not applicable to the equipment.

(m) Smoke emissions from teepee burners operating in compliance with Section 4438 of the Public Resources Code during the disposal of forestry and agricultural residues or forestry and agricultural residues with supplementary fossil fuels when the emissions result from the startup or shutdown of the combustion process or from the malfunction of emission control equipment. This subdivision does not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period. This subdivision does not apply to emissions which result from the failure to operate and maintain in good working order any emission control equipment.

(n) Smoke emissions from burners used to produce energy and fired by forestry and agricultural residues with supplementary fossil fuels when the emissions result from startup or shutdown of the combustion process or from the malfunction of emission control

equipment. This subdivision does not apply to emissions which exceed a period or periods of time aggregating more than 30 minutes in any 24-hour period, or which result from the failure to operate and maintain in good working order any emission control equipment.

(o) Emissions from methanol fuel manufacturing plants which manufacture not more than 2,000,000 gallons of methanol fuel per day from wood, agricultural waste, natural gas, or coke (exclusive of petroleum coke). As used in this subdivision, "manufacturing plant" includes all necessary support systems, including field operations equipment that provide feed stock. However, this subdivision shall apply to not more than one methanol fuel manufacturing plant in each air basin and each plant shall be located in an area designated as an "attainment area" pursuant to the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and shall meet all applicable standards required by the district board. This subdivision shall remain in effect with respect to a plant until five years after construction of the plant and shall have no force and effect with respect to the plant on and after that date.

(p) The use of an obscurant for the purpose of training military personnel and the testing of military equipment by the United States Department of Defense on any military reservation.

CHAPTER 300

An act to add Section 50030 to the Government Code, relating to local agency fees.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. This act shall be known and may be cited as the California Telecommunications Infrastructure Development Act.

SEC. 2. (a) The Legislature finds and declares as follows:

(1) Connecting all California homes and businesses to the information superhighway has the potential to position the state on the leading edge of the telecommunications revolution. The emerging technologies will encourage economic growth and provide social benefits to all Californians, as well as allow California businesses and residents to compete in national and international markets.

(2) Congress and the Legislature of the State of California have enacted telecommunications policies that include provisions to encourage the development and deployment of new technologies, and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services, and to promote economic growth, job creation, and the substantial social benefits that will result from

the rapid implementation of advanced information and communications technologies.

(3) New technologies require investment and expansion of telecommunications networks in order to bring greater choice to consumers by encouraging universally available telecommunications service.

(b) The Legislature further finds and declares that this act does not constitute a change in existing law.

SEC. 3. Section 50030 is added to the Government Code, to read:

50030. Any permit fee imposed by a city, including a chartered city, a county, or a city and county, for the placement, installation, repair, or upgrading of telecommunications facilities such as lines, poles, or antennas, by a telephone corporation that has obtained all required authorizations to provide telecommunications services from the Public Utilities Commission and the Federal Communications Commission, shall not exceed the reasonable costs of providing the service for which the fee is charged, and shall not be levied for general revenue purposes.

CHAPTER 301

An act to amend Sections 1803.6 and 1810.12 of the Civil Code, relating to credit.

[Approved by Governor July 25, 1996. Filed with Secretary of State July 25, 1996.]

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

SECTION 1. Section 1803.6 of the Civil Code is amended to read:

1803.6. (a) A contract may provide that for each installment in default the buyer shall pay a delinquency charge not in excess of one of the following amounts:

(1) For a period in default of not less than 10 days, an amount not in excess of ten dollars ($10).

(2) For a period in default of not less than 15 days, an amount not in excess of fifteen dollars ($15).

(b) Only one delinquency charge may be collected on any installment regardless of the period during which it remains in default. Payments timely received by the seller under a written extension or deferral agreement shall not be subject to any delinquency charge. The contract may also provide for payment of any actual and reasonable costs of collection occasioned by removal of the goods from the state without written permission of the holder, or by the failure of the buyer to notify the holder of any change of residence, or by the failure of the buyer to communicate with the

holder for a period of 45 days after any default in making payments due under the contract.

SEC. 2. Section 1810.12 of the Civil Code is amended to read:

1810.12. (a) Notwithstanding Section 1810.4, a seller or holder of a retail installment account may, subject to subdivision (d) of Section 1810.3, provide that for each installment in default the buyer shall pay a delinquency charge not in excess of one of the following amounts:

(1) For a period in default of not less than 10 days, an amount not in excess of ten dollars ($10).

(2) For a period in default of not less than 15 days, an amount not in excess of fifteen dollars ($15).

(b) Only one delinquency charge may be collected on any installment regardless of the period during which it remains in default. No delinquency charge shall be imposed for any default of payment on any payment due prior to the mailing or delivery to the buyer of the written disclosure concerning the delinquency charge provided by the seller or holder of a retail installment account pursuant to subdivision (d) of Section 1810.3. Payments timely received by the seller under a written extension or deferral agreement shall not be subject to any delinquency charge. The agreement may also provide for payment of any actual and reasonable costs of collection occasioned by removal of the goods from the state without written permission of the holder, or by the failure of the buyer to notify the holder of any change of residence, or by the failure of the buyer to communicate with the holder for a period of 45 days after any default in making payments due under the agreement.

(c) Notwithstanding subdivision (b) of Section 1810.3, the seller or holder of a retail installment account shall provide a minimum of 20 days between the monthly billing date and the date upon which the minimum payment is due, exclusive of the applicable grace period provided in subdivision (a).

CHAPTER 302

An act to amend Section 1324 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 26, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 1324 of the Penal Code is amended to read:

1324. In any felony proceeding or in any investigation or proceeding before a grand jury for any felony offense if a person refuses to answer a question or produce evidence of any other kind

on the ground that he or she may be incriminated thereby, and if the district attorney of the county or any other prosecuting agency in writing requests the court, in and for that county, to order that person to answer the question or produce the evidence, a judge shall set a time for hearing and order the person to appear before the court and show cause, if any, why the question should not be answered or the evidence produced, and the court shall order the question answered or the evidence produced unless it finds that to do so would be clearly contrary to the public interest, or could subject the witness to a criminal prosecution in another jurisdiction, and that person shall comply with the order. After complying, and if, but for this section, he or she would have been privileged to withhold the answer given or the evidence produced by him or her, no testimony or other information compelled under the order or any information directly or indirectly derived from the testimony or other information may be used against the witness in any criminal case. But he or she may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing, or failing to produce, evidence in accordance with the order. Nothing in this section shall prohibit the district attorney or any other prosecuting agency from requesting an order granting use immunity or transactional immunity to a witness compelled to give testimony or produce evidence.

CHAPTER 303

An act to amend Section 44830.3 of the Education Code, relating to schools.

[Approved by Governor July 26, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 44830.3 of the Education Code is amended to read:

44830.3. (a) The governing board of any school district that maintains kindergarten or grades 1 to 12, inclusive, or that maintains classes in bilingual education, or in the case of special education programs for pupils with mild and moderate disabilities, the Los Angeles Unified School District, may, in consultation with an accredited public institution of higher education offering an approved program of pedagogical teacher preparation, employ persons authorized by the Commission on Teacher Credentialing to provide service as district interns to provide instruction to pupils in those grades or classes as a classroom teacher. The governing board shall require that each district intern be assisted and guided by a

certificated employee of the school district who has been designated by the governing board as a mentor teacher pursuant to Article 4 (commencing with Section 44490) of Chapter 3 or by certificated employees selected through a competitive process adopted by the governing board after consultation with the exclusive teacher representative unit or by personnel employed by institutions of higher education to supervise student teachers. Mentor teachers or other certificated employees shall possess valid certification at the same level, or of the same type, of credential as the district interns they serve.

(b) The governing board of each school district employing district interns shall develop and implement a professional development plan for district interns in consultation with an accredited institution of higher education offering an approved program of pedagogical preparation. The professional development plan shall include all of the following:

(1) Provisions for an annual evaluation of the district intern.

(2) As the governing board determines necessary, a description of courses to be completed by the district intern, if any, and a plan for the completion of preservice or other clinical training, if any, including student teaching.

(3) Mandatory preservice training for district interns tailored to the grade level or class to be taught, through either of the following options:

(A) One hundred twenty clock hours of preservice training and orientation in the aspects of child development and the methods of teaching the subject field or fields in which the district intern will be assigned, which training and orientation period shall be under the direct supervision of an experienced permanent teacher. At the conclusion of the preservice training period, the permanent teacher shall provide the district with information regarding the area that should be emphasized in the future training of the district intern.

(B) The successful completion, prior to service by the intern in any classroom, of six semester units of coursework from a regionally accredited college or university, designed in cooperation with the school district to provide instruction and orientation in the aspects of child development and the methods of teaching the subject field or fields in which the district intern will be assigned.

(4) Instruction in child development and the methods of teaching during the first semester of service for district interns teaching in kindergarten or grades 1 to 6, inclusive, including bilingual classes at those levels.

(5) Instruction in the culture and methods of teaching bilingual children during the first year of service for district interns teaching children in bilingual classes.

(6) Any other criteria that may be required by the governing board.

(7) In addition to the requirements set forth in paragraphs (1) to (6), inclusive, the professional development plan for district interns teaching in special education programs for pupils with mild and moderate disabilities also shall include 120 clock hours of mandatory preservice training and orientation, which shall include, but not be limited to, instruction in the development of exceptional children and the methods of teaching exceptional children.

(8) In addition to the requirements set forth in paragraphs (1) to (6), inclusive, the professional development plan for district interns teaching bilingual classes shall also include 120 clock hours of mandatory training and orientation, which shall include, but not be limited to, instruction in subject matter relating to bilingual-crosscultural language and academic development.

(9) The professional development plan for district interns teaching in special education programs for pupils with mild and moderate disabilities shall be based on the standards adopted by the commission as provided in subdivision (a) of Section 44327.

(c) Each district intern and each district teacher assigned to supervise the district intern during the preservice period, shall be compensated for the preservice period pursuant to subparagraph (A) or (B) of paragraph (3). The compensation shall be that which is normally provided by each district for staff development or in-service activity.

(d) Upon completion of two years of service, or three years of service for interns participating in a program that leads to the attainment of a specialist credential to teach pupils with mild and moderate disabilities, or four years if the intern is participating in a program that leads to the attainment of both a multiple subject or single subject teaching credential and a specialist credential to teach pupils with mild and moderate disabilities, the governing board may recommend to the Commission on Teacher Credentialing that the district intern be credentialed in the manner prescribed by Section 44328.

CHAPTER 304

An act to amend Sections 42885, 42956, and 42961.5 of, and to add Section 42962.5 to, the Public Resources Code, and to add Article 8 (commencing with Section 31560) to Chapter 5 of Division 13 of the Vehicle Code, relating to solid waste.

[Approved by Governor July 26, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 42885 of the Public Resources Code is amended to read:

42885. (a) On and after January 1, 1997, every person who purchases a new tire, as defined in subdivision (c), from a retail seller of new tires shall pay a fee of twenty-five cents ($0.25) per tire to the seller. The retail seller shall collect the fee at the time of sale, may retain 10 percent of the fee as reimbursement for any costs associated with the collection of the fee, and shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(b) The board, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.

(c) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motor vehicle, motorized equipment, construction equipment, or farm equipment. "New tire" does not include retreaded or recycled tires or tires that are mounted on wheels and sold as part of a vehicle or equipment.

(d) This section shall become inoperative on June 30, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 42956 of the Public Resources Code is amended to read:

42956. (a) Upon approval of an application submitted pursuant to Section 42955, the board shall issue a waste tire hauler registration to be carried in the vehicle and a waste tire hauler decal to be permanently affixed on the driver's door of the vehicle.

(b) The waste tire hauler registration shall be presented upon demand of an authorized representative of the board.

SEC. 3. Section 42961.5 of the Public Resources Code is amended to read:

42961.5. The board shall develop a waste tire manifest system for registered waste tire haulers that complies with all of the following conditions:

(a) The board shall develop a waste tire manifest form that shall be completed and shall accompany each shipment of waste tires from the point of origin to the processing, collection, storage, or disposal facility.

(b) The manifest form shall be signed by the generator, the waste tire hauler, and the processing, collection, storage, or disposal facility. Each party shall retain one copy of the manifest form.

(c) If waste tires are transported from a collection center, a new manifest shall be used until the waste tires reach a final processing, collection, storage, or disposal facility.

(d) No transporter shall receive waste tires and no person or facility shall accept waste tires for processing, collection, storage, or disposal without a properly completed manifest form, with the exception that the processor may accept waste tires that are delivered by a waste tire hauler without a manifest, if the processor reports the name of the waste tire hauler and the vehicle license number to the board.

(e) A waste tire hauler shall not transport any waste tires without having at all times, in the vehicle transporting the waste tires, a copy of the manifest for the waste tires, which shall be presented upon demand of an authorized representative of the board.

(f) Each party required to sign a manifest shall maintain it for three years and shall make it available for review during regular business hours.

SEC. 4. Section 42962.5 is added to the Public Resources Code, to read:

42962.5. Any traffic officer, as defined in Section 625 of the Vehicle Code, and any peace officer, as specified in Section 830.1 of the Penal Code, may enforce this chapter as authorized representatives of the board.

SEC. 5. Article 8 (commencing with Section 31560) is added to Chapter 5 of Division 13 of the Vehicle Code, to read:

Article 8. Waste Tires

31560. (a) Any person operating a vehicle, or combination of vehicles, in the transportation of waste tires, shall be registered with the California Integrated Waste Management Board, unless specifically exempted, as provided in Chapter 19 (commencing with Section 42950) of Part 3 of Division 30 of the Public Resources Code and in regulations adopted by the board to implement that chapter.

(b) It is unlawful and constitutes an infraction for any person engaged in the transportation of waste tires to violate any provision of this article.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 305

An act to amend Sections 21665 and 25755 of the Business and Professions Code, to amend Section 90520 of the Education Code, to amend Section 6240 of the Family Code, to amend Section 3332 of the Food and Agricultural Code, to amend Sections 8549.11, 8574.21, 8597, 8598, 9110, 12304, 14600, 14613.5, 14613.7, 14615, 14617, 14685, 20045, 20390, 20401, 22013.2, 68097, 68097.1, 68097.5, 68097.6, 68097.7, 68097.9, and 68097.10 of, to add and repeal Section 11015.5 of, to repeal and add and repeal Section 14613 of, and to repeal Sections 14613.05, 14613.06, 14613.1, 14613.2, 14613.3, 14613.4, and 16404.5 of, the Government Code, to amend Sections 3212.3 and 4800.5 of the Labor Code, to amend Sections 76, 409.5, 409.6, 626.8, 626.85, 653g, 830.2, 830.4, 12028.5, 12280, 12361, 12368, 12369, 13510.5, 13518, and 13700 of the Penal Code, to amend Sections 6776, 6777, 19232, and 19233 of the Revenue and Taxation Code, to amend Sections 1785 and 1786 of the Unemployment Insurance Code, and to amend Sections 2268, 2400, 21113, 22659, 22855, 40200.3, 40200.4, and 40200.5 of, and to add Sections 2250.1 and 2428 to, the Vehicle Code, relating to law enforcement.

[Approved by Governor July 26, 1996. Filed with Secretary of State July 29, 1996.]

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 enact, without substantive change, the Governor's Reorganization Plan No. 1 of 1995, which took effect July 12, 1995, and make related, conforming changes.

SEC. 2. Section 21665 of the Business and Professions Code is amended to read:

21665. (a) Swap meet operators shall retain a copy of the reports collected by them for six months and shall make the copies available for inspection, upon request, by a peace officer as defined in Section 830.1 or subdivision (a) of Section 830.3 of the Penal Code, or a peace officer of the Department of the California Highway Patrol as defined in subdivision (a) of Section 830.2 of the Penal Code, when the swap meet occurs on state property, or properly identified representatives of the State Board of Equalization or Department of Justice.

(b) Vendors shall have available for inspection during the swap meet a completed copy of the report form which was submitted to the swap meet operator describing the goods offered or displayed for sale or exchange at the swap meet.

SEC. 3. Section 25755 of the Business and Professions Code is amended to read:

25755. (a) The director and the persons employed by the department for the administration and enforcement of this division are peace officers in the enforcement of the penal provisions of this division, the rules of the department adopted under the provisions of this division, and any other penal provisions of law of this state prohibiting or regulating the sale, exposing for sale, use, possession, giving away, adulteration, dilution, misbranding, or mislabeling of alcoholic beverages or intoxicating liquors, and these persons are authorized, while acting as peace officers, to enforce any penal provisions of law while in the course of their employment.

(b) The director, the persons employed by the department for the administration and enforcement of this division, peace officers listed in Section 830.1 of the Penal Code, and those officers listed in Section 830.6 of the Penal Code while acting in the course and scope of their employment as peace officers may, in enforcing the provisions of this division, visit and inspect the premises of any licensee at any time during which the licensee is exercising the privileges authorized by his or her license on the premises.

(c) Peace officers of the Department of the California Highway Patrol, members of the University of California and California State University police departments, and peace officers of the Department of Parks and Recreation, as defined in subdivisions (a), (b), (c), and (f) of Section 830.2 of the Penal Code, may, in enforcing this division, visit and inspect the premises of any licensee located on state property at any time during which the licensee is exercising the privileges authorized by his or her license on the premises.

(d) Any agents assigned to the Drug Enforcement Narcotics Team by the director shall have successfully completed a four-week course on narcotics enforcement approved by the Commission on Peace Officer Standards and Training. In addition, all other agents of the department shall successfully complete the four-week course on narcotics enforcement approved by the Commission on Peace Officer Standards and Training by June 1, 1995.

SEC. 4. Section 90520 of the Education Code is amended to read:

90520. The trustees shall not be charged or otherwise assessed for Department of the California Highway Patrol services to the chancellor's office or any state facility under the control of the chancellor's office, except for those patrol services requested by the trustees.

SEC. 5. Section 6240 of the Family Code 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 Department of the California Highway Patrol.

(4) A peace officer of the University of California Police Department.

(5) A peace officer of the California State University and College Police Departments.

(6) A peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2 of the Penal Code.

(7) A housing authority patrol officer, as defined in subdivision (d) of Section 830.31 of the Penal Code.

SEC. 6. Section 3332 of the Food and Agricultural Code is amended to read:

3332. The board has authority to do any of the following:

(a) Contract.

(b) Accept funds or gifts of value from the United States or any person to aid in carrying out the purposes of this part.

(c) Conduct or contract for programs, either independently or in cooperation with any individual, public or private organization, or federal, state, or local governmental agency.

(d) Establish and maintain a bank checking account or a savings and loan association account, approved by the Director of Finance in accordance with Sections 16506 and 16605 of the Government Code, for depositing funds appropriated to the California Exposition and State Fair pursuant to subdivision (a) of Section 19622 of the Business and Professions Code. The Department of Finance shall audit the account at the end of each fiscal year.

(e) Make or adopt all necessary orders, rules, or regulations for governing the activities of the California Exposition and State Fair.

(f) Delegate to the officers and employees of the California Exposition and State Fair the authority to appoint civil service personnel according to state civil service procedures.

(g) Delegate to the officers and employees of the California Exposition and State Fair the exercise of powers vested in the board as the board may deem desirable for the orderly management and operation of the California Exposition and State Fair.

(h) Appoint all necessary marshals and police to keep order and preserve peace at the California Exposition and State Fair premises on a year-round basis who shall have the powers of peace officers specified in Section 830.2 of the Penal Code. A peace officer of the Department of the California Highway Patrol may be employed as a peace officer while off duty from his or her regular employment,

subject to those conditions as may be set forth by the Commissioner of the Department of the California Highway Patrol. At least 75 percent of the persons appointed pursuant to this subdivision shall possess the basic certificate issued by the Commission on Peace Officers Standards and Training. The remaining 25 percent may be appointed if the person has completed a Peace Officer Standards and Training certified academy or possesses a Level One Reserve Certificate (as defined in Section 832.6 of the Penal Code).

(i) Lease, with the approval of the Department of General Services, any of its property for any purpose for any period of time.

(j) Use or manage any of its property, with the approval of the Department of General Services, jointly or in connection with any lessee or sublessee, for any purpose approved by the board.

SEC. 7. Section 8549.11 of the Government Code is amended to read:

8549.11. (a) The team shall be comprised of all of the following:

(1) The Chief of the Occupational Safety and Health Division of the Department of Industrial Relations.

(2) The Commissioner of the Department of the California Highway Patrol.

(3) The Director of the Office of Emergency Services.

(4) The Director of Finance.

(5) The Director of General Services.

(6) The Director of Health Services.

(7) The State Fire Marshal.

(8) The Director of Forestry and Fire Protection.

(b) The team shall be chaired by the Commissioner of the Department of the California Highway Patrol.

SEC. 8. Section 8574.21 of the Government Code is amended to read:

8574.21. (a) Not later than one year after the effective date of this article, the Office of Emergency Services shall develop the curriculum to be used in classes which meet the program requirements and shall adopt standards and procedures for training instructors at the California Specialized Training Institute.

(b) The curriculum for the training and education program established pursuant to this article shall include all of the following aspects of hazardous substance incident response actions:

(1) First responder training.

(2) On-scene manager training.

(3) Hazardous substance incident response training for management personnel.

(4) Hazardous materials specialist training that equals or exceeds the standards of the National Fire Protection Association.

(5) Environmental monitoring.

(6) Hazardous substance release investigations.

(7) Hazardous substance incident response activities at ports.

(c) The Office of Emergency Services shall establish a curriculum development advisory committee, which shall consist of a representative from each of the following agencies or organizations:

(1) The Office of Emergency Services.
(2) The Office of the State Fire Marshal.
(3) The State Department of Health Services.
(4) The Department of Fish and Game.
(5) The State Water Resources Control Board.
(6) The Department of the California Highway Patrol.
(7) The California Police Chiefs' Association.
(8) The California Fire Chiefs' Association.
(9) The Commission on Police Officer Standards and Training.
(10) The California District Attorneys' Association.
(11) The Department of Forestry and Fire Protection.
(12) The Emergency Medical Services Authority.
(13) The Department of Transportation.
(14) The Environmental Protection Agency.
(15) The Chemical Industry Council of California.
(16) The California Manufacturers Association.
(17) The California Conference of Local Health Officers.
(18) The University of California.
(19) The California State Fireman's Association.
(20) The California State University.
(21) The California Professional Firefighters.
(22) The California Association of Highway Patrolmen.

(d) The curriculum development advisory committee shall advise the Office of Emergency Services on the development of course curricula and the standards and procedures specified in subdivision (a). In advising the Office of Emergency Services, the committee shall do the following:

(1) Assist, and cooperate with, representatives of the Board of Governors of the California Community Colleges in developing the course curricula.

(2) Ensure that the curriculum developed pursuant to this section is accredited by the State Board of Fire Services.

(3) Define equivalent training and experience considered as meeting the initial training requirements as specified in subdivision (a) that existing employees might have already received from actual experience or formal education undertaken, and which would qualify as meeting the requirements established pursuant to this article.

(e) The representative from the Office of Emergency Services shall serve as the chairperson of the curriculum development advisory committee.

(f) After the course curricula and standards are established pursuant to subdivision (a), the curriculum development advisory committee shall meet at least once each year to review the program

and advise the Office of Emergency Services on any required revisions.

(g) The Office of Emergency Services shall make the curriculum development advisory committee a subcommittee of the Curriculum Advisory Board of the California Specialized Training Institute.

(h) This article does not affect the authority of the State Fire Marshal granted pursuant to Section 13142.4 or 13159 of the Health and Safety Code.

(i) Upon completion of instructor training and certification pursuant to subdivision (e) of Section 8574.20 by any employee of the Department of the California Highway Patrol, the Commissioner of the Department of the California Highway Patrol may deem any training programs taught by that employee to be equivalent to any training program meeting the requirements established pursuant to this article.

SEC. 9. Section 8597 of the Government Code is amended to read:

8597. Whenever a state of emergency is proclaimed to exist within any region or area, or whenever a state of war emergency exists, the following classes of state employees who are within the region or area proclaimed or who may be assigned to duty therein shall be peace officers and shall have the full powers and duties of those officers for all purposes as provided by Section 830.1 of the Penal Code, and shall perform those duties and exercise any powers which are appropriate or which may be directed by their superior officers:

(a) All peace officers of the Department of the California Highway Patrol.

(b) All deputies of the Department of Fish and Game who have been appointed to enforce the provisions of the Fish and Game Code pursuant to Section 851 of that code.

(c) The Director of Forestry and Fire Protection and the classes of the Department of Forestry and Fire Protection who are designated by the Director of Forestry and Fire Protection as having the powers of peace officers pursuant to Section 4156 of the Public Resources Code.

(d) Peace officers who are state employees within the provisions of Section 830.5 of the Penal Code.

SEC. 10. Section 8598 of the Government Code is amended to read:

8598. Whenever a local emergency exists within a region or area of the state and the Department of the California Highway Patrol or the Department of Corrections or the Department of the Youth Authority employing any peace officer within Section 830.5 of the Penal Code is requested by properly constituted local authorities to assist local law enforcement, the officers assigned to assist within the designated regions or areas shall have the full powers of peace officers within the meaning of Section 830.1 of the Penal Code and shall

perform those duties and exercise those powers as are appropriate or as may be directed by their superior officers.

SEC. 11. Section 9110 of the Government Code is amended to read:

9110. (a) The maintenance and operation of all of the State Capitol Building Annex is under the control of the Department of General Services, subject to this article.

(b) Security of the State Capitol Building Annex is the responsibility of the Department of the California Highway Patrol.

SEC. 12. Section 11015.5 is added to the Government Code, to read:

11015.5. (a) The Commissioner of the Department of the California Highway Patrol shall appoint an interagency task force to discuss and recommend methods of improving security at state agency offices where state employees have direct contact with the public. The task force shall be comprised of representatives of the Department of Motor Vehicles, the Department of General Services, the Department of the California Highway Patrol, the Employment Development Department, the Health and Welfare Agency, the Department of Industrial Relations, and the Department of Justice. Funding for the task force shall be made by utilizing the existing resources of represented agencies and departments. The task force shall present its recommendations for improving security to the Governor and the Legislature on or before December 31, 1997.

(b) This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1998, deletes or extends that date.

SEC. 13. Section 12304 of the Government Code is amended to read:

12304. Every employee of the Treasurer's office when performing assigned duties as a guard or messenger has the powers and authority conferred by law upon peace officers listed in Section 830.4 of the Penal Code. Peace officers of the Department of the California Highway Patrol shall make routine inspections of the premises of the Treasurer's office after normal working hours each day and on Saturdays, Sundays, and holidays.

SEC. 14. Section 14600 of the Government Code is amended to read:

14600. The Legislature declares that a centralization of business management functions and services of state government is necessary to take advantage of specialized techniques and skills, provide uniform management practices, and to insure a continuing high level of efficiency and economy. A Department of General Services is created to provide centralized services including, but not limited to, planning, acquisition, construction, and maintenance of state buildings and property; purchasing; printing; architectural services; administrative hearings; and accounting services. The Department of General Services shall develop and enforce policy and procedures

and shall institute or cause the institution of those investigations and proceedings as it deems proper to assure effective operation of all functions performed by the department and to conserve the rights and interests of the state.

SEC. 15. Section 14613 of the Government Code is repealed.

SEC. 16. Section 14613 is added to the Government Code, to read:

14613. (a) The Governor may appoint the person, who, on the date of the transfer of the California State Police Division to the Department of the California Highway Patrol, is serving as the Chief of the California State Police Division, to the position of Deputy Chief within the Department of the California Highway Patrol for a period of 12 months. The position has the powers of a peace officer as defined in Section 830.2 of the Penal Code. The authorization for this position of Deputy Chief expires 12 months after the effective date of the Governor's appointment. The Governor shall notify the Secretary of State of the effective date of that appointment.

(b) This section shall remain in effect only until 12 months after the effective date of the appointment described in subdivision (a) and as of that date is repealed.

SEC. 17. Section 14613.05 of the Government Code is repealed.

SEC. 18. Section 14613.06 of the Government Code is repealed.

SEC. 19. Section 14613.1 of the Government Code, as added by Chapter 279 of the Statutes of 1967, is repealed.

SEC. 20. Section 14613.1 of the Government Code, as amended by Section 2 of Chapter 453 of the Statutes of 1981, is repealed.

SEC. 21. Section 14613.2 of the Government Code is repealed.

SEC. 22. Section 14613.3 of the Government Code is repealed.

SEC. 23. Section 14613.4 of the Government Code is repealed.

SEC. 24. Section 14613.5 of the Government Code is amended to read:

14613.5. The Department of the California Highway Patrol shall present to the host agency or family member designated by the host agency of any peace officer who is killed in the line of duty in California, the flag that was flown at half-staff over the State Capitol Building in memory of the officer and a memorial certificate.

SEC. 25. Section 14613.7 of the Government Code is amended to read:

14613.7. (a) Each state agency that is protected by the Department of the California Highway Patrol, those state agencies currently being protected by contract private security companies, or those state agencies currently under contract with a local governmental law enforcement agency for general law enforcement services, excluding all current mutual aid agreements, shall, as soon as practical, report to the Department of the California Highway Patrol all crimes and criminally caused property damage on state-owned or state-leased property where state employees are discharging their duties. This section shall not apply to incidents that result in the filing of Incidence Memoranda issued by the Parole

Divisions of the Department of Corrections and the Department of the Youth Authority.

(b) The Department of the California Highway Patrol shall compile the information received pursuant to subdivision (a) and shall report to the Legislature, as necessary, on the status of criminal activity on state-owned and leased properties as specified in subdivision (a).

SEC. 26. Section 14615 of the Government Code is amended to read:

14615. (a) The department has general powers of supervision over all matters concerning the financial and business policies of the state in regard to the duties, powers, responsibilities, and jurisdiction specifically vested in the department. Whenever the department deems it necessary, or at the instance of the Governor, it shall institute or cause the institution of those investigations and proceedings as it deems proper to conserve the rights and interests of the state.

(b) The Department of the California Highway Patrol has jurisdiction over those matters related to the security of state officers, property, and occupants of state property. The Department of the California Highway Patrol may also assist the department in the department's investigations conducted pursuant to subdivision (a).

SEC. 27. Section 14617 of the Government Code is amended to read:

14617. The Office of the State Architect and the California Building Standards Commission, in consultation with offices and divisions within the Department of General Services, and with the Department of the California Highway Patrol, shall jointly adopt regulations in Title 24 of the California Code of Regulations to establish a standard of lighting for parking lots at the University of California, California State University, and California Community Colleges. This standard shall be adopted and submitted to the California Building Standards Commission for approval on or before June 30, 1991, and published by the commission in the 1992 triennial publication of the California Building Code.

The Office of the State Architect shall also adopt regulations in Title 24 of the California Code of Regulations to establish the Illumination Engineering Society Handbook recommendations as the standard lighting level for primary campus walkways used at night at the University of California, California State University, and California Community Colleges. These regulations shall be adopted and submitted to the California Building Standards Commission for approval on or before June 30, 1991, and published by the commission in the 1992 triennial publication of the California Building Code.

This section shall not apply to the University of California unless the Regents of the University of California, by resolution, makes it applicable.

SEC. 28. Section 14685 of the Government Code is amended to read:

14685. (a) The director shall appoint assistants, clerks, and employees as may be necessary to maintain the state buildings and grounds. The employees shall not have or perform the duties or functions of peace officers.

The department may establish rules and regulations for the government and maintenance of the state buildings and grounds. Every person who violates or attempts to violate the rules and regulations is guilty of a misdemeanor.

(b) Information regarding missing children provided by the Department of Justice pursuant to Section 11114.1 of the Penal Code shall be posted in public areas of all state-owned or leased buildings that have at least 20,000 square feet of office space, or that are staffed by at least 50 employees, or where service is provided to the general public and in other public areas of state-owned or leased buildings as determined by the department to be reasonable.

(c) (1) The Department of the California Highway Patrol may establish rules and regulations pertaining to the protection of state employees, properties, buildings and grounds, and occupants of state properties, including, but not limited to, the issuance of permits concerning the use of state buildings, properties, and grounds.

(2) A violation of any rule or regulation adopted pursuant to paragraph (1) is a misdemeanor.

(3) This subdivision does not apply to state buildings or grounds owned, leased, rented, controlled, used, or occupied by the University of California, the California State University, Hastings College of the Law, the California Exposition and State Fair, the state hospitals of the State Department of Mental Health or the State Department of Developmental Services, the institutions and camps of the Department of Corrections or the Department of the Youth Authority, and the parks and beaches of the Department of Parks and Recreation.

SEC. 29. Section 16404.5 of the Government Code is repealed.

SEC. 30. Section 20045 of the Government Code is amended to read:

20045. (a) "Highway patrol service" means service rendered as a patrol member of the Department of the California Highway Patrol or, after August 31, 1923, the highway patrol of any county, only while the member is receiving compensation from the state or county for that service, except as provided in Article 4 (commencing with Section 20990) of Chapter 11.

(b) "Highway patrol service" does not include service rendered as a peace officer/firefighter member of the Department of the California Highway Patrol, when the service is rendered while the member is a designated peace officer under subdivision (a) of Section 2250.1 of the Vehicle Code.

SEC. 31. Section 20390 of the Government Code is amended to read:

20390. (a) "Patrol member" includes all members employed in the Department of the California Highway Patrol or by a county in connection with its highway patrol function, respectively, whose principal duties consist of active law enforcement service, except those whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly do not fall within the scope of active law enforcement service, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service.

(b) "Patrol member" does not include employees of the Department of the California Highway Patrol who are designated as peace officers by the Commissioner of the California Highway Patrol under subdivision (a) of Section 2250.1 of the Vehicle Code.

SEC. 32. Section 20401 of the Government Code is amended to read:

20401. "State safety member" means all persons within the Department of Justice designated as peace officers and performing investigative duties and whose principal duties consist of active law enforcement, but excluding clerical personnel or those whose principal duties are that of telephone operator, machinist, mechanic, security officer, or otherwise clearly not within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon to perform duties within the scope of active law enforcement.

SEC. 33. Section 22013.2 of the Government Code is amended to read:

22013.2. "Policeman" as used in this part also includes members of the Department of the California Highway Patrol who are designated as peace officers under subdivision (a) of Section 2250.1 of the Vehicle Code and whose principal duties consist of active law enforcement.

SEC. 34. Section 68097 of the Government Code is amended to read:

68097. Witnesses in civil cases may demand the payment of their mileage and fees for one day, in advance, and when so demanded shall not be compelled to attend until the allowances are paid except as hereinafter provided for employees of the Department of Justice who are peace officers or analysts in technical fields, peace officers of the Department of the California Highway Patrol, peace officer members of the State Fire Marshal's office, other state employees, sheriffs, deputy sheriffs, marshals, deputy marshals, district attorney inspectors, probation officers, building inspectors, firefighters, and city police officers. For the purposes of this section and Sections 68097.1 to 68097.10, inclusive, only, the term "peace officer of the California Highway Patrol" shall include those persons employed as vehicle inspection specialists by the Department of the California

Highway Patrol, the term "firefighter" has the definition provided in Section 50925, and a volunteer firefighter shall be deemed to be employed by the public entity for which he or she volunteers as a firefighter.

SEC. 35. Section 68097.1 of the Government Code is amended to read:

68097.1. (a) Whenever an employee of the Department of Justice who is a peace officer or an analyst in a technical field, peace officer of the Department of the California Highway Patrol, peace officer member of the State Fire Marshal's office, sheriff, deputy sheriff, marshal, deputy marshal, district attorney inspector, probation officer, building inspector, firefighter, or city police officer is required as a witness before any court or other tribunal in any civil action or proceeding in connection with a matter regarding an event or transaction which he or she has perceived or investigated in the course of his or her duties, a subpoena requiring his or her attendance may be served by delivering a copy either to the person personally, or by delivering two copies to his or her immediate superior at the public entity by which he or she is employed or an agent designated by that immediate superior to receive that service.

(b) Whenever any other state employee is required as a witness before any court or other tribunal in any civil action or proceeding in connection with a matter, event, or transaction concerning which he or she has expertise gained in the course of his or her duties, a subpoena requiring his or her attendance may be served by delivering a copy either to the person personally or by delivering two copies to his or her immediate superior or agent designated by that immediate superior to receive that service.

(c) The attendance of any person described in subdivisions (a) and (b) may be required pursuant to this section only in accordance with Section 1989 of the Code of Civil Procedure.

(d) As used in this section and in Sections 68097.2 and 68097.5, "tribunal" means any person or body before whom or which attendance of witnesses may be required by subpoena, including an arbitrator in arbitration proceedings.

SEC. 36. Section 68097.5 of the Government Code is amended to read:

68097.5. No employee of the Department of Justice who is a peace officer or an analyst in a technical field, peace officer of the Department of the California Highway Patrol, peace officer member of the State Fire Marshal's office, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer shall be ordered to return by the court for subsequent proceedings beyond the day stated in the subpoena referred to in Sections 68097.1, 68097.2, 68097.3 and 68097.4, or the day upon which the witness appeared pursuant to the provisions of Section 68097.9, unless the party at whose request the subpoena was issued or the party at whose request the witness is ordered to return, shall first tender to the public entity by which the

witness is employed the same sum required to be tendered for the issuance of a subpoena in the first instance.

SEC. 37. Section 68097.6 of the Government Code is amended to read:

68097.6. Sections 68097.1, 68097.2, 68097.3, 68097.4, and 68097.5 of this code shall be applicable to subpoenas issued for the taking of depositions of employees of the Department of Justice who are peace officers or analysts in technical fields, peace officers of the Department of the California Highway Patrol, peace officer members of the State Fire Marshal's office, sheriffs, deputy sheriffs, marshals, deputy marshals, firefighters, or city police officers pursuant to Section 2019 of the Code of Civil Procedure.

SEC. 38. Section 68097.7 of the Government Code is amended to read:

68097.7. Any person who pays or offers to pay any money or other form of consideration for the services of any employee of the Department of Justice who is a peace officer or an analyst in a technical field, peace officer of the Department of the California Highway Patrol, peace officer member of the State Fire Marshal's office, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer as a witness in any action or proceeding in connection with a matter regarding an event or transaction which he or she has perceived or investigated in the course of his or her duties in any manner other than as provided in Sections 68097.1, 68097.2, 68097.3, 68097.4, 68097.5, and 68097.6 is guilty of a misdemeanor, and any employee of the Department of Justice who is a peace officer or an analyst in a technical field, peace officer of the Department of the California Highway Patrol, peace officer member of the State Fire Marshal's office, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer who asks or receives a payment except as provided in Sections 68097.2 and 68097.4 is likewise guilty of a misdemeanor.

SEC. 39. Section 68097.9 of the Government Code is amended to read:

68097.9. An employee of the Department of Justice who is a peace officer or an analyst in a technical field, peace officer of the Department of the California Highway Patrol, peace officer member of the State Fire Marshal's office, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer who has been subpoenaed pursuant to Section 68097.1, 68097.3, or 68097.6, may, in lieu of attendance at the time specified in the subpoena, agree with the party at whose request the subpoena was issued to appear at another time or pursuant to notice as may be agreed upon.

SEC. 40. Section 68097.10 of the Government Code is amended to read:

68097.10. Whenever an employee of the Department of Justice who is a peace officer or an analyst in a technical field, peace officer of the Department of the California Highway Patrol, peace officer

member of the State Fire Marshal's office, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer appears as a witness pursuant to Section 68097.1 and reimbursement is not made as provided for in Section 68097.2, then the Department of Justice, the Department of the California Highway Patrol, the State Fire Marshal's office, or the public entity employing the employee, sheriff, deputy sheriff, marshal, deputy marshal, firefighter, or city police officer shall have standing to bring an action in order to recover the funds.

SEC. 41. Section 3212.3 of the Labor Code is amended to read:

3212.3. In the case of a peace officer who is designated under subdivision (a) of Section 2250.1 of the Vehicle Code and who has graduated from an academy certified by the Commission on Peace Officer Standards and Training, when that officer is employed upon a regular, full-time salary, the term "injury," as used in this division, includes heart trouble and pneumonia which develops or manifests itself during a period while that officer is in the service of the Department of the California Highway Patrol. The compensation which is awarded for the heart trouble or pneumonia shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits as provided by this division.

The heart trouble or pneumonia so developing or manifesting itself shall be presumed to arise out of and in the course of the employment. However, a peace officer of the Department of the California Highway Patrol, as designated under subdivision (a) of Section 2250.1 of the Vehicle Code, shall have served five years or more in that capacity or as a peace officer with the former California State Police Division, or in both capacities, before the presumption shall arise as to the compensability of heart trouble so developing or manifesting itself. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

The heart trouble or pneumonia so developing or manifesting itself in these cases shall in no case be attributed to any disease existing prior to that development or manifestation.

The term "peace officers" as used herein shall be limited to those employees of the Department of the California Highway Patrol who are designated as peace officers under subdivision (a) of Section 2250.1 of the Vehicle Code.

SEC. 42. Section 4800.5 of the Labor Code is amended to read:

4800.5. (a) Whenever any sworn member of the Department of the California Highway Patrol is disabled by a single injury, excluding disabilities that are the result of cumulative trauma or cumulative injuries, arising out of and in the course of his or her duties, he or she

shall become entitled, regardless of his or her period of service with the patrol, to leave of absence while so disabled without loss of salary, in lieu of disability payments under this chapter, for a period of not exceeding one year. This section shall apply only to members of the Department of the California Highway Patrol whose principal duties consist of active law enforcement and shall not apply to persons employed in the Department of the California Highway Patrol whose principal duties are those of telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly not falling within the scope of active law enforcement service, even though this person is subject to occasional call or is occasionally called upon to perform the duties of active law enforcement service.

(b) Benefits payable for eligible sworn members of the Department of the California Highway Patrol whose disability is solely the result of cumulative trauma or injury shall be limited to the actual period of temporary disability or entitlement to maintenance allowance, or for one year, whichever is less.

(c) This section shall not apply to periods of disability that occur subsequent to termination of employment by resignation, retirement, or dismissal. When this section does not apply, the employee shall be eligible for those benefits that would apply had this section not been enacted.

(d) The appeals board may determine, upon request of any party, whether or not the disability referred to in this section arose out of and in the course of duty. In any action in which a dispute exists regarding the nature of the injury or the period of temporary disability or entitlement to maintenance allowance, or both, and upon the request of any party thereto, the appeals board shall determine when the disability commenced and ceased, and the amount of benefits provided by this division to which the employee is entitled during the period of this disability. The appeals board shall have the jurisdiction to award and enforce payment of these benefits, subject to subdivision (a) or (b), pursuant to Part 4 (commencing with Section 5300). A decision issued by the appeals board under this section is final and binding upon the parties subject to the rights of appeal contained in Chapter 7 (commencing with Section 5900) of Part 4.

(e) Except as provided in subdivision (g), this section shall apply for periods of disability commencing on or after January 1, 1995.

(f) This section does not apply to peace officers designated under subdivision (a) of Section 2250.1 of the Vehicle Code.

(g) Peace officers of the California State Police Division who become sworn members of the Department of the California Highway Patrol as a result of the Governor's Reorganization Plan No. 1 of 1995, other than those officers described in subdivision (f), shall be eligible for injury benefits accruing to sworn members of the Department of the California Highway Patrol under this division only for injuries occurring on or after July 12, 1995.

SEC. 43. Section 76 of the Penal Code is amended to read:

76. (a) Every person who knowingly and willingly threatens the life of, or threatens serious bodily harm to, any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms, or the staff or immediate family of any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms, with the specific intent that the statement is to be taken as a threat, and the apparent ability to carry out that threat by any means, is guilty of a public offense, punishable as follows:

(1) Upon a first conviction, the offense is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) If the person has been convicted previously of violating this section, the previous conviction shall be charged in the accusatory pleading, and if the previous conviction is found to be true by the jury upon a jury trial, or by the court upon a court trial, or is admitted by the defendant, the offense is punishable by imprisonment in the state prison.

(b) (1) Any law enforcement agency which has knowledge of a violation of this section shall immediately report that information to the California Department of Justice.

(2) In addition to the reporting requirement imposed by paragraph (1), if a violation of this section occurs that involves a constitutional officer of the state, a Member of the Legislature, or a member of the judiciary, the law enforcement agency which has knowledge of the violation shall immediately report that information to the Department of the California Highway Patrol.

(c) For purposes of this section, the following definitions shall apply:

(1) "Apparent ability to carry out that threat" includes the ability to fulfill the threat at some future date when the person making the threat is an incarcerated prisoner with a stated release date.

(2) "Serious bodily harm" includes serious physical injury or serious traumatic condition.

(3) "Immediate family" means a spouse, parent, or child, or anyone who has regularly resided in the household for the past six months.

(4) "Staff of a judge" means court officers and employees.

(5) "Threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.

(d) As for threats against staff, the threat must relate directly to the official duties of the staff of the elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, or Deputy Commissioner of the Board of Prison Terms in order to constitute a public offense under this section.

(e) A threat must relate directly to the official duties of a Deputy Commissioner of the Board of Prison Terms in order to constitute a public offense under this section.

SEC. 44. Section 409.5 of the Penal Code is amended to read:

409.5. (a) Whenever a menace to the public health or safety is created by a calamity including a flood, storm, fire, earthquake, explosion, accident, or other disaster, officers of the Department of the California Highway Patrol, police departments, marshal's office or sheriff's office, any officer or employee of the Department of Forestry and Fire Protection designated a peace officer by subdivision (g) of Section 830.2, any officer or employee of the Department of Parks and Recreation designated a peace officer by subdivision (f) of Section 830.2, any officer or employee of the Department of Fish and Game designated a peace officer under subdivision (e) of Section 830.2, and any publicly employed full-time lifeguard or publicly employed full-time marine safety officer while acting in a supervisory position in the performance of his or her official duties, may close the area where the menace exists for the duration thereof by means of ropes, markers, or guards to any and all persons not authorized by the lifeguard or officer to enter or remain within the enclosed area. If the calamity creates an immediate menace to the public health, the local health officer may close the area where the menace exists pursuant to the conditions set forth in this section.

(b) Officers of the Department of the California Highway Patrol, police departments, marshal's office or sheriff's office, officers of the Department of Fish and Game designated as peace officers by subdivision (e) of Section 830.2, or officers of the Department of Forestry and Fire Protection designated as peace officers by subdivision (g) of Section 830.2 may close the immediate area surrounding any emergency field command post or any other command post activated for the purpose of abating any calamity enumerated in this section or any riot or other civil disturbance to any and all unauthorized persons pursuant to the conditions set forth in this section whether or not the field command post or other command post is located near to the actual calamity or riot or other civil disturbance.

(c) Any unauthorized person who willfully and knowingly enters an area closed pursuant to subdivision (a) or (b) and who willfully remains within the area after receiving notice to evacuate or leave shall be guilty of a misdemeanor.

(d) Nothing in this section shall prevent a duly authorized representative of any news service, newspaper, or radio or television

station or network from entering the areas closed pursuant to this section.

SEC. 45. Section 409.6 of the Penal Code is amended to read:

409.6. (a) Whenever a menace to the public health or safety is created by an avalanche, officers of the Department of the California Highway Patrol, police departments, or sheriff's offices, any officer or employee of the Department of Forestry and Fire Protection designated a peace officer by subdivision (g) of Section 830.2, and any officer or employee of the Department of Parks and Recreation designated a peace officer by subdivision (f) of Section 830.2, may close the area where the menace exists for the duration thereof by means of ropes, markers, or guards to any and all persons not authorized by that officer to enter or remain within the closed area. If an avalanche creates an immediate menace to the public health, the local health officer may close the area where the menace exists pursuant to the conditions which are set forth above in this section.

(b) Officers of the Department of the California Highway Patrol, police departments, or sheriff's offices, or officers of the Department of Forestry and Fire Protection designated as peace officers by subdivision (g) of Section 830.2, may close the immediate area surrounding any emergency field command post or any other command post activated for the purpose of abating hazardous conditions created by an avalanche to any and all unauthorized persons pursuant to the conditions which are set forth in this section whether or not that field command post or other command post is located near the avalanche.

(c) Any unauthorized person who willfully and knowingly enters an area closed pursuant to subdivision (a) or (b) and who willfully remains within that area, or any unauthorized person who willfully remains within an area closed pursuant to subdivision (a) or (b), after receiving notice to evacuate or leave from a peace officer named in subdivision (a) or (b), shall be guilty of a misdemeanor. If necessary, a peace officer named in subdivision (a) or (b) may use reasonable force to remove from the closed area any unauthorized person who willfully remains within that area after receiving notice to evacuate or leave.

(d) Nothing in this section shall prevent a duly authorized representative of any news service, newspaper, or radio or television station or network from entering the areas closed pursuant to this section.

SEC. 46. Section 626.8 of the Penal Code is amended to read:

626.8. (a) Any person who comes into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, without lawful business thereon, and whose presence or acts interfere with the peaceful conduct of the activities of the school or disrupt the school or its pupils or school activities, or any specified sex offender who comes into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, unless the

person is a parent or guardian of a child attending that school, or is a student at the school or has prior written permission for the entry from the chief administrative officer of that school, is guilty of a misdemeanor if he or she does any of the following:

(1) Remains there after being asked to leave by the chief administrative official of that school or his or her designated representative, or by a person employed as a member of a security or police department of a school district pursuant to Section 39670 of the Education Code, or a city police officer, or sheriff or deputy sheriff, or a Department of the California Highway Patrol peace officer.

(2) Reenters or comes upon that place within seven days of being asked to leave by a person specified in paragraph (1).

(3) Has otherwise established a continued pattern of unauthorized entry.

This section shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly.

(b) Punishment for violation of this section shall be as follows:

(1) Upon a first conviction by a fine of not exceeding five hundred dollars ($500), by imprisonment in the county jail for a period of not more than six months, or by both the fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine of not exceeding five hundred dollars ($500), and shall not be released on probation, parole, or any other basis until he or she has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine of not exceeding five hundred dollars ($500), and shall not be released on probation, parole, or any other basis until he or she has served not less than 90 days.

(c) As used in this section, the following definitions govern the meaning of the following words and phrases:

(1) "Specified sex offender" means any person required to register pursuant to Section 290, who has been convicted of a violation of Section 220, 261, 266, 267, 272, 288, or 289, or of subdivision (c), (d), or (f) of Section 286, or of subdivision (c), (d), or (f) of Section 288a, or of an attempt to commit any of these offenses.

(2) "Lawful business" means a reason for being present upon school property which is not otherwise prohibited by statute, by ordinance, or by any regulation adopted pursuant to statute or ordinance.

(3) "Continued pattern of unauthorized entry" means that on at least two prior occasions in the same school year the defendant came into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, without lawful business thereon, and his or her presence or acts interfered with the peaceful conduct of the activities of the school or disrupted the school or its pupils or school activities, and the defendant was asked to leave by a person specified in paragraph (1) of subdivision (a).

(4) In the case of a specified sex offender, "continued pattern of unauthorized entry" means that on at least two prior occasions in the same school year the defendant came into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, and the defendant was asked to leave by a person specified in paragraph (1) of subdivision (a).

(5) "School" means any preschool or school having any of grades kindergarten through 12.

(d) When a person is directed to leave pursuant to paragraph (1) of subdivision (a), the person directing him or her to leave shall inform the person that if he or she reenters the place within seven days he or she will be guilty of a crime.

SEC. 47. Section 626.85 of the Penal Code is amended to read:

626.85. (a) Any specified drug offender who, at any time, comes into any school building or upon any school ground, or adjacent street, sidewalk, or public way, unless the person is a parent or guardian of a child attending that school and his or her presence is during any school activity, or is a student at the school and his or her presence is during any school activity, or has prior written permission for the entry from the chief administrative officer of that school, is guilty of a misdemeanor if he or she does any of the following:

(1) Remains there after being asked to leave by the chief administrative officer of that school or his or her designated representative, or by a person employed as a member of a security or police department of a school district pursuant to Section 39670 of the Education Code, or a city police officer, sheriff, or a Department of the California Highway Patrol peace officer.

(2) Reenters or comes upon that place within seven days of being asked to leave by a person specified in paragraph (1) of subdivision (a).

(3) Has otherwise established a continued pattern of unauthorized entry.

This section shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly, or to prohibit any lawful act, including picketing, strikes, or collective bargaining.

(b) Punishment for violation of this section shall be as follows:

(1) Upon a first conviction, by a fine not exceeding one thousand dollars ($1,000), by imprisonment in the county jail for a period of not more than six months, or by both that fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine not exceeding one thousand dollars ($1,000), and the defendant shall not be released on probation, parole, or any other basis until he or she has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine not exceeding one thousand dollars ($1,000), and the defendant shall not be released on probation, parole, or any other basis until he or she has served not less than 90 days.

(c) As used in this section:

(1) "Specified drug offender" means any person who, within the immediately preceding three years, has a felony or misdemeanor conviction of either:

(A) Unlawful sale, or possession for sale, of any controlled substance, as defined in Section 11007 of the Health and Safety Code.

(B) Unlawful use, possession, or being under the influence of any controlled substance, as defined in Section 11007 of the Health and Safety Code, where that conviction was based on conduct which occurred, wholly or partly, in any school building or upon any school ground, or adjacent street, sidewalk, or public way.

(2) "Continued pattern of unauthorized entry" means that on at least two prior occasions in the same calendar year the defendant came into any school building or upon any school ground, or adjacent street, sidewalk, or public way, and the defendant was asked to leave by a person specified in paragraph (1) of subdivision (a).

(3) "School" means any preschool or school having any of grades kindergarten to 12, inclusive.

(4) "School activity" means and includes any school session, any extracurricular activity or event sponsored by or participated in by the school, and the 30-minute periods immediately preceding and following any session, activity, or event.

(d) When a person is directed to leave pursuant to paragraph (1) of subdivision (a), the person directing him or her to leave shall inform the person that if he or she reenters the place he or she will be guilty of a crime.

SEC. 48. Section 653g of the Penal Code is amended to read:

653g. Every person who loiters about any school or public place at or near which children attend or normally congregate and who remains at any school or public place at or near which children attend or normally congregate, or who reenters or comes upon a school or place within 72 hours, after being asked to leave by the chief administrative official of that school or, in the absence of the chief administrative official, the person acting as the chief administrative

official, or by a member of the security patrol of the school district who has been given authorization, in writing, by the chief administrative official of that school to act as his or her agent in performing this duty, or a city police officer, or sheriff or deputy sheriff, or Department of the California Highway Patrol peace officer is a vagrant, and is punishable by a fine of not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding six months, or by both the fine and the imprisonment.

As used in this section, "loiter" means to delay, to linger, or to idle about a school or public place without lawful business for being present.

SEC. 49. Section 830.2 of the Penal Code is amended to read:

830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the Department of the California Highway Patrol including those members designated under subdivision (a) of Section 2250.1 of the Vehicle Code, provided that the primary duty of the peace officer is the enforcement of any law relating to the use or operation of vehicles upon the highways, or laws pertaining to the provision of police services for the protection of state officers, state properties, and the occupants of state properties, or both, as set forth in the Vehicle Code and Government Code.

(b) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(c) A member of the California State University Police Departments appointed pursuant to Section 89560 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(d) Any member of the Law Enforcement Liaison Unit of the Department of Corrections, provided that the primary duty of the peace officer shall be the investigation or apprehension of parolees, parole violators, or escapees from state institutions, the transportation of those persons, and the coordination of those activities with other criminal justice agencies.

(e) Employees of the Department of Fish and Game designated by the director, provided that the primary duty of those peace officers shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(f) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

(g) The Director of Forestry and Fire Protection and employees or classes of employees of the Department of Forestry and Fire Protection designated by the director pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(h) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any of these peace officers shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(i) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officers shall be the enforcement of the law as prescribed in that section.

SEC. 50. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their duties under the conditions as specified by statute. Those peace officers may carry firearms only if authorized and under terms and conditions specified by their employing agency.

(a) Members of the California National Guard have the powers of peace officers when they are involved in any or all of the following:

(1) Called or ordered into active state service by the Governor pursuant to the provisions of Section 143 or 146 of the Military and Veterans Code.

(2) Serving within the area wherein military assistance is required.

(3) Directly assisting civil authorities in any of the situations specified in Section 143 or 146.

The authority of the peace officer under this subdivision extends to the area wherein military assistance is required as to a public offense committed or which there is reasonable cause to believe has been committed within that area. The requirements of Section 1031 of the Government Code are not applicable under those circumstances.

(b) Guards and messengers of the Treasurer's office when performing assigned duties as a guard or messenger.

(c) Security officers of the Department of Justice when performing assigned duties as security officers.

(d) Security officers of Hastings College of the Law. These officers shall have authority of peace officers only within the City and County of San Francisco. Notwithstanding any other provisions of law, the peace officers designated by this subdivision shall not be authorized by this subdivision to carry firearms either on or off duty.

Notwithstanding any other provision of law, the act which designated the persons described in this subdivision as peace officers shall serve only to define those persons as peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties, and there shall be no change in the status of those persons for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

SEC. 51. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following definitions shall apply:

(1) "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, herself, or another.

(2) "Family violence" has the same meaning as domestic violence as defined in subdivision (b) of Section 13700, and also includes any abuse perpetrated against a family or household member.

(3) "Family or household member" means a spouse, former spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any person who regularly resides or who regularly resided in the household.

The presumption applies that the male parent is the father of any child of the female pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).

(4) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, a member of the University of California Police Department, as defined in subdivision (c) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (d) of Section 830.2, a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, and a peace officer, as defined in Section 830.5, who is at the scene of a family violence incident involving a threat to human life or a physical assault, may take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered

and the date after which the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (e), if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the family violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within 72 hours following the initial seizure, except as provided in subdivision (c), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any firearm or other deadly weapon which has been taken into custody that has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership.

(d) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, by a peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, by a peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2, by a peace officer, as defined in subdivision (d) of Section 830.31, or by a peace officer, as defined in Section 830.5, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (i), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(e) In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 10 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(f) The law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order

forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, the person's last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the family violence incident. In the event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.

(g) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(h) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(i) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(j) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

SEC. 52. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be

punished by imprisonment in the state prison, or in a county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to the date it was specified as an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm subject to this chapter pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars ($500), but not less than three hundred fifty dollars ($350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(d) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Department of Corrections, the Department of the California Highway Patrol, district attorneys' offices, or the military or naval forces of this state or of the United States for use in the discharge of their official duties; nor shall anything in this chapter prohibit the possession or use of assault weapons by sworn members of these agencies when on duty and the use is within the scope of their duties.

(e) Subdivision (b) shall not apply to the possession of an assault weapon by any person during the 1990 calendar year, or during the 90-day period immediately after the date it was specified as an assault weapon, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, or prior to the date it was specified as an assault weapon.

(3) The person is otherwise in compliance with this chapter.

(f) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (d).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(g) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(h) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285, if the assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(i) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon.

(C) The assault weapon is possessed at any of the following locations:

(i) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor which is lent by the same pursuant to paragraph (1).

(j) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (i).

(k) Subdivisions (a) and (b) shall not apply to the possession and importation of an assault weapon into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon.

(2) The competition or match is conducted on the premises of one of the following:

(i) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition 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.

(4) The assault weapon is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(*l*) As used in this chapter, the date a firearm is "specified as an assault weapon" is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

SEC. 53. Section 12361 of the Penal Code is amended to read:

12361. (a) Before a body armor may be purchased for use by state peace officers the Department of Justice, after consultation with the Department of the California Highway Patrol, shall establish minimum ballistic performance standards, and shall determine that the armor satisfies those standards.

(b) Only body armor that meets state requirements under subdivision (a) for acquisition or purchase shall be eligible for testing for certification under the ballistic performance standards established by the Department of Justice; and only body armor that is certified as acceptable by the department shall be purchased for use by state peace officers.

SEC. 54. Section 12368 of the Penal Code is amended to read:

12368. (a) All purchases of certified body armor under the provisions of this chapter shall be made by the Department of General Services on behalf of an authorized state agency or department. Purchases of body armor shall be based upon written requests submitted by an authorized state agency or department to the Department of General Services.

(b) The Department of General Services shall make certified body armor available to peace officers of the Department of Justice, as defined by Section 830.3 of the Penal Code, while engaged in law enforcement activities.

SEC. 55. Section 12369 of the Penal Code is amended to read:

12369. The Department of General Services shall, pursuant to departmental regulation, after consultation with the Department of the California Highway Patrol, define the term "enforcement activities" for purposes of this chapter, and develop standards

regarding what constitutes sufficient wear on body armor to necessitate replacement thereof.

SEC. 56. Section 13510.5 of the Penal Code is amended to read:

13510.5. For the purpose of maintaining the level of competence of state law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards for training of peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who are employed by any railroad company, the University of California Police Department, a California State University police department, the Department of Alcoholic Beverage Control, the Division of Investigation of the Department of Consumer Affairs, the Wildlife Protection Branch of the Department of Fish and Game, the Department of Forestry and Fire Protection, including the Office of the State Fire Marshal, the Department of Motor Vehicles, the California Horse Racing Board, the Bureau of Food and Drug, the Division of Labor Law Enforcement, the Director of Parks and Recreation, the State Department of Health Services, the Department of Toxic Substances Control, the State Department of Social Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Alcohol and Drug Programs, the Office of Statewide Health Planning and Development, and the Department of Justice. All rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 57. Section 13518 of the Penal Code is amended to read:

13518. (a) Every city police officer, sheriff, deputy sheriff, marshal, deputy marshal, peace officer member of the Department of the California Highway Patrol, and police officer of a district authorized by statute to maintain a police department, except those whose duties are primarily clerical or administrative, shall meet the training standards prescribed by the Emergency Medical Services Authority for the administration of first aid and cardiopulmonary resuscitation. This training shall include instruction in the use of a portable manual mask and airway assembly designed to prevent the spread of communicable diseases. In addition, satisfactory completion of periodic refresher training or appropriate testing in cardiopulmonary resuscitation and other first aid as prescribed by the Emergency Medical Services Authority shall also be required.

(b) The course of training leading to the basic certificate issued by the commission shall include adequate instruction in the procedures described in subdivision (a). No reimbursement shall be made to local agencies based on attendance at any such course which does not comply with the requirements of this subdivision.

(c) As used in this section, "primarily clerical or administrative" means the performance of clerical or administrative duties for a minimum of 90 percent of the time worked within a pay period.

SEC. 58. 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 Department of the California Highway Patrol, 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. 59. Section 6776 of the Revenue and Taxation Code is amended to read:

6776. At any time within three years after any person is delinquent in the payment of any amount herein required to be paid, or within 10 years after the last recording of an abstract under Section 6738 or the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, constable, or the Department of the California Highway Patrol and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution and shall be levied within five working days following receipt of the warrant.

SEC. 60. Section 6777 of the Revenue and Taxation Code is amended to read:

6777. The board may pay or advance to the sheriff, marshal, constable, or the Department of the California Highway Patrol, the same fees, commissions, and expenses for services as are provided by

law for similar services rendered pursuant to a writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.

SEC. 61. Section 19232 of the Revenue and Taxation Code is amended to read:

19232. The warrant shall be directed to any sheriff, constable, marshal, or the Department of the California Highway Patrol and shall have the same force and effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy of and sale pursuant to a writ of execution.

SEC. 62. Section 19233 of the Revenue and Taxation Code is amended to read:

19233. The Franchise Tax Board shall pay or advance to the sheriff, constable, marshal, or the Department of the California Highway Patrol the same fees, commissions, and expenses as are provided by law for similar services pursuant to a writ of execution. The Franchise Tax Board, and not the court, shall approve the fees for publication in a newspaper.

SEC. 63. Section 1785 of the Unemployment Insurance Code is amended to read:

1785. If any amount required to be paid under this division is not paid when due, the director or the director's authorized representative may, not later than three years after the payment became delinquent, or within 10 years after the last entry of a judgment under Article 5 (commencing with Section 1815) or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this division. The warrant shall be directed to any sheriff, marshal, peace officer of the Department of the California Highway Patrol, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

SEC. 64. Section 1786 of the Unemployment Insurance Code is amended to read:

1786. The department may pay or advance to the sheriff, marshal, peace officer of the Department of the California Highway Patrol, or constable, the same fees, commissions, and expenses for his or her services under this article as are provided by law for similar services pursuant to a writ of execution. The director, and not the court, shall approve the fees for publication in a newspaper.

SEC. 65. Section 2250.1 is added to the Vehicle Code, to read:

2250.1. (a) The commissioner shall establish special designations of peace officers within the Department of the California Highway Patrol to assist in the transfer of responsibilities from the California State Police Division to the Department of the California Highway

Patrol. The peace officers so designated include all peace officers of the former California State Police Division on July 11, 1995. These specially designated peace officers are peace officers as defined in subdivision (a) of Section 830.2 of the Penal Code.

(b) Peace officers designated in subdivision (a) shall become members of the Department of the California Highway Patrol, as described in Section 2250, by meeting the training requirements and qualifications for those positions as established pursuant to Section 19818.6 of the Government Code or with the approval of the State Personnel Board Executive Officer.

(c) Individuals granted reemployment or reinstatement on or after July 12, 1995, to peace officer positions formerly within the California State Police Division shall be reinstated to the peace officer designations established by the commissioner pursuant to this section.

SEC. 66. Section 2268 of the Vehicle Code is amended to read:

2268. (a) Any member of the Department of the California Highway Patrol, as specified in Sections 2250 and 2250.1, shall be capable of fulfilling the complete range of official duties administered by the commissioner pursuant to Section 2400 and other critical duties that may be necessary for the preservation of life and property. Members of the California Highway Patrol shall not be assigned to permanent limited duty positions which do not require the ability to perform these duties.

(b) Subdivision (a) does not apply to any member of the California Highway Patrol who, after sustaining serious job-related physical injuries, returned to duty with the California Highway Patrol and who received a written commitment from the appointing power allowing his or her continued employment as a member of the California Highway Patrol. This subdivision applies only to commitments made prior to January 1, 1984.

(c) Nothing in subdivision (a) entitles a member of the California Highway Patrol to, or precludes a member from receiving, an industrial disability retirement.

SEC. 67. Section 2400 of the Vehicle Code is amended to read:

2400. (a) The commissioner shall administer Chapter 4 (commencing with Section 10850) of Division 4, Article 3 (commencing with Section 17300) of Chapter 1 of Division 9, Division 10 (commencing with Section 20000), Division 11 (commencing with Section 21000) except Chapter 11 (commencing with Section 22950), Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14 (commencing with Section 31600), Division 14.1 (commencing with Section 32000), Division 14.5 (commencing with Section 33000), Division 14.7 (commencing with Section 34000), Division 14.8 (commencing with Section 34500), Division 15 (commencing with Section 35000), Division 16 (commencing with Section 36000) except Chapter 2 (commencing with Section 36100) and Chapter 3

(commencing with Section 36300), and Division 16.5 (commencing with Section 38000) except Chapter 2 (commencing with Section 38010).

(b) The commissioner shall enforce all laws regulating the operation of vehicles and the use of the highways except that, on ways or places to which Section 592 makes reference, the commissioner shall not be required to provide patrol or enforce any provisions of this code other than those provisions applicable to private property.

(c) The commissioner shall not be required to provide patrol for or enforce Division 16.5 (commencing with Section 38000).

(d) The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of the laws, and for the investigation of traffic accidents, on all toll highways and state highways constructed as freeways, including transit-related facilities located on or along the rights-of-way of those toll highways or freeways, except facilities of the San Francisco Bay Area Rapid Transit District. However, city police officers while engaged primarily in general law enforcement duties may incidentally enforce state and local traffic laws and ordinances on toll highways and state freeways within incorporated areas of the state. In any city having either a population in excess of 2,000,000 or an area of more than 300 square miles, city police officers shall have full responsibility and primary jurisdiction for the administration and enforcement of those laws and ordinances, unless the city council of the city by resolution requests administration and enforcement of those laws by the commissioner.

(e) The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of the laws, and for the investigation of traffic accidents, on all highways within a city and county with a population of less than 25,000, if, at the time the city and county government is established, the county contains no municipal corporations.

(f) The commissioner may enter into any interagency agreement with the State Board of Equalization for the purpose of enforcement of statutes requiring commercial vehicles from foreign jurisdictions to have a diesel fuel tax permit and to make payments to the board as required.

(g) The commissioner shall assume those duties and responsibilities of providing protection to state property and employees actually being performed by the California State Police Division on and before July 11, 1995.

(h) The commissioner may provide for the physical security of any current or former constitutional officer of the state and current or former legislator of the state.

(i) Upon request of the Chief Justice of the California Supreme Court, the commissioner may provide appropriate protective services to any current or former member of the State Court of Appeal or the California Supreme Court.

SEC. 68. Section 2428 is added to the Vehicle Code, to read:

2428. (a) The Department of the California Highway Patrol may fix the cost or pro rata share, or, in its discretion, an amount it considers equivalent to the cost or pro rata share, and collect from each state agency in advance or upon any other basis that it may determine the cost of providing protective services for state employees and property.

(b) Payments for services provided shall be made by direct transfer as described in Section 11255 of the Government Code. All money received by the department pursuant to this section shall be deposited in the Protective Services Fund, which is hereby created. When appropriated by the Legislature, funds in the Protective Services Fund shall be used by the department to fulfill those responsibilities set forth in subdivisions (g), (h), and (i) of Section 2400.

(c) If a state agency refuses to pay the charges fixed by the Department of the California Highway Patrol for security services rendered, the department may file a claim for those charges against any appropriations made for the support or maintenance of all or any part of the work and affairs of the state agency. The Controller shall draw his or her warrant in accordance with law upon the claim in favor of the Department of the California Highway Patrol.

SEC. 69. Section 21113 of the Vehicle Code is amended to read:

21113. (a) No person shall drive any vehicle or animal, nor shall any person stop, park, or leave standing any vehicle or animal, whether attended or unattended, upon the driveways, paths, parking facilities, or the grounds of any public school, state university, state college, unit of the state park system, county park, municipal airport, rapid transit district, transit development board, transit district, joint powers agency operating or managing a commuter rail system, or any property under the direct control of the legislative body of a municipality, or any state, county, or hospital district institution or building, or any educational institution exempted, in whole or in part, from taxation, or any harbor improvement district or harbor district formed pursuant to Part 2 (commencing with Section 5800) or Part 3 (commencing with Section 6000) of Division 8 of the Harbors and Navigation Code, a district organized pursuant to Part 3 (commencing with Section 27000) of Division 16 of the Streets and Highways Code, or state grounds served by the Department of the California Highway Patrol, or any property under the possession or control of a housing authority formed pursuant to Article 2 (commencing with Section 34240) of Part 2 of Division 24 of the Health and Safety Code, except with the permission of, and upon and subject to any condition or regulation which may be imposed by the legislative body of the municipality, or the governing board or officer of the public school, state university, state college, county park, municipal airport, rapid transit district, transit development board, transit district, joint powers agency operating or managing a

commuter rail system, or state, county, or hospital district institution or building, or educational institution, or harbor district, or a district organized pursuant to Part 3 (commencing with Section 27000) of Division 16 of the Streets and Highways Code, or housing authority, or the Director of Parks and Recreation regarding units of the state park system or the state agency with jurisdiction over the grounds served by the Department of the California Highway Patrol.

(b) Every governing board, legislative body, or officer shall erect or place appropriate signs giving notice of any special conditions or regulations that are imposed under this section and every board, legislative body, or officer shall also prepare and keep available at the principal administrative office of the board, legislative body, or officer, for examination by all interested persons, a written statement of all those special conditions and regulations adopted under this section.

(c) When any governing board, legislative body, or officer permits public traffic upon the driveways, paths, parking facilities, or grounds under their control then, except for those conditions imposed or regulations enacted by the governing board, legislative body, or officer applicable to the traffic, all the provisions of this code relating to traffic upon the highways shall be applicable to the traffic upon the driveways, paths, parking facilities, or grounds.

(d) With respect to the permitted use of vehicles or animals on property under the direct control of the legislative body of a municipality, no change in the use of vehicles or animals on the property, which had been permitted on January 1, 1976, shall be effective unless and until the legislative body, at a meeting open to the general public, determines that the use of vehicles or animals on the property should be prohibited or regulated.

(e) A transit development board may adopt ordinances, rules, or regulations to restrict, or specify the conditions for, the use of bicycles, motorized bicycles, skateboards, and roller skates on property under the control of, or any portion of property used by, the board.

(f) A public agency, including, but not limited to, the Regents of the University of California and the Trustees of the California State University, may adopt rules or regulations to restrict, or specify the conditions for, the use of bicycles, motorized bicycles, skateboards, and roller skates on public property under the jurisdiction of that agency.

(g) "Housing authority," for the purposes of this section, means a housing authority located within a county with a population of over six million people, and any other housing authority that complies with the requirements of this section.

SEC. 70. Section 22659 of the Vehicle Code is amended to read:

22659. Any peace officer of the Department of the California Highway Patrol or any person duly authorized by the state agency in possession of property owned by the state, or rented or leased from

others by the state and any peace officer of the Department of the California Highway Patrol providing policing services to property of a district agricultural association may, subsequent to giving notice to the city police or county sheriff, whichever is appropriate, cause the removal of a vehicle from the property to the nearest public garage, under any of the following circumstances:

(a) When the vehicle is illegally parked in locations where signs are posted giving notice of violation and removal.

(b) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required to take the person arrested before a magistrate without unnecessary delay.

(c) When any vehicle is found upon the property and report has previously been made that the vehicle has been stolen or complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When the person or persons in charge of a vehicle upon the property are by reason of physical injuries or illness incapacitated to that extent as to be unable to provide for its custody or removal.

The person causing removal of the vehicle shall comply with the requirements of Sections 22852 and 22853 relating to notice.

SEC. 71. Section 22855 of the Vehicle Code is amended to read:

22855. The following persons shall have the authority to make appraisals of the value of vehicles for purposes of this chapter, subject to the conditions stated in this chapter:

(a) Any peace officer of the Department of the California Highway Patrol designated by the commissioner.

(b) Any regularly employed and salaried deputy sheriff or other employee designated by the sheriff of any county.

(c) Any regularly employed and salaried police officer or other employee designated by the chief of police of any city.

(d) Any officer or employee of the Department of Motor Vehicles designated by the director of that department.

(e) Any regularly employed and salaried police officer or other employee of the University of California Police Department designated by the chief of the department.

(f) Any regularly salaried employee of a city, county, or city and county designated by a board of supervisors or a city council pursuant to subdivision (a) of Section 22669.

(g) Any regularly employed and salaried police officer or other employee of the police department of a California State University designated by the chief thereof.

(h) Any regularly employed and salaried security officer or other employee of a transit district security force designated by the chief thereof.

(i) Any regularly employed and salaried peace officer or other employee of the Department of Parks and Recreation designated by the director of that department.

SEC. 72. Section 40200.3 of the Vehicle Code is amended to read:

40200.3. (a) All parking penalties collected by the processing agency, which may be the issuing agency, including process service fees and fees and collection costs related to civil debt collection, shall be deposited to the account of the issuing agency, except that those sums attributable to the issuance of a notice of parking violation by a peace officer of the Department of the California Highway Patrol shall be deposited in the account in the jurisdiction where the violation occurred, and except those sums payable to a county pursuant to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code and that portion of any parking penalty which is attributable to an increase in the parking bail amount effective between September 16, 1988, and July 1, 1992, inclusive, pursuant to Section 1463.28 of the Penal Code. Those funds attributable to this increase in bail shall be transferred to the county treasurer and deposited in the general fund. Any increase in parking penalties effective after July 1, 1992, shall accrue to the benefit of the issuing agency.

(b) The processing agency shall prepare a report at the end of each fiscal year setting forth the number of cases processed, and all sums received and distributed, together with any other information that may be required by the issuing agency or the Controller. This report is a public record and shall be delivered to each issuing agency. Copies shall be made available, upon request, to the county auditor, the Controller, and the grand jury.

SEC. 73. Section 40200.4 of the Vehicle Code is amended to read:

40200.4. (a) The processing agency shall deposit with the county treasurer all sums due the county as the result of processing a parking violation not later than 45 calendar days after the last day of the month in which the parking penalty was received.

(b) Except as provided in subdivisions (c) and (d), if a court within a county has been processing notices of parking violations and notices of delinquent parking violations for a city, a district, or any other issuing agency, the issuing agency and the county shall provide in an agreement for the orderly transfer of the processing activity as soon as possible but not later than January 1, 1994. The agreement shall permit the court to phase out, and the issuing agency to phase in, or transfer, personnel, equipment, and facilities that may have been acquired or need to be acquired in contemplation of a long-term commitment to processing of notices of parking violations and notices of delinquent parking violations for the issuing agency under this article. The court shall transfer the processing function for parking citations issued by the Department of the California Highway Patrol to the processing agency in the city or county where the violation occurred.

(c) If Contra Costa County or San Mateo County, or a court in either county, had a contract in effect on January 1, 1992, to process notices of parking violations and notices of delinquent parking

violations for a city, district, or other issuing agency within the particular county or counties, the county may continue to provide those services to the issuing agencies pursuant to the terms of the contract and any amendments thereto, to and including June 30, 1996, after which Section 40200.5 shall govern any contracts entered into for these services.

(d) San Francisco Municipal Court employees engaged in processing notices of parking violations and the positions of those employees shall be transferred to equivalent civil service positions in the City and County of San Francisco.

(e) No court employee shall be terminated or otherwise released from employment as a result of the transfer of processing notices of parking violations and notices of delinquent parking violations from the courts to the issuing agencies.

(f) As used in this article, "parking penalty" includes the fine authorized by law, including assessments authorized by this article, any late payment penalty, and costs of collection as provided by law.

SEC. 74. Section 40200.5 of the Vehicle Code is amended to read:

40200.5. (a) Except as provided in subdivision (c) of Section 40200.4, an issuing agency may elect to contract with the county, with a private vendor, or with any other city or county processing agency, other than the Department of the California Highway Patrol or other state law enforcement agency, within the county, with the consent of that other entity, for the processing of notices of parking violations and notices of delinquent parking violations, prior to filing with the court pursuant to Section 40230.

If an issuing agency contracts with a private vendor for processing services, it shall give special consideration to minority business enterprise participation in providing those services. For purposes of this subdivision, "special consideration" has the same meaning as specified in subdivision (c) of Section 14838 of the Government Code, as it relates to small business preference.

(b) Any contract entered pursuant to subdivision (a) shall provide for monthly distribution of amounts collected between the parties, except those amounts payable to a county pursuant to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code and amounts payable to the Department of Motor Vehicles pursuant to Section 4763 of this code.

SEC. 75. The Department of the California Highway Patrol may use the unexpended balance of funds available for use in conjunction with the performance of functions of the former California State Police Division.

SEC. 76. All officers and employees of the California State Police Division who are serving in the state civil service and engaged in a function vested in the California State Police Division are, effective July 12, 1995, transferred to the Department of the California Highway Patrol. The status, positions, and rights of those persons existing prior to the transfer shall not be affected by the transfers and

shall be retained by those persons as officers and employees of the Department of the California Highway Patrol pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 5 of the Government Code), except as to positions exempted from civil service.

SEC. 77. The Department of the California Highway Patrol shall have ownership, possession, and control of all records, papers, offices, equipment, supplies, moneys, funds, land, and other property, real or personal, owned or leased, connected with the administration of, or held for the benefit or use of, the California State Police Division.

SEC. 78. Any regulation or other action adopted, prescribed, taken, or performed by an agency or officer in the administration of a program of a duty, responsibility, or authorization transferred by this act shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

SEC. 79. Any judgment, claims, or liability filed or established with the California State Police Division, the Department of General Services, or the state arising from the action of the California State Police Division or Department of General Services or their agents concerning matters within the scope of the California State Police Division shall become the responsibility of the Department of the California Highway Patrol.

SEC. 80. Any section of any act enacted by the Legislature during the 1996 calendar year that substantively amends, or that 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.

CHAPTER 306

An act to add Section 31639.75 to the Government Code, relating to county employees.

[Approved by Governor July 26, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 31639.75 is added to the Government Code, to read:

31639.75. A safety member not previously within the field of membership as a safety member may receive not more than five years of credit as a safety member for all or any part of the time during which he or she was a general member by paying into the retirement fund by lump sum or by installment payments an amount equal to the

difference between the member and employer contributions actually made as a general member and the member and employer contributions that would have been made had he or she been a safety member during the time for which he or she claims credit together with regular interest on the amount required to be deposited. A member who elects to receive credit for only a part of his or her county service shall elect that county service latest in time and may not receive credit for any portion of that county service prior in time to any county service for which he does not elect to receive credit. This section is applicable only to active members with five or more years of service as a safety member.

This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

CHAPTER 307

An act to amend Section 8062 of the Elections Code, relating to petitions.

[Approved by Governor July 26, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 8062 of the Elections Code is amended to read:

8062. (a) The number of registered voters required to sign a nomination paper for the respective offices are as follows:

(1) State office or United States Senate, not less than 65 nor more than 100.

(2) House of Representatives in Congress, State Senate or Assembly, Board of Equalization, or any office voted for in more than one county, and not statewide, not less than 40 nor more than 60.

(3) Candidacy in a single county or any political subdivision of a county, other than State Senate or Assembly, not less than 20 nor more than 40.

(4) When any political party has less than 50 voters in the state or in the county or district in which the election is to be held, one-tenth the number of voters of the party.

(5) When there are less than 150 voters in the county or district in which the election is to be held, not less than 10 nor more than 20.

(b) The provisions of this section are mandatory, not directory, and no nomination paper shall be deemed sufficient that does not comply with this section. However, this subdivision shall not be construed to prohibit withdrawal of signatures pursuant to Section 8067. This subdivision also shall not be construed to prohibit a court

from validating a signature which was previously rejected upon showing of proof that the voter whose signature is in question is otherwise qualified to sign the nomination paper.

CHAPTER 308

An act to amend Section 4730.10 of the Health and Safety Code, to amend Section 95.31 of the Revenue and Taxation Code, and to amend Sections 1.5, 3, 7, and 8 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951), relating to public entities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 4730.10 of the Health and Safety Code is amended to read:

4730.10. (a) Notwithstanding Sections 4730, 4730.1, and 4730.2, or any other law, beginning on January 1, 1996, the governing body of the South San Luis Obispo County Sanitation District shall be constituted as set forth in this article, except that a member of the San Luis Obispo County Board of Supervisors may not serve as a member of the governing body unless, in the absence of that supervisor, there would otherwise be an even number of members of the governing body.

(b) This section applies only to members appointed to the South San Luis Obispo County Sanitation District on or after January 1, 1996.

SEC. 2. Section 95.31 of the Revenue and Taxation Code is amended to read:

95.31. (a) (1) Notwithstanding any other provision of law, any eligible county may, upon the recommendation of the county assessor, and by resolution of the board of supervisors of that county adopted not later than December 1 of the fiscal year for which it is to first apply, elect to participate in the State-County Property Tax Administration Program.

(2) Except as specified in paragraph (3), for the purposes of this section, an eligible county shall mean a county in which additional property tax revenue allocated to school entities would reduce the amount of General Fund moneys apportioned to school entities. However, eligibility shall be terminated when, in combination with resources in the Educational Revenue Augmentation Fund, additional property tax revenues allocated to school entities will not result in a reduction in the General Fund apportionments.

(3) Notwithstanding paragraph (2), both the County of Solano and the County of San Benito shall be deemed eligible counties that may, upon the recommendation of the county assessor, and by resolution of the board of supervisors of the county adopted on or before March 31, 1996, elect to participate in the State-County Property Tax Administration Program.

(b) (1) In each of the 1995–96, 1996–97, and 1997–98 fiscal years, an eligible county participating in the State-County Property Tax Administration Program may receive a loan for up to the amount listed in paragraph (3). The loan shall be repaid by June 30 of the fiscal year following the year in which the loan is made. However, at the discretion of the Director of Finance, the loan may be renewed once for an additional 12-month period at the request of the participating county board of supervisors. For the Counties of Fresno, Orange, San Benito, and Solano any loan agreement signed on or before July 31, 1996, shall be deemed a loan agreement for the 1995–96 fiscal year for the purposes of this section.

(2) If an eligible county elects to participate in the State-County Property Tax Administration Program, it shall enter into a contractual agreement with the Department of Finance. At a minimum, the contractual agreement shall include the following:

(A) The loan amount, as determined by the Director of Finance.

(B) Repayment provisions, including the interception of Motor Vehicle License Fee Account moneys apportioned pursuant to Section 11005 to repay the General Fund.

(C) A listing of the proposed use of the additional resources including, but not limited to:

(i) Proposed new positions.

(ii) Increased automation costs.

(D) An agreement to provide to the Department of Finance, by March 31 of the fiscal year in which the loan is made, a report projecting the impact of the increased funding in the current and subsequent fiscal year.

(3) Upon request of the Department of Finance, the Controller shall provide a loan to the following counties for up to the amount specified by the Director of Finance, not to exceed the following amounts:

Jurisdiction	Amount
Alameda	$ 2,152,429
Alpine	3,124
Amador	80,865
Butte	381,956
Calaveras	109,897
Colusa	53,957
Contra Costa	2,022,088

Del Norte	36,203
El Dorado	302,795
Fresno	1,165,249
Glenn	59,197
Humboldt	210,806
Imperial	231,673
Inyo	100,080
Kern	1,211,318
Kings	138,653
Lake	117,376
Lassen	54,699
Los Angeles	13,451,670
Madera	212,991
Marin	790,490
Mariposa	46,476
Mendocino	160,435
Merced	298,004
Modoc	24,022
Mono	47,778
Monterey	795,819
Napa	366,020
Nevada	234,292
Orange	6,826,325
Placer	628,047
Plumas	80,606
Riverside	2,358,068
Sacramento	1,554,245
San Benito	90,408
San Bernardino	2,139,938
San Diego	5,413,943
San Francisco	1,013,332
San Joaquin	818,686
San Luis Obispo	736,288
San Mateo	2,220,001
Santa Barbara	926,817
Santa Clara	4,213,639
Santa Cruz	565,328
Shasta	342,399
Sierra	7,383
Siskiyou	91,164

Solano	469,207
Sonoma	1,035,049
Stanislaus	866,155
Sutter	147,436
Tehama	97,222
Trinity	24,913
Tulare	501,907
Tuolumne	126,067
Ventura	1,477,789
Yolo	278,309
Yuba	88,968

(4) The Department of Finance shall consider any or all of the following items in determining the extent to which a county has satisfied the terms and repaid the loan, pursuant to the contract, as offered under this part:

(A) County performance as indicated by the State Board of Equalization's sample survey required pursuant to Section 15640 of the Government Code.

(B) Performance measures adopted by the California Assessors' Association.

(C) Reduction of backlog of assessment appeals and Proposition 8 declines in value.

(D) County compliance with mandatory audits required by Section 469.

(E) Reduction of backlogs in new construction, changes in ownership, and supplemental roll.

(F) Other measures, as determined by the Director of Finance.

(5) The Director of Finance shall notify the Controller of any participating county that fails to comply with the terms of the agreement, including the repayment of the loan. When the Controller receives notice from the Director of Finance, the Controller shall make an apportionment to the General Fund on behalf of the participating county in the amount of that required payment for the purpose of making that payment. The Controller shall make that payment only from moneys credited to the Motor Vehicle License Fee Account in the Transportation Tax Fund to which the participating county is entitled at that time under Chapter 5 (commencing with Section 11001) of Part 5 of Division 2, and shall thereupon reduce, by the amount of the payment, the subsequent allocation or allocations to which the county would otherwise be entitled under that chapter.

(c) Funds appropriated for purposes of this section shall be used to enhance the property tax administration system by providing supplemental resources. Amounts provided to any county as a loan pursuant to this section shall not be used to supplant the current level

of funding. In order to participate in the State-County Property Tax Administration Program, a participating county shall maintain a base staffing, including contract staff, and total funding level in the county assessor's office, independent of the loan proceeds provided pursuant to this act, equal to the levels in the 1994–95 fiscal year exclusive of amounts provided to the assessor's office pursuant to Item 9100-102-001 of the Budget Act of 1994. However, in a county in which the 1994–95 funding level for the assessor's office was higher than the 1993–94 level, the 1993–94 fiscal year staffing and funding levels shall be considered the base year for purposes of this section.

(d) A participating county may establish a tracking system whereby a work or function number is assigned to each appraisal or administrative activity. That system should provide statistical data on the number of production units performed by each employee and the positive and negative change in assessed value attributable to the activities performed by each employee.

(e) Notwithstanding Section 95.3, no amount of funds provided to an eligible county pursuant to this section shall result in any deduction from those property tax administrative costs that are eligible for reimbursement pursuant to Section 95.3.

SEC. 3. Section 1.5 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 1.5. Unless the context otherwise requires, the definitions in this section govern the construction of the act.

(a) "Act" means the Napa County Flood Control and Water Conservation District Act.

(b) "Acts" means the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), and the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

(c) "Assessment" or "special assessment" means a non-ad valorem special benefit assessment on property located within a zone in the district, determined in accordance with Section 13.5 or any provision of the acts.

(d) "Board" means the governing board of the district.

(e) "Board of Supervisors" means the Napa County Board of Supervisors.

(f) "Bond" or "bonds" means bonds issued by the district whether in accordance with the procedures set forth in any of the acts or Section 14.

(g) "Charge" or "fee" means an amount charged by the district for rendering services or providing goods to an individual person or entity which are fixed pursuant to subdivision 4 of Section 13.

(h) "District" means the Napa County Flood Control and Water Conservation District.

(i) "Project" means any activity, with or without the construction of physical structures, works, or improvements, that is within the powers and in furtherance of the objects and purposes of the district under this act and is approved pursuant to Section 12.

(j) "Zone" or "participating zone" means an area within the district designated by the board in accordance with Section 3 and within that area the board may institute and carry out projects of special benefit to the landowners and residents of the zone, alone, or in conjunction with, other zones.

(k) "Zone project" means a project instituted and carried out for the special benefit of a single zone or two or more participating zones.

SEC. 4. Section 3 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 3. (a) The board may establish, by resolutions, zones within the district without reference to the boundaries of the other zones, setting forth in those resolutions descriptions by metes and bounds and entitling each of the zones by a zone number, and institute projects for the specific benefit of the zones.

(b) Proceedings for the establishment of the zones may be conducted concurrently with and as a part of proceedings for the instituting of projects relating to the zones, which proceedings shall be instituted in the manner prescribed in Section 12 of this act.

SEC. 5. Section 7 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 7. (a) (1) The board shall be composed of 11 directors, as follows:

(A) Five directors shall be the members of the Board of Supervisors, serving ex officio, and having two votes each.

(B) One director shall be the mayor of the City of Napa, serving ex officio, and having two votes.

(C) Four directors shall be the mayors of the Cities of Calistoga, St. Helena, and American Canyon, and the mayor of the Town of Yountville, serving ex officio, and having one vote each.

(D) One director shall be a member of the City Council of the City of Napa, appointed annually by the council, and having one vote.

(2) A majority of the directors and a majority of the total votes shall constitute a quorum.

(3) Each director shall serve without additional compensation.

(b) All ordinances, resolutions, and other legislative acts for the district shall be adopted by the board and certified to, recorded and published, in the same manner, except as herein otherwise expressly provided, as are ordinances, resolutions, or other legislative acts for the County of Napa.

(c) Except as otherwise provided, the budget for the district shall be prepared, presented, and shall be approved by the board in

accordance with those procedures applicable to the budget for the County of Napa.

SEC. 6. Section 8 of the Napa County Flood Control and Water Conservation District Act (Chapter 1449 of the Statutes of 1951) is amended to read:

Sec. 8. The county counsel, county surveyor, county assessor, county treasurer-tax collector, and county auditor-controller of the County of Napa, and their successors in office, and all their assistants, deputies, clerks, and employees, and other officers of Napa County, their assistants, deputies, clerks, and employees, shall be ex officio officers, assistants, deputies, clerks and employees respectively of the district. Those officials shall perform, unless otherwise provided by the board, the same various duties for the district as for Napa County, in order to carry out this act. However, where the county surveyor is a registered civil engineer and is employed by the board to supervise the engineering work of the district, the board may provide for compensation for his or her services pursuant to this act, payable from the funds of the district, in addition to his or her salary as county surveyor of Napa County.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

Furthermore, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because other provisions of this act provide for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 8. Notwithstanding Section 8 of this act, Sections 3 to 6, inclusive, of this act shall take effect on January 1, 1997.

SEC. 9. 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 help ensure, at the earliest possible time, that certain loan applications are allowed to be processed and loan agreements are allowed to be finalized on or before July 31, 1996, and to enact

other necessary provisions relating to public entities at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 309

An act to add Chapter 14 (commencing with Section 5970) to Division 6 of Title 1 of the Government Code, relating to public financing.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Chapter 14 (commencing with Section 5970) is added to Division 6 of Title 1 of the Government Code, to read:

CHAPTER 14. AWARDING OF CONTRACTS

5970. As used in this chapter, the following phrases have the following meanings:

(a) "Person" means any broker, dealer, municipal securities dealer, investment advisor, or investment firm.

(b) "Regulatory agency" means the Department of Corporations, the securities administrators or other similar regulatory authority in any other state, the Securities and Exchange Commission, the National Association of Securities Dealers, the Municipal Securities Rulemaking Board, the Commodity Futures Trading Commission, or any other self-regulatory organization.

(c) "State or local government" means the state, any department, agency, board, commission, or authority of the state, or any city, city and county, county, public district, public corporation, authority, agency, board, commission, or other public entity.

5971. In selecting any person to provide underwriting services, including financial, advisory or other financial services, involving the issuance of securities, the state or the legislative body of any local governmental entity may consider, among other things, prior conduct of the person, or any employee of the person, including, but not limited to, acts constituting fraud or a violation of state or federal securities law and that resulted in the issuance by, or on behalf of, a governmental regulatory agency of a cease and desist order, a preliminary injunction that has not been dissolved by court order or replaced by a permanent injunction or a permanent injunction, censure, or any other administrative or judicial enforcement order.

CHAPTER 310

An act to add Section 36502.5 to the Government Code, relating to the City of Tustin.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 36502.5 is added to the Government Code, to read:

36502.5. Notwithstanding the provisions of Section 36502, the city council of the City of Tustin may adopt by ordinance a proposal to limit the number of terms a member of the city council may serve on the city council without submitting the proposal to the electors of the city for approval, provided that a proposal containing those same provisions was submitted to the electors of the City of Tustin at a regularly scheduled election and a majority of the votes cast on the question favored the adoption of the proposal.

Any ordinance adopted pursuant to this section shall apply prospectively from the effective date of this section.

SEC. 2. The Legislature finds and declares that, because of the unique circumstances applicable only to the City of Tustin, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

CHAPTER 311

An act to amend Section 1215.2 of the Insurance Code, relating to insurance.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 1215.2 of the Insurance Code is amended to read:

1215.2. (a) No person shall make a tender offer for, or a request or invitation for tenders of, or enter into an agreement to exchange securities for or acquire in the open market, any voting security, or any security convertible into a voting security, of a domestic insurer or of any other person controlling a domestic insurer, if such other person is not substantially engaged either directly or through its affiliates in any businesses other than that of insurance, if, as a result

of the consummation thereof, such person would, directly or indirectly, acquire control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer, unless, at the time copies of the offer or purchase or request or invitation are first published or sent or given to security holders or the agreement or transaction is entered into, as the case may be, such person has filed with the commissioner, and has sent to such insurer, a statement containing such of the following information, and such additional information, as the commissioner may by rule or regulation prescribe as necessary or appropriate in the public interest or for the protection of policyholders or shareholders:

(1) The background and identity of all persons by whom or on whose behalf the purchases or the exchange, merger, or other acquisition of control are to be effected;

(2) The source and amount of the funds or other consideration used or to be used in making the purchases or in effecting the exchange, merger, or other acquisition of control, and, if any part of such funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the purchases or effecting the exchange, merger, or other acquisition of control, a description of the transaction and the names of the parties thereto. However, where a source of funds is a loan made in the lender's ordinary course of business, if the person filing such statement so requests, the name of the lender shall not be made available to the public;

(3) Any plans or proposals which such persons may have to liquidate such insurer, to sell its assets or merge it with any person, or to make any other major change in its business or corporate structure or management;

(4) The amount of each class of voting securities or securities which may be converted into voting securities of such insurer or such controlling person which are beneficially owned, and the amount of each class of voting securities or securities which may be converted into voting securities of such insurer or such controlling person concerning which there is a right to acquire beneficial ownership, by each such person and by each affiliate of each such person, together with the name and address of each such affiliate;

(5) Information as to any contracts, arrangements, or understandings with any person with respect to any securities of such insurer or such controlling person, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of such voting securities

of such insurer or such controlling person made by or on behalf of any such person, and a copy of any such agreement to exchange or otherwise acquire securities or to merge with or otherwise to acquire control of such insurer, shall be filed with the commissioner and sent to such insurer as a part of such statement and shall contain such of the information contained in such statement as the commissioner may by rule or regulation prescribe. Copies of any additional material soliciting or requesting such tender offers subsequent to the initial solicitation or request, and copies of any amendment to any such agreement, shall contain such information as the commissioner may by rule or regulation prescribe as necessary or appropriate in the public interest or for the protection of policyholders or shareholders, and shall be filed with the commissioner and sent to such insurer not later than the time copies of such material are first published or sent or given to security holders or such amendment is entered into.

(b) If the person required to file the statement referred to in subdivision (a) of this section is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by paragraphs (1) to (5), inclusive, of subdivision (a) shall be given with respect to: (1) each partner of such partnership or limited partnership, (2) each member of such syndicate or group, and (3) each person who controls such partner or member. If a person referred to in paragraph (1), (2), or (3) of this subdivision is a corporation or the person required to file the statement referred to in subdivision (a) is a corporation, the commissioner may require that the information called for by paragraphs (1) to (5), inclusive, of subdivision (a) shall be given with respect to such corporation and each officer and director of such corporation and each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of such corporation.

(c) If any tender offer, request, or invitation for tenders, or agreement to exchange or otherwise acquire securities or to merge or otherwise acquire control referred to in subdivision (a) of this section, is proposed to be made by means of a registration statement under the federal Securities Act of 1933, or in circumstances requiring the disclosure of similar information under the federal Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subdivision (a) may file that registration statement with the commissioner as full satisfaction of the requirement in subdivision (a).

(d) The purchases, exchanges, mergers, or other acquisitions of control referred to in subdivision (a) of this section may not be made until the commissioner either approves the purchases, exchanges, mergers, or other acquisitions of control within 60 days after the statement required by subdivision (a) has been filed with the commissioner or fails to disapprove such purchases, exchanges,

mergers, or other acquisitions of control within such 60-day period. The commissioner may disapprove any such transaction within such 60-day period if the commissioner finds any of the following:

(1) After the change of control the domestic insurer referred to in subdivision (a) could not satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(2) The purchases, exchanges, mergers, or other acquisitions of control would substantially lessen competition in insurance in this state or create a monopoly therein;

(3) The financial condition of an acquiring person is such as might jeopardize the financial stability of the insurer, or prejudice the interests of its policyholders;

(4) The plans or proposals which the acquiring person has to liquidate the insurer, to sell its assets, or to merge it with any person, or to make any other major change in its business or corporate structure or management, are not fair and reasonable to policyholders;

(5) The competence, experience, and integrity of those persons who would control the operation of the insurer indicate that it would not be in the interest of policyholders, or the public to permit them to do so.

(e) The commissioner shall require the payment of two thousand three hundred sixty dollars ($2,360) as a fee for filing an application under this section, the amount to accompany the application.

(f) The provisions of this section shall not apply to any offer for or request or invitation for tenders of any voting securities, or any agreement to exchange securities for or otherwise acquire control, if the insurer whose shares are to be acquired remains a direct or indirect subsidiary of the same ultimate controlling company person within the insurer's insurance holding company system, neither the acquiring person nor any affiliate acquires or incurs any debt, guarantee, or other liability related to the transaction, and no shares are purchased by or sold to a person who is not an affiliated person in that insurance holding company system, or if, and to the extent that, the commissioner, by rule or regulation or by order, exempts the offer, request, invitation, or agreement from the provisions of this section as not comprehended within the purposes thereof.

CHAPTER 312

An act to amend Section 3077 of the Business and Professions Code, relating to optometry, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 3077 of the Business and Professions Code is amended to read:

3077. As used in this section "office" means any office or other place for the practice of optometry.

(a) No person, singly or in combination with others, may have an office unless he or she is registered to practice optometry under this chapter.

(b) An optometrist, or two or more optometrists jointly, may have one office without obtaining a further license from the board.

(c) On and after October 1, 1959, no optometrist, and no two or more optometrists jointly, may have more than one office unless he, or she, or they comply with the provisions of this chapter as to an additional office. Such additional office, for the purposes of this chapter, constitutes a branch office.

(d) Any optometrist who has, or any two or more optometrists, jointly, who have, a branch office prior to January 1, 1957, and who desire to continue such branch office on or after that date shall notify the board in writing of such desire in a manner prescribed by the board.

(e) On and after January 1, 1957, any optometrist, or any two or more optometrists, jointly, who desire to open a branch office shall notify the board in writing in a manner prescribed by the board.

(f) On and after January 1, 1957, no branch office may be opened or operated without a branch office license. Branch office licenses shall be valid for the calendar year in or for which they are issued and shall be renewable on January 1st of each year thereafter. Branch office licenses shall be issued or renewed only upon the payment of the fee therefor prescribed by this chapter.

On or after October 1, 1959, no more than one branch office license shall be issued to any optometrist or to any two or more optometrists, jointly.

(g) Any failure to comply with the provisions of this chapter relating to branch offices or branch office licenses as to any branch office shall work the suspension of the certificate of registration of each optometrist who, individually or with others, has such branch office. A certificate of registration so suspended shall not be restored except upon compliance with such provisions and the payment of the fee prescribed by this chapter for restoration of a certificate of registration after suspension for failure to comply with the provisions of this chapter relating to branch offices.

(h) The holder or holders of a branch office license shall pay the annual renewal fee therefor in the amount required by this chapter between the first day of January and the first day of February of each year. The failure to pay such fee in advance on or before February 1st of each year during the time it is in force shall ipso facto work the suspension of such branch office license. Such license shall not be

restored except upon written application and the payment of the penalty prescribed by this chapter, and, in addition, all delinquent branch office fees.

(i) Nothing in this chapter shall limit or authorize the board to limit the number of branch offices which are in operation on October 1, 1959 and which conform to this chapter, nor prevent an optometrist from acquiring any branch office or offices of his or her parent. The sale after October 1, 1959 of any branch office shall terminate the privilege of operating such branch office and no new branch office license shall be issued in place of the license issued for such branch office, unless the branch office is the only one operated by the optometrist or two or more optometrists jointly.

Nothing in this chapter shall prevent an optometrist from owning, maintaining or operating more than one branch office if he or she is in personal attendance at each of his offices fifty percent (50%) of the time during which such office is open for the practice of optometry.

(j) The board shall have the power to adopt, amend, and repeal rules and regulations to carry out the provisions of this section.

(k) Notwithstanding any other provision of this section, neither an optometrist nor an individual practice association shall be deemed to have an additional office solely by reason of the optometrist's participation in an individual practice association or the individual practice association's creation or operation. As used in this subdivision, the term "individual practice association" means an entity that meets all of the following requirements:

(1) Is registered with the State Board of Optometry as an optometric corporation in accordance with Section 3160.

(2) Operates primarily for the purpose of securing contracts with health care service plans or other third-party payers that make available eye/vision services to enrollees or subscribers through a panel of optometrists.

(3) Contracts with optometrists to serve on the panel of optometrists, but does not obtain an ownership interest in, or otherwise exercise control over, the respective optometric practices of those optometrists on the panel.

Nothing in this subdivision shall be construed to exempt an optometrist who is a member of an individual practice association and who practices optometry in more than one physical location, from the requirement of obtaining a branch office license for each of those locations, as required by this section. However, an optometrist shall not be required to obtain a branch office license solely as a result of his or her participation in an individual practice association in which the members of the individual practice association practice optometry in a number of different locations, and each optometrist is listed as a member of that individual practice association.

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:

Due to the swiftness of recent changes in health care delivery, it is necessary that optometrists have the ability to begin forming individual practice associations as soon as possible in order to remain competitive in the rapidly changing managed health care environment.

CHAPTER 313

An act to amend Section 2983.2 of, and to add Section 2983.35 to, the Civil Code, relating to obligations.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 2983.2 of the Civil Code is amended to read:

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

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

(2) States either that there is a conditional right to reinstate the contract until the expiration of 15 days from the date of giving or mailing the notice and all the conditions precedent thereto or that

there is no right of reinstatement and provides a statement of reasons therefor.

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

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

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

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

(7) Informs those persons that upon written request, the seller or holder will furnish a written accounting regarding the disposition of the motor vehicle as provided for in subdivision (b). The seller or holder shall advise them that this request must be personally served or sent first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the seller or holder.

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

(9) Informs those persons that upon the disposition of the motor vehicle, they will be liable for the deficiency balance plus interest at the contract rate, or at the legal rate of interest pursuant to Section 3289 if there is no contract rate of interest, from the date of disposition of the motor vehicle to the date of entry of judgment.

The notice prescribed by this section shall not affect the discretion of the court to strike out an unconscionable interest rate in the contract for which the notice is required, nor affect the court in its determination of whether the rate is unconscionable.

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

(1) The gross proceeds of the disposition.

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

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

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

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

SEC. 2. Section 2983.35 is added to the Civil Code, to read:

2983.35. (a) If a creditor has requested a cosigner as a condition of granting credit to any person for the purpose of acquisition of a motor vehicle, the creditor or holder shall give the cosigner a written notice of delinquency prior to the repossession of the motor vehicle if the motor vehicle is to be repossessed pursuant to the motor vehicle credit agreement. The written notice of delinquency shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the cosigner. If the last known address of the buyer and the cosigner are the same, a single written notice of delinquency given to both the borrower and cosigner prior to repossession satisfies the cosigner notice requirement of this section.

(b) A creditor or holder who fails to comply with this section may not recover any costs associated with the repossession of the vehicle from the cosigner.

(c) This section applies to any motor vehicle credit agreement, notwithstanding Section 2982.5.

(d) The following definitions govern the construction of this section.

(1) "Cosigner" means a buyer who executes a motor vehicle credit agreement but does not in fact receive possession of the motor vehicle that is the subject of the agreement.

(2) "Creditor" means a seller or lender described in paragraph (4).

(3) "Holder" means any other person who is entitled to enforce the motor vehicle credit agreement.

(4) "Motor vehicle credit agreement" means any conditional sales contract as defined in Section 2981 and any contract or agreement in which a lender gives value to enable a purchaser to acquire a motor vehicle and in which the lender obtains a security interest in the motor vehicle.

CHAPTER 314

An act to add Sections 2240.1, 4730.4, 6480.1, 8950.01, and 32100.05 to the Health and Safety Code, to add Sections 5527.1 and 9301.1 to the Public Resources Code, to add Section 15973.1 to the Public Utilities Code, and to add Sections 21552.1, 30500.1, and 71250.1 to the Water Code, relating to local agency formation.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 2240.1 is added to the Health and Safety Code, to read:

2240.1. (a) Notwithstanding Section 2240, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single mosquito abatement district may, pursuant to subdivisions (k) and (n) of Section 56844 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 2. Section 4730.4 is added to the Health and Safety Code, to read:

4730.4. (a) Notwithstanding Sections 4730, 4730.1 and 4730.2, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single county sanitation district may, pursuant to subdivisions (k) and (n) of Section 56844 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 3. Section 6480.1 is added to the Health and Safety Code, to read:

6480.1. (a) Notwithstanding Section 6480, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single sanitary district may, pursuant to subdivisions (k) and (n) of Section 56844 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 4. Section 8950.01 is added to the Health and Safety Code, to read:

8950.01. (a) Notwithstanding Section 8950, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single cemetery district may, pursuant to subdivisions (k) and (n) of Section 56844,

increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 5. Section 32100.05 is added to the Health and Safety Code, to read:

32100.05. (a) Notwithstanding Sections 32100 and 32100.01, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single hospital district may, pursuant to subdivisions (k) and (n) of Section 56844, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger

number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 6. Section 5527.1 is added to the Public Resources Code, to read:

5527.1. (a) Notwithstanding Section 5527, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single recreation and park district may, pursuant to subdivisions (k) and (n) of Section 56844, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 7. Section 9301.1 is added to the Public Resources Code, to read:

9301.1. (a) Notwithstanding Section 9301, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single resource conservation district may, pursuant to subdivisions (k) and (n) of Section 56844, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 8. Section 15973.1 is added to the Public Utilities Code, to read:

15973.1. (a) Notwithstanding Sections 15951, 15972, and 15973, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single public utility district may, pursuant to subdivisions (k)

and (n) of Section 56844 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section the following terms have the following meanings:

(1) "Consolidation" means consolidation, as defined in Section 56030 of the Government Code.

(2) "District" or "special district" means district or special district, as defined in Section 56036 of the Government Code.

(3) "Reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 9. Section 21552.1 is added to the Water Code, to read:

21552.1. (a) Notwithstanding Sections 21550, 21551 and 21552, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single irrigation district may, pursuant to subdivisions (k) and (n) of Section 56844 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until

the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 10. Section 30500.1 is added to the Water Code, to read:

30500.1. (a) Notwithstanding Section 30500, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single county water district may, pursuant to subdivisions (k) and (n) of Section 56844, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the

determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

SEC. 11. Section 71250.1 is added to the Water Code, to read:

71250.1. (a) Notwithstanding Section 71250, the local agency formation commission, in approving either a consolidation of districts or the reorganization of two or more districts into a single municipal water district may, pursuant to subdivisions (k) and (n) of Section 56844 of the Government Code, increase the number of directors to serve on the board of directors of the consolidated or reorganized district to 7, 9, or 11, who shall be members of the board of directors of the districts to be consolidated or reorganized as of the effective date of the consolidation or reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the consolidated district, or a district reorganized as described in subdivision (a), whose terms first expire following the effective date of the consolidation or reorganization, the total number of members on the board of directors shall be reduced until the number equals the number of members permitted by the principal act of the consolidated or reorganized district, or any larger number as may be specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the consolidated district or a district reorganized as described in subdivision (a) at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event, the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

(d) For the purposes of this section: "consolidation" means consolidation, as defined in Section 56030 of the Government Code; "district" or "special district" means district or special district, as defined in Section 56036 of the Government Code; and "reorganization" means reorganization, as defined in Section 56073 of the Government Code.

CHAPTER 315

An act to amend Section 5067 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 5067 of the Public Resources Code is amended to read:

5067. The department may enter into, for a period not less than 20 years and not to exceed 25 years, an agreement with the Desert Pacific Council of the Boy Scouts of America for the use of a portion of Cuyamaca Rancho State Park. Any agreement so entered into shall be subject to approval by the Director of General Services pursuant to Section 11005.2 of the Government Code.

CHAPTER 316

An act to amend Sections 3103, 3104, 3416, 3417, 4207, and 4208 of the Commercial Code, relating to commercial law.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 3103 of the Commercial Code is amended to read:

3103. (a) In this division:

(1) "Acceptor" means a drawee who has accepted a draft.

(2) "Drawee" means a person ordered in a draft to make payment.

(3) "Drawer" means a person who signs or is identified in a draft as a person ordering payment.

(4) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(5) "Maker" means a person who signs or is identified in a note as a person undertaking to pay.

(6) "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.

(7) "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by this division or Division 4 (commencing with Section 4101).

(8) "Party" means a party to an instrument.

(9) "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

(10) "Prove" with respect to a fact means to meet the burden of establishing the fact (subdivision (8) of Section 1201).

(11) "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

(b) Other definitions applying to this division and the sections in which they appear are:

"Acceptance"	Section 3409
"Accommodated party"	Section 3419
"Accommodation party"	Section 3419
"Alteration"	Section 3407
"Anomalous endorsement"	Section 3205
"Blank endorsement"	Section 3205
"Cashier's check"	Section 3104
"Certificate of deposit"	Section 3104
"Certified check"	Section 3409
"Check"	Section 3104
"Consideration"	Section 3303
"Demand Draft"	Section 3104
"Draft"	Section 3104
"Holder in due course"	Section 3302
"Incomplete instrument"	Section 3115
"Indorsement"	Section 3204
"Indorser"	Section 3204
"Instrument"	Section 3104
"Issue"	Section 3105
"Issuer"	Section 3105
"Negotiable instrument"	Section 3104

"Negotiation"	Section 3201
"Note"	Section 3104
"Payable at a definite time"	Section 3108
"Payable on demand"	Section 3108
"Payable to bearer"	Section 3109
"Payable to order"	Section 3109
"Payment"	Section 3602
"Person entitled to enforce"	Section 3301
"Presentment"	Section 3501
"Reacquisition"	Section 3207
"Special indorsement"	Section 3205
"Teller's check"	Section 3104
"Transfer of instrument"	Section 3203
"Traveler's check"	Section 3104
"Value"	Section 3303

(c) The following definitions in other divisions apply to this division:

"Bank"	Section 4105
"Banking day"	Section 4104
"Clearinghouse"	Section 4104
"Collecting bank"	Section 4105
"Depositary bank"	Section 4105
"Documentary draft"	Section 4104
"Intermediary bank"	Section 4105
"Item"	Section 4104
"Payor bank"	Section 4105
"Suspends payments"	Section 4104

(d) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 2. Section 3104 of the Commercial Code is amended to read:

3104. (a) Except as provided in subdivisions (c) and (d), "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it is all of the following:

(1) Is payable to bearer or to order at the time it is issued or first comes into possession of a holder.

(2) Is payable on demand or at a definite time.

(3) Does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to

the payment of money, but the promise or order may contain (i) an undertaking or power to give, maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor.

(b) "Instrument" means a negotiable instrument.

(c) An order that meets all of the requirements of subdivision (a), except paragraph (1), and otherwise falls within the definition of "check" in subdivision (f) is a negotiable instrument and a check.

(d) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this division.

(e) An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft," a person entitled to enforce the instrument may treat it as either.

(f) "Check" means (1) a draft, other than a documentary draft, payable on demand and drawn on a bank, (2) a cashier's check or teller's check, or (3) a demand draft. An instrument may be a check even though it is described on its face by another term, such as "money order."

(g) "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(h) "Teller's check" means a draft drawn by a bank (1) on another bank, or (2) payable at or through a bank.

(i) "Traveler's check" means an instrument that (1) is payable on demand, (2) is drawn on or payable at or through a bank, (3) is designated by the term "traveler's check" or by a substantially similar term, and (4) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(j) "Certificate of deposit" means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

(k) "Demand draft" means a writing not signed by a customer that is created by a third party under the purported authority of the customer for the purpose of charging the customer's account with a bank. A demand draft shall contain the customer's account number and may contain any or all of the following:

(1) The customer's printed or typewritten name.

(2) A notation that the customer authorized the draft.

(3) The statement "No Signature Required" or words to that effect.

A demand draft shall not include a check purportedly drawn by and bearing the signature of a fiduciary, as defined in paragraph (1) of subdivision (a) of Section 3307.

SEC. 3. Section 3416 of the Commercial Code is amended to read:

3416. (a) A person who transfers an instrument for consideration warrants all of the following to the transferee and, if the transfer is by indorsement, to any subsequent transferee:

(1) The warrantor is a person entitled to enforce the instrument.

(2) All signatures on the instrument are authentic and authorized.

(3) The instrument has not been altered.

(4) The instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor.

(5) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer.

(6) If the instrument is a demand draft, creation of the instrument according to the terms on its face was authorized by the person identified as drawer.

(b) A person to whom the warranties under subdivision (a) are made and who took the instrument in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the instrument plus expenses and loss of interest incurred as a result of the breach.

(c) The warranties stated in subdivision (a) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subdivision (b) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(d) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(e) If the warranty in paragraph (6) of subdivision (a) is not given by a transferor under applicable conflict of law rules, then the warranty is not given to that transferor when that transferor is a transferee.

SEC. 4. Section 3417 of the Commercial Code is amended to read:

3417. (a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant all of the following to the drawee making payment or accepting the draft in good faith:

(1) The warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft.

(2) The draft has not been altered.

(3) The warrantor has no knowledge that the signature of the drawer of the draft is unauthorized.

(4) If the draft is a demand draft, creation of the demand draft according to the terms on its face was authorized by the person identified as drawer.

(b) A drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subdivision is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft, breach of warranty is a defense to the obligation of the acceptor. If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from any warrantor for breach of warranty the amounts stated in this subdivision.

(c) If a drawee asserts a claim for breach of warranty under subdivision (a) based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under Section 3404 or 3405 or the drawer is precluded under Section 3406 or 4406 from asserting against the drawee the unauthorized indorsement or alteration.

(d) If (i) a dishonored draft is presented for payment to the drawer or an indorser or (ii) any other instrument is presented for payment to a party obliged to pay the instrument, and (iii) payment is received, the following rules apply:

(1) The person obtaining payment and a prior transferor of the instrument warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the instrument, a person entitled to enforce the instrument or authorized to obtain payment on behalf of a person entitled to enforce the instrument.

(2) The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subdivisions (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subdivision (b) or (d) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(g) A demand draft is a check, as provided in subdivision (f) of Section 3104.

(h) If the warranty in paragraph (4) of subdivision (a) is not given by a transferor under applicable conflict of law rules, then the warranty is not given to that transferor when that transferor is a transferee.

SEC. 5. Section 4207 of the Commercial Code is amended to read:

4207. (a) A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that all of the following are applicable:

(1) The warrantor is a person entitled to enforce the item.

(2) All signatures on the item are authentic and authorized.

(3) The item has not been altered.

(4) The item is not subject to a defense or claim in recoupment (subdivision (a) of Section 3305) of any party that can be asserted against the warrantor.

(5) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer.

(6) If the item is a demand draft, creation of the item according to the terms on its face was authorized by the person identified as drawer.

(b) If an item is dishonored, a customer or collecting bank transferring the item and receiving settlement or other consideration is obliged to pay the amount due on the item (1) according to the terms of the item at the time it was transferred, or (2) if the transfer was of an incomplete item, according to its terms when completed as stated in Sections 3115 and 3407. The obligation of a transferor is owed to the transferee and to any subsequent collecting bank that takes the item in good faith. A transferor cannot disclaim its obligation under this subdivision by an indorsement stating that it is made "without recourse" or otherwise disclaiming liability.

(c) A person to whom the warranties under subdivision (a) are made and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the item plus expenses and loss of interest incurred as a result of the breach.

(d) The warranties stated in subdivision (a) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(e) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(f) If the warranty in paragraph (6) of subdivision (a) is not given by a transferor or collecting bank under applicable conflict of law

rules, then the warranty is not given to that transferor when that transferor is a transferee nor to any prior collecting bank of that transferee.

SEC. 6. Section 4208 of the Commercial Code is amended to read:

4208. (a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee that pays or accepts the draft in good faith that all of the following apply:

(1) The warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft.

(2) The draft has not been altered.

(3) The warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized.

(4) If the draft is a demand draft, creation of the demand draft according to the terms on its face was authorized by the person identified as drawer.

(b) A drawee making payment may recover from a warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subdivision is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft (1) breach of warranty is a defense to the obligation of the acceptor, and (2) if the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from a warrantor for breach of warranty the amounts stated in this subdivision.

(c) If a drawee asserts a claim for breach of warranty under subdivision (a) based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under Section 3404 or 3405 or the drawer is precluded under Section 3406 or 4406 from asserting against the drawee the unauthorized indorsement or alteration.

(d) If (1) a dishonored draft is presented for payment to the drawer or an indorser or (2) any other item is presented for payment to a party obliged to pay the item, and the item is paid, the person obtaining payment and a prior transferor of the item warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the item, a person entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item. The person making payment may recover from any warrantor for breach of warranty an amount

equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subdivisions (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within 30 days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(g) A demand draft is a check, as provided in subdivision (f) of Section 3104.

(h) If the warranty in paragraph (4) of subdivision (a) is not given by a transferor under applicable conflict of law rules, then the warranty is not given to that transferor when that transferor is a transferee.

SEC. 7. This uncodified section expresses the Legislature's intent in enacting new subdivision (k) of Section 3104 of the Commercial Code.

Section 3104(k) is new. Modern check collection methods have increased the risk on payor banks that items not bearing authorized signatures may be paid against customer accounts. The purpose of this change is to define a new class of payment instrument, drawn on a bank customer's account without an authorized signature, and to shift the risk of loss for processing this instrument to the depositary-collecting bank which is in the best position to prevent its introduction into the check collection system.

The definition of "demand draft" is intended to identify a payment instrument created to debit a bank customer's account with the bank by a party who is not a signer on the account. This payment instrument is not signed by an authorized signer on the account and does not bear or purport to bear a signature of an authorized signer. This payment instrument is intended to debit the bank customer's account by deposit and collection through the normal check collection system. A demand draft may be created by a third party, such as a telemarketer, with the authorization by the bank customer to obtain payment from the bank customer's account as a means to pay the third party. A demand draft may also be created by a third party such as a home banking service provider, as a means to pay itself or others. The customer's account number and other processing information is encoded on the demand draft and the demand draft is deposited in a bank for collection through normal banking channels and payment by the payor bank. Because checks and other items deposited for collection are processed rapidly and in high volume, payor banks are not able to determine if customers authorize the creation of demand drafts. The depositary bank, which is charged with knowing its customer, is in the best position to avoid the introduction into the check collection system of an unauthorized

demand draft by scrutinizing the customers allowed to deposit those drafts. This change creates an additional warranty in the case of a demand draft to each transferee that the demand draft was authorized by the bank customer upon whose account it is drawn. This change shifts the risk to the depositary bank if its customer deposits an unauthorized demand draft for collection.

Demand drafts do not include instruments that bear forged or unauthorized signatures of customers. Demand drafts do not include instruments drawn or purportedly drawn and signed by a "fiduciary" as defined in Commercial Code Section 3307(a)(1). Instruments bearing forged or unauthorized signatures should be handled under the forgery provisions and unauthorized signature provisions of Divisions 3 and 4 of the Commercial Code, as applicable.

Application of this section is illustrated by two examples:

Case No. 1

X contacts Y by telephone or otherwise. X obtains Y's account number with Bank A and creates an instrument payable to X that lists Y as the maker of the instrument and has Y's bank account information encoded with magnetic ink character recognition symbols on the bottom of the instrument. In the signature block X affixes a stamp that states "SIGNATURE ON FILE." X deposits the instrument into X's account at Bank B. Bank B presents the instrument to Bank A for payment. Bank A pays the check and deducts the funds from Y's account. Y claims that he or she did not authorize the creation of the instrument to debit Y's account and Y did not receive any benefit from the payment. In this case, the instrument qualifies as a demand draft. Bank A has a breach of warranty claim against Bank B under Section 4208(a)(4) of the Commercial Code. Even if X had not affixed the stamp stating "SIGNATURE ON FILE" or included the name of Y on the instrument, the instrument would qualify as a demand draft because Y's bank account information is printed by encoding on the bottom of the instrument.

Case No. 2

Same facts as Case No. 1 except X includes Y's name on the instrument and by error or with intent X has Z's bank account information at Bank A encoded on the bottom of the instrument. Both Y and Z claim they did not authorize the instrument and did not receive benefit from the payment. The instrument qualifies as a demand draft. Bank A has a breach of warranty claim against Bank B under Sections 4208(a)(4) and 4209 of the Commercial Code.

Case No. 3

X fraudulently issues a check payable to Y drawn on Z's account with Bank A and signs the check "X attorney-in-fact for Z." Y deposits the check into Bank B, who presents the check to Bank A. Bank A pays the check and deducts the funds from Z's account. Z claims the check was not authorized and that X is not Z's attorney-in-fact, and that Z received no benefit from the payment. In this case, the check

is not a demand draft because the signature of X is on the instrument as a fiduciary.

CHAPTER 317

An act to add Section 76214 to the Government Code, relating to local government.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 76214 is added to the Government Code, to read:

76214. (a) Deposits collected in the Monterey County Courthouse Construction Fund shall continue through the 30th year after the initial year for which the surcharge or additional penalty, as defined in Section 76000, is collected, or through the 30th year after any borrowings are made for any construction funded pursuant to Section 76100.

(b) The Monterey County Treasurer shall deposit those amounts specified by the board of supervisors by resolution into the Monterey County Courthouse Construction Fund pursuant to Section 76000. However, deposits to the fund shall continue through whatever period of time is necessary to repay any borrowings made by Monterey County on or before January 1, 1998, to pay for construction provided in this chapter.

SEC. 2. Due to unique facts and circumstances applicable to Monterey County, insofar as the county requires assistance in expanding and improving its court facilities, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Special legislation is, therefore, necessarily applicable to only Monterey County.

CHAPTER 318

An act to amend Sections 22009.03, 22009.1, 22156, 22208, 22302, and 22560 of the Government Code, relating to public employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 22009.03 of the Government Code is amended to read:

22009.03. "Public agency" also includes a school district, a county superintendent of schools, and a regional occupational center or program established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, with respect to employees eligible for membership in the State Teachers' Retirement System.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 22009.1 of the Government Code is amended to read:

22009.1. "Retirement system" includes:

(a) A pension, annuity, retirement or similar fund or system established by a public agency and covering only positions of that agency.

(b) The Public Employees' Retirement System with respect only to employees of the state and employees of the University of California in positions covered by that system.

(c) The Public Employees' Retirement System with respect to employees of all school districts in positions covered under each contract entered into by a county superintendent of schools and the system.

(d) The State Teachers' Retirement System with respect to all employees in positions covered by that system except employees of a public agency having any employees in positions covered by such system who are also in positions covered by a local retirement system for the retirement of teachers, or for membership in which public school teachers are eligible, operated by city, city and county, county or other public agency or combination of public agencies of the state.

(e) The Legislators' Retirement System with respect to all employees in positions covered by that system.

(f) The Judges' Retirement System with respect to all employees in positions covered by that system.

(g) The University of California Retirement System only with respect to all employees in positions covered by that system.

(h) The San Francisco City and County Employees' Retirement System with respect to all employees in positions covered by that system.

(i) Any other retirement system with respect only to employees of any two or more of the public agencies having employees in positions covered by such system, as designated by the board and with regard to which the board authorizes conduct of a referendum.

(j) Any retirement system with respect only to employees of a hospital which is an integral part of a city incorporated between

January 15, 1898 and July 15, 1898 in positions covered by the system, as designated by the board on request of the city.

(k) Except as otherwise provided in subdivisions (b) through (j) above, any retirement system with respect to employees of each of the public agencies having employees in positions covered by the system.

(*l*) Each division or part of a retirement system, as defined in subdivisions (a), (b), (c), (e), (g), (h), (i), (j), (k), and (m) of this section, which is divided pursuant to this chapter into two parts:

(1) The part composed of the positions of members of such system who desire coverage under the federal system.

(2) The part composed of the positions of members of such system who do not desire coverage under the federal system.

(m) The State Teachers' Retirement System with respect to all employees of each public agency, as defined by Section 22009.03, in positions covered by that system. This subdivision shall become inoperative on July 1, 1999.

SEC. 3. Section 22156 of the Government Code is amended to read:

22156. (a) A division of the State Teachers' Retirement System is hereby authorized by the Legislature to provide Medicare coverage for employees of a public agency as defined in Section 22009.03, upon the request of the public agency.

(b) The division authorized by subdivision (a) shall be conducted pursuant to this article.

(c) A member of the State Teachers' Retirement System on whose behalf a request is made pursuant to subdivision (a), may elect to be covered by Medicare, pursuant to Section 218 of the federal Social Security Act (42 U.S.C. Sec. 418), and applicable federal regulations if (1) the member was employed in a position covered by the system on March 31, 1986, and (2) the member has not since been mandated into Medicare coverage due to the enactment of Public Law 99-272, and (3) the member is in a position covered or the member is eligible to elect to be covered by the retirement system on the date of the division.

(d) The public agency shall, immediately after the elections authorized in subdivision (b) have been made, make application pursuant to Chapter 2 (commencing with Section 22200) of this part for Medicare coverage for those members who have elected to receive Medicare coverage.

(e) The effective date of the coverage may be retroactive a maximum of five years but not earlier than January 1, 1987.

(f) This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 22208 of the Government Code is amended to read:

22208. With respect to each retirement system coverage group, the legislative or governing body of every public agency having employees in positions covered by a retirement system, may, upon the affirmative vote of a majority of eligible retirement system employees of the retirement system coverage group at a referendum conducted in accordance with Article 2 (commencing with Section 22300) of this chapter and the rules and regulations promulgated by the board pursuant to this part, make formal application to the board for the inclusion of the employees in each retirement system coverage group in the agreement. With respect to employees in positions covered by the retirement system set forth in subdivision (d) of Section 22009.1, the formal application shall be deemed to be made, if made prior to July 1, 1999, by the legislative or governing body of a public agency as defined in Section 22009.03, or if on or after July 1, 1999, by the Teachers' Retirement Board.

SEC. 5. Section 22302 of the Government Code is amended to read:

22302. In the case of employees in positions covered by the retirement system set forth in subdivision (d) of Section 22009.1, if prior to July 1, 1999, the legislative or governing body of a public agency as defined in Section 22009.03, or if on or after July 1, 1999, the Teachers' Retirement Board shall conduct the referendum; if the referendum is authorized by the Legislature.

In the case of employees in positions covered by the retirement system set forth in subdivision (g) of Section 22009.1 the board shall authorize the referendum upon the request of the Regents of the University of California and the Regents shall conduct the referendum.

SEC. 6. Section 22560 of the Government Code is amended to read:

22560. The board shall charge or assess each public agency as defined in Section 22009.03 and each public agency shall pay and reimburse the state at the times and in the amounts as the board may determine, the approximate cost to the state, of any and all work, services, equipment, and other administrative costs relating to a division under Article 2.5 (commencing with Section 22150) of Chapter 1 of this part or the referendum provided by Article 2 (commencing with Section 22300) of Chapter 2 of this part and requested by the agency. The charges may differ from public agency to public agency.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to continue the Medicare coverage of certificated school employees, this act must take effect immediately.

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CHAPTER 319

An act to amend Sections 10507, 10855, 12161, and 12301 of the Public Contract Code, and to amend Section 42202 of the Public Resources Code, relating to state contracts.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 10507 of the Public Contract Code is amended to read:

10507. For the purpose of this article, "recycled paper" means all paper and woodpulp products containing postconsumer and secondary materials as defined in this section. "Postconsumer material" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust or other wood residue from a manufacturing process.

"Recycled paper" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material, with not less than 10 percent of the fiber weight consisting of postconsumer material.

For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, and for other uncoated printing and writing papers, such as writing and office paper, book paper, cotton fiber paper containing 25 to 75 percent cotton fiber, and cover stock, the minimum content standard shall be no less than 20 percent of fiber weight of postconsumer materials beginning December 31, 1994. The minimum content standard shall be increased to 30 percent of fiber weight of postconsumer materials beginning on December 31, 1998.

SEC. 2. Section 10855 of the Public Contract Code is amended to read:

10855. For the purpose of this article, "recycled paper product" means all paper and woodpulp products containing postconsumer and secondary materials as defined in this section. "Postconsumer material" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of products or finished products of a manufacturing process, which has converted

a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

"Recycled paper product" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material with not less than 10 percent of fiber weight consisting of postconsumer material.

For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, and for other uncoated printing and writing papers, such as writing and office paper, book paper, cotton fiber paper containing 25 to 75 percent cotton fiber, and cover stock, the minimum content standard shall be no less than 20 percent of fiber weight of postconsumer materials beginning December 31, 1994. The minimum content standard shall be increased to 30 percent of fiber weight of postconsumer materials beginning on December 31, 1998.

SEC. 3. Section 12161 of the Public Contract Code is amended to read:

12161. For the purpose of this article, "recycled paper product" means all paper and woodpulp products containing postconsumer and secondary materials, as defined in this section. "Postconsumer material" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

"Recycled paper product" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material with not less than 10 percent of fiber weight consisting of postconsumer material.

For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, and for other uncoated printing and writing papers, such as writing and office paper, book paper, cotton fiber paper containing 25 to 75 percent cotton fiber, and cover stock, the minimum content standard shall be no less than 20 percent of fiber weight of postconsumer materials beginning December 31, 1994. The minimum content standard shall be increased to 30 percent of fiber weight of postconsumer materials beginning on December 31, 1998.

SEC. 4. Section 12301 of the Public Contract Code is amended to read:

12301. The following definitions govern the interpretation of this chapter:

(a) "Department" means the Department of General Services.

(b) "Board" means the California Integrated Waste Management Board, as defined pursuant to Section 40110 of the Public Resources Code.

(c) "Recycled paper product" means all paper and woodpulp products containing postconsumer and secondary materials. "Postconsumer material" means a finished material that would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process. "Recycled paper product" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material with not less than 10 percent of fiber weight consisting of postconsumer material.

For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, and for other uncoated printing and writing papers, such as writing and office paper, book paper, cotton fiber paper containing 25 to 75 percent cotton fiber, and cover stock, the minimum content standard shall be no less than 20 percent of fiber weight of postconsumer materials beginning December 31, 1994. The minimum content standard shall be increased to 30 percent of fiber weight of postconsumer materials beginning on December 31, 1998.

(d) (1) Except as provided in paragraph (2), "recycled product" means all materials, goods, and supplies, excluding paper products, no less than 50 percent of the total weight of which consists of secondary and postconsumer material with not less than 10 percent of its total weight consisting of postconsumer material. A recycled product shall include any product that could have been disposed of as solid waste having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of its form. "Postconsumer material" means a finished material that would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes postconsumer material, but does not include excess virgin resources of the manufacturing process.

(2) "Recycled product" also means other flat rolled steel products no less than 25 percent of the total weight of which consists of secondary and postconsumer material, with not less than 10 percent of total weight consisting of postconsumer material. Products made with flat rolled steel meeting these content percentages include, but are not limited to, automobiles, cans, appliances, and office furniture and supplies.

SEC. 5. Section 42202 of the Public Resources Code is amended to read:

42202. (a) "Recycled-content high grade, bleached printing and writing papers" means all paper and woodpulp products containing postconsumer material and secondary material. "Postconsumer material" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

(b) "Recycled paper product" means a paper product with not less than 50 percent by fiber weight consisting of secondary material or postconsumer material and with not less than 10 percent of the fiber weight consisting of postconsumer material.

(c) For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, and for other uncoated printing and writing papers, such as writing and office paper, book paper, cotton fiber paper containing 25 to 75 percent cotton fiber, and cover stock, the minimum content standard shall be no less than 20 percent of fiber weight of postconsumer materials beginning December 31, 1994. The minimum content standard shall be increased to 30 percent of fiber weight of postconsumer materials beginning on December 31, 1998.

CHAPTER 320

An act to amend Section 1722 of the Business and Professions Code, to amend Section 2204 of the Corporations Code, to amend Section 40054 of the Financial Code, to amend Sections 6006, 6988, 14971, 27574, 29028, 40576, 41008, 41867 and 52885 of the Food and Agricultural Code, to amend Sections 3541, 8164.1, 8870.4, 11101, 13332.07, 13943.2, 15865, 15866, 16475, 16486, 16487, 21155, and 29874 of, and to repeal Sections 13450, 13450.1, and 16304.6a of, the Government Code, to amend Section 685.3 of the Insurance Code, to

amend Section 3352 of the Labor Code, to amend Section 322 of the Military and Veterans Code, to amend Section 10302 of the Public Contract Code, to amend Sections 5008.4 and 6217 of the Public Resources Code, to amend Sections 30179, 30366, 32405, 43455, 45655, and 50142.1 of the Revenue and Taxation Code, and to amend Sections 1011 and 4121 of, and to repeal Sections 1077, 4310, and 4490 of, the Welfare and Institutions Code, relating to state expenditures.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 1722 of the Business and Professions Code is amended to read:

1722. The amount of seven hundred dollars ($700) of the fund shall constitute a revolving fund and may be drawn upon the warrant of the president and secretary of the board without being audited in the usual manner, in cases of emergency or where cash advances are necessary. However, after the sum of seven hundred dollars ($700) has been so expended, no further warrant shall be drawn on the revolving fund until expenditures previously made from it shall be substantiated by vouchers and itemized statements and audited. All expenditures from the revolving fund shall, at the end of each fiscal year, or at any other time when demand therefor is made by the Director of Finance or by the State Controller, be so substantiated and audited unless previously done.

SEC. 2. Section 2204 of the Corporations Code is amended to read:

2204. (a) Upon the failure of a corporation to file the statement required by Section 1502, the Secretary of State shall mail a notice of that delinquency to the corporation. The notice shall also contain information concerning the application of this section, advise the corporation of the penalty imposed by Section 19141 of the Revenue and Taxation Code for failure to timely file the required statement after notice of delinquency has been mailed by the Secretary of State, and shall advise the corporation of its right to request relief from the Secretary of State because of reasonable cause or unusual circumstances that justify the failure to file. If, within 60 days after the mailing of the notice of delinquency, a statement pursuant to Section 1502 has not been filed by the corporation, the Secretary of State shall certify the name of the corporation to the Franchise Tax Board.

(b) Upon certification pursuant to subdivision (a), the Franchise Tax Board shall assess against the corporation the penalty provided in Section 19141 of the Revenue and Taxation Code.

(c) The penalty herein provided shall not apply to a corporation that on or prior to the date of certification pursuant to subdivision (a) has dissolved or has been merged into another corporation.

(d) The penalty herein provided shall not apply and the Secretary of State need not mail a notice of delinquency to a corporation if the corporate powers, rights, and privileges have been suspended by the Franchise Tax Board pursuant to Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code on or prior to, and remain suspended on, the last day of the filing period pursuant to Section 1502. The Secretary of State need not mail a form pursuant to Section 1502 to a corporation if the corporate powers, rights and privileges have been so suspended by the Franchise Tax Board on or prior to, and remain suspended on, the day the Secretary of State prepares the forms for mailing.

(e) If, after certification pursuant to subdivision (a), the Secretary of State finds (1) the required statement was filed before the expiration of the 60-day period after mailing of the notice of delinquency, or (2) the failure to provide notice of delinquency was due to an error of the Secretary of State, the Secretary of State shall promptly decertify the name of the corporation to the Franchise Tax Board. The Franchise Tax Board shall then promptly abate any penalty assessed against the corporation pursuant to Section 19141 of the Revenue and Taxation Code.

(f) If the Secretary of State determines that the failure of a corporation to file the statement required by Section 1502 is excusable because of reasonable cause or unusual circumstances that justify the failure, the Secretary of State may waive the penalty imposed by this section and by Section 19141 of the Revenue and Taxation Code, in which case the Secretary of State shall not certify the name of the corporation to the Franchise Tax Board, or if already certified, the Secretary of State shall promptly decertify the name of the corporation.

SEC. 2.5. Section 40054 of the Financial Code is amended to read:

40054. The board shall elect a president of the association who shall be the chief executive officer and shall serve at the pleasure of the board. The board shall select and effect the appointment of qualified persons to fill the offices of vice president, and other offices that may be provided for in the bylaws. Persons elected or appointed under this section shall perform executive functions, powers, and duties that may be prescribed by the regulations and bylaws prescribed under this chapter and these persons shall be executive officers of the association and discharge all of the executive functions, powers, and duties. The president may, from time to time, employ technical experts and other employees that may, in his or her judgment, be necessary for the conduct of the business of the association.

The compensation of the president shall be established by the board in an amount that is reasonably necessary, in the discretion of the board, to attract and hold a person of superior qualifications. Members of the board shall not receive a salary but shall be entitled

to a per diem allowance in accordance with the rules and regulations promulgated by the Department of Personnel Administration.

SEC. 3. Section 6006 of the Food and Agricultural Code is amended to read:

6006. The director shall appoint a Cotton Pest Control Board, consisting of 10 members, to assist and advise him or her on matters which pertain to the control of cotton pests and to carry out its authority specified in this article.

The membership shall consist of at least one cottongrower from each of the major cotton-growing counties in the state, and one member who is not a cottongrower and who represents the public.

Any member of the board who misses two meetings without the permission of the board, is deemed to have resigned as a member of the board.

The board may meet in regular session each month. The chairperson of the board or the director may call any other meeting of the board at any time. Each member shall be allowed per diem and mileage in accordance with Department of Personnel Administration rules for attending any meeting of the board.

The board shall annually review the effectiveness of the cotton pest control program.

SEC. 4. Section 6988 of the Food and Agricultural Code is amended to read:

6988. The director shall, upon consultation with the pome and stone fruit tree, nut tree, and grapevine nursery industry, appoint a board to assist and advise him or her concerning the implementation of this article.

(a) Membership on the board shall consist of 11 representatives, a majority of whom are licensed producers of pome, stone, nut, and grape nursery stock, but also users and a public member as follows:

(1) Two each from the stone fruit (including almonds), pome fruit, and nut (other than almond) industries.

(2) Four from the grape industry.

(3) One public representative.

(b) Board members shall represent all areas of the state involved in the production of pome and stone fruit trees, nut trees, and grapevines.

(c) The members of the board shall serve for a term of two years. The director, upon nomination by the industry, may appoint a member for three consecutive terms. Every two years, the director shall reappoint no more than eight of the then-current members of the board.

(d) The board shall meet at least twice a year. The chair or the director may call any other meeting when it is deemed necessary by one or both of them. Each member shall be allowed per diem and mileage in accordance with Department of Personnel Administration rules for attending any meeting of the board.

(e) The board shall review and make recommendations to the director concerning the ongoing operations of the department and the University of California pertaining to this article. This shall include advice on fiscal expenditure, assessments needed to cover costs, and proposals concerning the development of planting materials.

SEC. 5. Section 14971 of the Food and Agricultural Code is amended to read:

14971. There is in state government a Feed Inspection Advisory Board consisting of eight persons appointed by the director, who are licensed under this chapter, and who are subject to payment of the inspection tonnage tax in accordance with this chapter. The director may appoint one additional member to the board who shall be a public member. The members of the board shall receive no salary, but are entitled to payment of necessary traveling expenses in accordance with Department of Personnel Administration rules. These expenses shall be paid out of appropriations made to the department.

Upon the director's request, the board shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state and not a producer, shipper, or processor nor financially interested in any producer, shipper, or processor, for appointment by the director as a public member of the board. The director may appoint one of the nominees as the public member on the board. If all nominees are unsatisfactory to the director, the board shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the board shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the board. The public member of the board shall represent the interests of the general public in all matters coming before the board and shall have the same voting and other rights and immunities as other members of the board.

SEC. 6. Section 27574 of the Food and Agricultural Code is amended to read:

27574. The committee shall meet at the call of its chairman, the director, or at the request of any three members of the committee. The committee shall meet at least once a year. Necessary expenditures incurred by the committee members in attending committee meetings may be reimbursed in accordance with Department of Personnel Administration rules.

SEC. 7. Section 29028 of the Food and Agricultural Code is amended to read:

29028. Each member of the board shall serve without compensation, but each member shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in attending meetings of the board and any other official duty authorized by the board and approved by the director. The reimbursements shall be

made in accordance with the rules of the Department of Personnel Administration.

SEC. 8. Section 40576 of the Food and Agricultural Code is amended to read:

40576. Each member of the committee, or any alternate member serving in the absence of a regular member, may, with the approval of the director, be reimbursed for the actual and necessary expenses incurred in the performance of his or her official duties. However, a member or alternate member may not receive any other consideration for serving on the committee. The reimbursement shall be made at the rate permitted under the rules of the Department of Personnel Administration.

SEC. 9. Section 41008 of the Food and Agricultural Code is amended to read:

41008. Each member of the committee, any alternate member serving in the absence of a regular member, and any member of an advisory committee appointed by the chairman of the committee, may, with approval of the director, be reimbursed for the actual and necessary expenses incurred in the performance of their official duties. However, members may not receive any other consideration. Any of these reimbursements shall be made at the rate permitted under the rules of the Department of Personnel Administration.

SEC. 10. Section 41867 of the Food and Agricultural Code is amended to read:

41867. Each member of the committee, any alternate member serving in the absence of a regular member, and any member of an advisory committee appointed by the chairman of the committee, may, with approval of the director, be reimbursed for the actual necessary expenses incurred in the performance of their official duties. Any reimbursement shall be made at the rate permitted under the rules of the Department of Personnel Administration and a member shall not receive any other compensation.

SEC. 11. Section 52885 of the Food and Agricultural Code is amended to read:

52885. No board member, alternate, member of a committee who is a nonmember of the board, or ex officio member shall receive a salary, but may, if approved by the board, be allowed per diem in accordance with Department of Personnel Administration rules for each day spent in actual attendance on, or in traveling to and from, meetings of the board or committees of the board, or on special assignment for the board.

SEC. 12. Section 3541 of the Government Code is amended to read:

3541. (a) There is in state government the Public Employment Relations Board which shall be independent of any state agency and shall consist of five members. The members of the board shall be appointed by the Governor by and with the advice and consent of the Senate. One of the original members shall be chosen for a term of one

year, one for a term of three years, and one for a term of five years. The first term for the two new members of the board resulting from the expansion of the board to five members shall be reduced by the Governor as necessary so that the term of only one member of the board shall expire in any given year. Thereafter, terms shall be for a period of five years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds. Members of the board shall be eligible for reappointment. The Governor shall select one member to serve as chairperson. A member of the board may be removed by the Governor upon notice and hearing for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the commission, and three members of the board shall at all times constitute a quorum.

(c) The board may delegate its powers to any group of three or more board members. Nothing shall preclude any board member from participating in any case pending before the board.

(d) Members of the board shall hold no other public office in the state, and shall not receive any other compensation for services rendered.

(e) Each member of the board shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2. In addition to his or her salary, each member of the board shall be reimbursed for all actual and necessary expenses incurred by him or her in the performance of his or her duties, subject to the rules of the Department of Personnel Administration relative to the payment of these expenses to state officers generally.

(f) The board shall appoint an executive director who shall be the chief administrative officer. The executive director shall appoint other persons that may, from time to time, be deemed necessary for the performance of the board's administrative functions, prescribe their duties, fix their compensation, and provide for reimbursement of their expenses in the amounts made available therefor by appropriation. The executive director shall be a person familiar with employer-employee relations. The executive director shall be subject to removal at the pleasure of the board. The Governor shall appoint a general counsel, upon the recommendation of the board, to assist the board in the performance of its functions under this chapter. The general counsel shall serve at the pleasure of the board.

(g) The executive director and general counsel serving the board on December 31, 1977, shall become employees of the Public Employment Relations Board and shall continue to serve at the discretion of the board. A person so employed may, independently of the Attorney General, represent the board in any litigation or other matter pending in a court of law to which the board is a party or in which it is otherwise interested.

(h) The Governor shall appoint one legal adviser for each member of the board upon the recommendation of that board member. Each appointee shall serve at the pleasure of the recommending board member and shall receive a salary as shall be fixed by the board with the approval of the Department of Personnel Administration.

(i) Attorneys serving the board on May 19, 1978, shall not be appointed as legal advisers to board members pursuant to subdivision (h) until the time that they have attained permanent civil service status.

(j) Notwithstanding subdivision (a), the member of the board appointed by the Governor for the term beginning on January 1, 1991, shall not be subject to the advice and consent of the Senate.

SEC. 13. Section 8164.1 of the Government Code is amended to read:

8164.1. There is in state government a Capitol Area Committee consisting of nine members who shall be appointed in the following manner:

(a) Four members of the committee shall be appointed by the Governor of which at least one member shall be appointed from a list of three candidates submitted by the City of Sacramento and at least one member shall be appointed from a list of three candidates submitted by the County of Sacramento. Two members shall be appointed for a term expiring December 31, 1979, and two for a term expiring December 31, 1981.

(b) Two members shall be appointed by the Speaker of the Assembly, one of whom may be a Member of the Assembly, and two members shall be appointed by the Senate Rules Committee, one of whom may be a Member of the Senate. Legislative members of the committee shall meet and, except as otherwise provided by the Constitution, advise the department to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. Of the four appointments by the Legislature, two shall be appointed for a term expiring December 31, 1979, and two for a term expiring December 31, 1981.

(c) One shall be appointed by and serve at the pleasure of the director.

Subsequent appointments pursuant to subdivisions (a) and (b) shall be for terms of four years, ending on December 31st of the fourth year after the end of the prior term, except that appointments to fill vacancies occurring for any reason other than the expiration of the term shall be for the unexpired portion of the term in which they occur. The members of the board shall hold office until their successors are appointed and qualify.

The members of the committee shall not receive compensation from the state for their services under this article but, when called to attend a meeting of the committee, shall be reimbursed for their actual and necessary expenses incurred in connection with the

meeting in accordance with the rules of the Department of Personnel Administration.

SEC. 14. Section 8870.4 of the Government Code is amended to read:

8870.4. The members of the Seismic Safety Commission shall serve without compensation but shall be paid per diem expenses of fifty dollars ($50) for each day's attendance at a meeting of the commission, plus actual necessary travel expenses as determined by Department of Personnel Administration rules.

SEC. 15. Section 11101 of the Government Code is amended to read:

11101. The Controller and any other state disbursing officer using that machine may secure forgery insurance protecting himself or herself and all funds under his or her control or under the control of the state agency to which the disbursing officer is attached against forgery resulting from or occasioned by the use of the machine, or which would not have occurred had the machine not been in use.

SEC. 16. Section 13332.07 of the Government Code is amended to read:

13332.07. No funds shall be used to purchase furnishings for any house, mobilehome, or apartment of three or more rooms other than a dormitory that is rented to a state employee. This provision shall not apply to the purchase of refrigerators, heaters, air-conditioning equipment, stoves, linoleum, or equipment normally furnished in the construction of a house, as may be determined by the Department of Personnel Administration. It is the intent of the Legislature that furnishings are not to be provided by the state and that no moneys shall be paid from any appropriation for their replacement or repair, except in connection with the disposal thereof.

SEC. 17. Section 13450 of the Government Code is repealed.

SEC. 18. Section 13450.1 of the Government Code is repealed.

SEC. 19. Section 13943.2 of the Government Code is amended to read:

13943.2. A state agency may refrain from collecting taxes, licenses, fees, or money owed to the state where the amount to be collected is two hundred fifty dollars ($250) or less and where the amount owed to the state is uncollectible or does not justify the cost of collection. This authority may be revoked by the board if the board finds that the agency abused its discretion to refrain from collecting taxes, licenses, fees, or money owed to the state. Nothing contained in this section shall be construed as releasing any person from the payment of any money due the state.

SEC. 21. Section 15865 of the Government Code is amended to read:

15865. Whenever the board finds that any portion of the funds in any appropriation for the acquisition of real property under this part is unneeded for the acquisition of the site for which the appropriation was made, the Director of Finance may, upon the recommendation

of the board, authorize the transfer of the unneeded funds to any other appropriation for the acquisition of real property made for expenditure under this part and in augmentation of the other appropriation. However, no part of any appropriation made for expenditure pursuant to this part for the acquisition of a site for the use of an institution, college, school, or other agency within a state department shall be transferred to an appropriation for the acquisition of a site for the use of an institution, college, school, or other agency within another state department. For the purposes of this section appropriations for sites for state office buildings, state garages, state warehouses, and official residences are for the use of the Department of General Services.

SEC. 22. Section 15866 of the Government Code is amended to read:

15866. Without at the time furnishing vouchers and itemized statements, the board may withdraw from any appropriation made for expenditure under this part a sum that may be approved by the Director of Finance for use as a revolving fund where payment of compensation or cash advances are necessary.

SEC. 23. Section 16304.6a of the Government Code is repealed.

SEC. 24. Section 16475 of the Government Code is amended to read:

16475. As of December 31 and June 30 all interest earned and other increment derived from investments made pursuant to this article shall, on order of the Controller, be deposited in the Surplus Money Investment Fund. The Controller, after deducting an amount equal to the reasonable costs incurred by the Treasurer and the Controller in carrying out this article, shall apportion, as of December 31st and June 30th of each year, to the following funds in the Treasury, interest earned or increment derived from the investments authorized by this article for the six calendar months ending with those dates:

(a) The General Fund.

(b) Each fund into which are deposited or which contains moneys collected from any tax now or hereafter imposed by this state upon the manufacture, sale, distribution, or use of motor vehicle fuel, for use in motor vehicles upon the public streets and highways.

(c) Each fund into which are deposited or which contains moneys collected from motor vehicle and other vehicle registration license fees or from any other tax or license fee now or hereafter imposed by the state upon vehicles, motor vehicles or the operation thereof, except those taxes and license fees that, by the provisions of Section 7 of Article XIX of the Constitution, are exempted from the provisions of Section 2 of Article XIX.

(d) Each fund into which are deposited or that contains moneys collected under any law of this state relating to the protection, conservation, propagation, or preservation of fish, game, mollusks, or

crustaceans, and fines imposed by any court for the violation of any of those laws.

(e) Each fund into which are deposited or that contains moneys available for construction, repair, replacement, maintenance or operation of public works of the state, including, but not limited to, the facilities of the State Water Resources Development System, as defined in Section 12931 of the Water Code, toll facilities financed, built, or acquired pursuant to the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000) of Division 17 of the Streets and Highways Code), or moneys available for the payment of principal or interest on bonds issued to provide for the construction of those facilities.

(f) Every other fund in respect to which the Director of Finance on the advice of the Attorney General determines that the operation of the California Constitution or the United States Constitution prohibits the expenditure of interest received under this article and allocated on the basis of amounts in that fund for General Fund purposes.

(g) Each fund not included within subdivisions (a) to (f), inclusive.

The apportionments shall be made by the Controller in the following manner:

(1) All money not apportioned to the funds referred to in subdivisions (b), (c), (d), (e), (f), and (g) shall be apportioned to the General Fund.

(2) There shall be apportioned to each of the funds referred to in subdivisions (b), (c), (d), (e), (f), and (g), an amount directly proportionate to the respective amounts transferred from those funds to the Surplus Money Investment Fund and the length of time the amounts remained therein.

(3) Interest accrued or paid to the Pooled Money Investment Account from the proceeds of tax-exempt obligations on loans made pursuant to Section 16312 or 16313, to the extent thereof, shall be deemed apportioned to the State Highway Account or any other accounts that may be designated by the Controller pursuant to Section 16654, but only to the extent of its proportionate earnings as determined under paragraph (2). This paragraph shall neither increase nor decrease the amount of earnings apportioned to any fund or account in accordance with this section. These moneys shall be deemed expended (or applied to reimburse expenditures previously paid) first following the allocation of these interest earnings of the Surplus Money Investment Fund to the State Highway Account or any other accounts that may be designated by the Controller pursuant to Section 16654. It is the intent of the Legislature that this paragraph shall authorize the Treasurer and the Controller to monitor the expenditure of the proceeds of tax-exempt obligations in order to comply with federal tax laws and shall neither increase nor decrease the amount of bonds, notes, or other

obligations to be issued by the state or any subdivision thereof, nor shall this paragraph be interpreted to indicate that the allocation is contrary to any bond act.

SEC. 25. Section 16486 of the Government Code is amended to read:

16486. For the purposes of this article, the following definitions shall apply:

(a) "Investing authority," with respect to any State Treasury fund, means the state agency authorized by law to purchase or sell bond investments on behalf of that fund.

(b) "Effective date" means the date on which the sale or transfer of bonds is to take effect.

(c) "Market value" means the market value of the bonds to be sold, purchased, or transferred, as that value is jointly determined by the respective investing authorities of the funds affected by the transaction, plus the accrued interest on the bonds, as of the effective date. If the respective investing authorities fail to agree, the "market value" of the bonds shall be determined by the Treasurer.

(d) "Bond" means any bond, note, or other form of indebtedness that is a legal investment for any state fund affected by the transaction.

SEC. 26. Section 16487 of the Government Code is amended to read:

16487. The State Controller may establish procedures for the purpose of carrying out the purposes set forth in Section 16485. These procedures are exempt from 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).

SEC. 27. Section 21155 of the Government Code is amended to read:

21155. If the board requests a person to submit to a medical examination, he or she shall be entitled to reimbursement for expenses of transportation, and meals and lodging incident to the examination if he or she is required to travel more than 50 miles one way. Standard per diem rates in effect for state employees as authorized by regulation of the Department of Personnel Administration shall be used for the reimbursement. However, higher costs of lodging may be paid if supported by receipt and determined necessary by the board. "Expenses of transportation" with respect to the use of private transportation includes mileage fees from the person's home to the place of examination and back to a maximum of 300 miles round trip or within the state at the appropriate current rate per mile authorized to state employees for use of private vehicles by regulation of the Department of Personnel Administration plus bridge tolls. The per diem and mileage may be paid to the person by this system at the time he or she is given notification of the time and place of examination.

SEC. 28. Section 29874 of the Government Code is amended to read:

29874. If the Department of Finance determines that the purchase will tend to effect the purpose of this article and that the county is eligible to make application, it may, with the approval of the Treasurer, purchase, in the name of the state, registered warrants of the county in the amount specified in the application or in any lesser amount agreed to by the county and approved by the State Department of Social Services.

SEC. 29. Section 685.3 of the Insurance Code is amended to read:

685.3. To the extent permitted by the California Constitution there is hereby imposed upon the commissioner the duty to enforce Section 685. It shall be the duty of the commissioner to initiate the enforcement and execution of Section 685 in respect to all matters which by the California Constitution or laws of this state require further or final action by other officials of this state. In respect to any matter initiated by the commissioner, it shall be the duty of the Board of Equalization and the Controller to complete the enforcement and execution of Section 685 in respect to that matter within the scope of the duties and powers of each as set forth in the California Constitution and laws of this state.

SEC. 30. Section 3352 of the Labor Code is amended to read:

3352. "Employee" excludes the following:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his or her parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk, deputy sheriff, or deputy constable appointed for his or her own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his or her services as the deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him or her for injury occurring in the course of and arising out of the employment.

(d) Any person performing voluntary services at or for a recreational camp, hut, or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101(6) of the Internal Revenue Code, of which he or she or a member of his or her family is a member and who receives no compensation for those services other than meals, lodging, or transportation.

(e) Any person performing voluntary service as a ski patrolman who receives no compensation for those services other than meals or lodging or the use of ski tow or ski lift facilities.

(f) Any person employed by a ski lift operator to work at a snow ski area who is relieved of and not performing any prescribed duties,

while participating in recreational activities on his or her own initiative.

(g) Any person, other than a regular employee, participating in sports or athletics who receives no compensation for the participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, or other expenses incidental thereto.

(h) Any person defined in subdivision (d) of Section 3351 who was employed by the employer to be held liable for less than 52 hours during the 90 calendar days immediately preceding the date of the injury for injuries, as defined in Section 5411, or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of the disease or injury for injuries, as defined in Section 5412, or who earned less than one hundred dollars ($100) in wages from the employer during the 90 calendar days immediately preceding the date of the injury for injuries, as defined in Section 5411, or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of the disease or injury for injuries, as defined in Section 5412.

(i) Any person performing voluntary service for a public agency or a private, nonprofit organization who receives no remuneration for the services other than meals, transportation, lodging, or reimbursement for incidental expenses.

(j) Any person, other than a regular employee, performing officiating services relating to amateur sporting events sponsored by any public agency or private, nonprofit organization, who receives no remuneration for these services other than a stipend for each day of service no greater than the amount established by the Department of Personnel Administration as a per diem expense for employees or officers of the state. The stipend shall be presumed to cover incidental expenses involved in officiating, including, but not limited to, meals, transportation, lodging, rule books and courses, uniforms, and appropriate equipment.

(k) Any student participating as an athlete in amateur sporting events sponsored by any public agency, public or private nonprofit college, university or school, who receives no remuneration for the participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, scholarships, grants-in-aid, or other expenses incidental thereto.

(*l*) Any law enforcement officer who is regularly employed by a local or state law enforcement agency in an adjoining state and who is deputized to work under the supervision of a California peace officer pursuant to paragraph (4) of subdivision (a) of Section 832.6 of the Penal Code.

(m) Any law enforcement officer who is regularly employed by the Oregon State Police, the Nevada Department of Motor Vehicles and Public Safety, or the Arizona Department of Public Safety and

who is acting as a peace officer in this state pursuant to subdivision (a) of Section 830.32 of the Penal Code.

(n) Any person, other than a regular employee, performing services as a sports official for an entity sponsoring an intercollegiate or interscholastic sports event, or any person performing services as a sports official for a public agency, public entity, or a private nonprofit organization, which public agency, public entity, or private nonprofit organization sponsors an amateur sports event. For purposes of this subdivision, "sports official" includes an umpire, referee, judge, scorekeeper, timekeeper, or other person who is a neutral participant in a sports event.

SEC. 31. Section 322 of the Military and Veterans Code is amended to read:

322. Officers, warrant officers, and enlisted men and women on active duty in the service of the state, except in situations described in Section 188, shall be reimbursed for their necessary traveling and other expenses in accordance with the rules and regulations adopted by the Department of Personnel Administration.

SEC. 32. Section 10302 of the Public Contract Code is amended to read:

10302. Except in cases of emergency where immediate purchase of supplies or equipment without bid is necessary for the protection of the public health, welfare, or safety, whenever the department purchases supplies or equipment in excess of fifteen thousand dollars ($15,000), all vendors who have notified the department in writing they desire to bid on supplies or equipment, and who have been prequalified in accordance with this section, shall be furnished with complete specifications as to the type, quality, quantity, and whenever practicable the date, place, and method of delivery of the equipment or supplies to be purchased. In addition to notifying those persons, the department shall post in a public place a copy of the specifications which shall remain posted until seven days after an award has been made. Whenever a purchase in excess of fifteen thousand dollars ($15,000) is made under this section or Section 10301 without the taking of bids, the department shall prepare a written document stating the fact of the purchase together with the facts requiring the purchase of the supplies or equipment without the taking of bids. This document shall be maintained by the department and shall be available as a public record.

SEC. 33. Section 5008.4 of the Public Resources Code is amended to read:

5008.4. Moneys deposited in the State Parks and Recreation Fund pursuant to Section 1463.02 of the Penal Code are available, when appropriated by the Legislature, only for the following purposes:

(a) The payment of refunds of fines and forfeitures determined by the Controller to have been erroneously deposited in the fund.

(b) The training of department employees in the Ranger/Lifeguard classification, including, but not limited to,

resource management and protection, law enforcement, interpretation, first aid, cardiopulmonary resuscitation and medical technical training, subject to all of the following:

(1) Reimbursement for training under the section shall not exceed the reimbursement rates of the Commission on Peace Officer Standards and Training, but reimbursements for salaries may be up to 100 percent of actual costs.

(2) Reimbursements for salaries shall be allocated to the assigned work locations of the employees receiving training to be used for salary or overtime payments for rangers and lifeguards assigned to those work locations.

(3) Expenditures under this subdivision in any fiscal year shall not exceed 90 percent of the moneys on deposit on June 30 of the preceding fiscal year.

SEC. 34. Section 6217 of the Public Resources Code is amended to read:

6217. With the exception of revenues derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property that has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenues, moneys, and remittances received by it under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and these sums shall be applied to the following obligations in the following order:

(a) To the General Fund, the revenue necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission, out of appropriations made for that purpose by the Legislature.

(2) Payment of expenditures of the commission as provided in the annual Budget Act approved by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for that purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to Section 6875.

(b) To the California Water Fund each fiscal year the amount of twenty-five million dollars ($25,000,000).

(c) To the Central Valley Water Project Construction Fund each fiscal year the amount of five million dollars ($5,000,000).

(d) (1) To the General Fund, the amount of five hundred twenty-five thousand dollars ($525,000) for each of the 1994–95, 1995–96, 1996–97, 1997–98, and 1998–99 fiscal years for distribution for public and private higher education for use as up to two-thirds of the local matching share for projects under the National Sea Grant College and Program Act of 1966 (P.L. 89-688) approved, upon the recommendation of the advisory panel appointed pursuant to this

section, by the Secretary of the Resources Agency or his or her designee. The Secretary of the Resources Agency shall submit a report to the Legislature on or before January 1, 1993, that evaluates this program and makes recommendations on whether changes should be made to the program or whether it should be continued. The Legislature shall consider recommendations from the Secretary of the Resources Agency and other interested parties on the benefits to the people of the state derived from this program and shall determine whether or not to continue similar appropriations for subsequent fiscal years.

(2) There shall be an advisory panel to the Secretary of the Resources Agency consisting of 17 members, which shall do all of the following:

(A) Identify state needs that might be met through Sea Grant research projects, including, but not limited to, such fields as living marine resources, aquaculture, ocean engineering, marine minerals, public recreation, coastal physical processes and coastal and ocean resources planning and management, and marine data acquisition and dissemination, establish priorities for those needs, and transmit those needs and priorities to the Legislature not later than January 1 of each year and include them in all announcements of proposals for grants in the following fiscal year.

(B) Review all applications for funding under this section and make recommendations based upon the priorities it establishes.

(C) Periodically review progress on Sea Grant research projects subsequent to their approval and funding under this section.

(D) Make recommendations to the Secretary of the Resources Agency with respect to the implementation of this section.

(3) The Secretary of the Resources Agency shall appoint the following members of the advisory panel, who shall serve at the pleasure of the secretary:

(A) A representative of the Department of Boating and Waterways.

(B) A representative of the Department of Conservation.

(C) A representative of the Department of Fish and Game.

(D) The Executive Director of the California Coastal Commission or his or her designee.

(E) A representative of the fish industry.

(F) A representative of the aquaculture industry.

(G) A representative of the ocean engineering industry.

(H) A representative of the University of California.

(I) A representative of the California State University.

(J) A representative of a private California institution of higher education which is participating in the National Sea Grant Program.

(K) A representative of the State Lands Commission.

(L) A representative of the Office of Environmental Health Hazard Assessment.

(M) A representative of the State Water Resources Control Board.

(N) A representative of the Office of Oil Spill Prevention and Response in the Department of Fish and Game, designated by the administrator for oil spill response.

(4) The Senate Committee on Rules shall appoint one Member of the Senate to the panel, who shall serve at the pleasure of the Senate Committee on Rules.

(5) The Speaker of the Assembly shall appoint one Member of the Assembly to the panel, who shall serve at the pleasure of the Speaker. This member shall not be of the same political party as the member appointed by the Senate Committee on Rules.

(6) The Secretary of the Resources Agency, or the secretary's designee, shall serve as chairperson of the panel. Panel members shall serve without compensation.

(7) The Sea Grant research projects selected for state support under this subdivision shall have a clearly defined benefit to the people of the state. These projects, to be conducted by universities, colleges, or other institutions participating in the California Sea Grant College Program, shall be applicable to marine and coastal resources management, policy, science, and engineering issues that face the state now or in the reasonably foreseeable future. The Legislature hereby finds and declares that the funding provided by this subdivision is needed to stimulate the development and utilization of ocean and coastal resources by working constructively with private sector firms and individuals. The Legislature further recognizes the high productivity of the California Sea Grant College Program, the only statewide program systematically devoted to supporting fundamental research, education, and extension activities on the diversity of problems related to marine resource protection and development. Nothing in this subdivision shall be construed to preclude the application for funding of any project that would be eligible for funding under the terms of the National Sea Grant College and Program Act of 1966.

(e) To the Capital Outlay Fund for Public Higher Education for the 1984–85 fiscal year the amount of one hundred two million one hundred sixty-eight thousand dollars ($102,168,000), and for each fiscal year thereafter, the amount necessary to provide for an unencumbered balance available for appropriation on July 1 of each fiscal year of one hundred twenty-five million dollars ($125,000,000).

(f) To the Energy and Resources Fund each fiscal year, commencing with the 1985–86 fiscal year, the amount of sixty-five million dollars ($65,000,000).

(g) To the Special Account for Capital Outlay, the balance of all revenues in excess of the amount distributed under subdivisions (a), (b), (c), (d), (e), and (f).

The commission may authorize the refund of moneys received or collected by it illegally or by mistake, inadvertence, or error. Claims authorized by the commission shall be filed with the Controller, and the Controller shall draw his or her warrant against the General Fund

in payment of the refund from any appropriation made for that purpose.

All references in any law to former Section 6816, which was repealed by Chapter 981 of the Statutes of 1968, shall be deemed to refer to this section.

SEC. 36. Section 30179 of the Revenue and Taxation Code is amended to read:

30179. Interest shall be computed, allowed, and paid upon any overpayment for the purchase of stamps or meter register settings at the modified adjusted rate per month established pursuant to Section 6591.5, from the 26th day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 37. Section 30366 of the Revenue and Taxation Code is amended to read:

30366. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the 26th day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 38. Section 32405 of the Revenue and Taxation Code is amended to read:

32405. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the 16th day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 39. Section 43455 of the Revenue and Taxation Code is amended to read:

43455. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the monthly period following the period during which the overpayment was made. For purposes of this section, "monthly period" means the month commencing on the day after the due date of the payment through the same date as the due date in each successive month. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 40. Section 45655 of the Revenue and Taxation Code is amended to read:

45655. Interest shall be computed, allowed, and paid upon any overpayment of any amount of fee at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the monthly period following the period during the period for which the overpayment was made. For purposes of this section, "monthly period" means the month commencing on the day after the due date of the payment through the same date as the due date in each successive month. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed.

(b) In the case of a credit, to the same date as that to which interest is computed on the fee or amount against which the credit is applied.

SEC. 40.5. Section 45655 of the Revenue and Taxation Code is amended to read:

45655. Interest shall be computed, allowed, and paid upon any overpayment of any amount of fee at the modified adjusted rate per month established pursuant to Section 6591.5, from the first day of the monthly period following the period for which the overpayment was made. For purposes of this section, "monthly period" means the month commencing on the day after the due date of the payment through the same date as the due date in each successive month. In addition, a refund or credit shall be made of any interest imposed

upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the monthly period following the date upon which the claimant is notified by the board that a claim may be filed.

(b) In the case of a credit, to the same date as that to which interest is computed on the fee or amount against which the credit is applied.

SEC. 41. Section 50142.1 of the Revenue and Taxation Code is amended to read:

50142.1. Interest shall be computed, allowed, and paid upon any overpayment of any amount of fee at the modified adjusted rate per month established pursuant to Section 6591.5, from the 26th day of the calendar month following the period during which the overpayment was made. In addition, a refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed.

(b) In the case of a credit, to the same date as that to which interest is computed on the fee or amount against which the credit is applied.

SEC. 42. Section 1011 of the Welfare and Institutions Code is amended to read:

1011. All expenses incurred in returning these persons to other states shall be paid by this state, but the expense of returning residents of this state shall be borne by the states making the returns.

The cost and expense incurred in effecting the transportation of these persons shall be paid from the funds appropriated for that purpose, or, if necessary, from the money appropriated for the care of these persons.

SEC. 43. Section 1077 of the Welfare and Institutions Code is repealed.

SEC. 44. Section 4121 of the Welfare and Institutions Code is amended to read:

4121. All expenses incurred in returning these persons to other states shall be paid by this state, the person or his or her relatives, but the expense of returning residents of this state shall be borne by the states making the returns.

The cost and expense incurred in effecting the transportation of these nonresident persons to the states in which they have residence shall be advanced from the funds appropriated for that purpose, or, if necessary, from the money appropriated for the care of delinquent or mentally disordered persons .

SEC. 45. Section 4310 of the Welfare and Institutions Code is repealed.

SEC. 46. Section 4490 of the Welfare and Institutions Code is repealed.

SEC. 47. Section 40.5 of this bill incorporates amendments to Section 45655 of the Revenue and Taxation Code proposed by both this bill and SB 1832. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1997, (2) each bill amends Section 45655 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1832, in which case Section 40 of this bill shall not become operative.

CHAPTER 321

An act to amend Section 5526 of the Business and Professions Code, relating to architects.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 5526 of the Business and Professions Code is amended to read:

5526. (a) The board shall adopt rules and regulations governing the examination of applicants for licenses to practice architecture in this state.

(b) The board may, by rule or regulation, adopt rules of professional conduct that are not inconsistent with state or federal law. Every person who holds a license issued by the board shall be governed and controlled by these rules.

(c) The board may adopt other rules and regulations as may be necessary and proper.

(d) The board may, from time to time, repeal, amend, or modify rules and regulations adopted under this section. No rule or regulation shall be inconsistent with this chapter.

(e) The adoption, repeal, amendment, or modification of these rules and regulations shall be made in accordance with the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

CHAPTER 322

An act to amend Section 15250.6 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 29, 1996. Filed with
Secretary of State July 29, 1996.]

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

SECTION 1. Section 15250.6 of the Vehicle Code is amended to read:

15250.6. (a) No person shall operate firefighting equipment unless that person has in his or her immediate possession a valid driver's license for the appropriate class of vehicle operated, or a license issued pursuant to subdivision (b).

(b) The department may issue a restricted driver's license for the appropriate class of vehicle to a firefighter for the operation of firefighting equipment. The restricted license shall be valid only for operating (1) firefighting equipment within this state, or in another state during a response under a mutual aid pact, or (2) any vehicle for which a class C driver's license is required.

(c) The restricted firefighter's license may be issued only to an applicant qualified by examination prescribed and conducted by the department.

The pretrip inspection and driving test required to receive the license shall be the same as required to obtain a license under Section 15250.

The written examination shall be developed by the department with the cooperation of the State Fire Marshal. The department shall include a sufficient number of questions from the examinations required to obtain a license under Section 15250 to ensure that passing the special examination under this section assures a level of safety comparable to examinations given under Section 15250.

(d) In lieu of a report of medical examination required by Section 12804.9, an applicant for a restricted license issued pursuant to subdivision (b) shall, upon application and every two years thereafter, submit medical information on a form approved by the department.

(e) Upon application for issuance of an original driver's license pursuant to subdivision (b), or for a duplicate driver's license or renewal of a driver's license issued pursuant to subdivision (b), there shall be paid to the department a fee of twenty-seven dollars ($27).

(f) A "firefighter" is any person employed as a firefighter by a federal or state agency or by a regularly organized fire department of a city, county, city and county, or district, or registered as a volunteer member of a regularly organized fire department having official recognition of the city, county, city and county, or district in which the department is located.

(g) "Firefighting equipment" means a motor vehicle used to travel to and from the scene of any emergency situation, or to transport equipment used in the control of any emergency situation, and which is owned by, or under the exclusive control of, a federal

or state fire agency or department, a regularly organized fire department of a city, county, city and county, or district, or a volunteer fire department having official recognition of the city, county, city and county, or district in which the department is located.

(h) For purposes of the penalties and sanctions prescribed by Article 7 (commencing with Section 15300), the operation of firefighting equipment under a license issued pursuant to subdivision (b) is deemed to be the operation of a commercial motor vehicle.

(i) The fees imposed by this section apply in lieu of the fee specified in Section 15250.5 to (1) an application for an original or duplicate driver's license on or after January 1, 1992, (2) an application for renewal of a driver's license which expires on or after January 1, 1992, and (3) an application for an original or duplicate driver's license or for renewal of a driver's license on or before December 31, 1991, for which the fee is not paid until on or after January 1, 1992.

CHAPTER 323

An act to amend Section 35555 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 35555 of the Vehicle Code is amended to read:

35555. During the period commencing September 15 of each year and ending March 15 of the following year, the weight limitations of Section 35551 do not apply to any cotton module mover or any truck tractor pulling a semitrailer that is a cotton module mover, when operated as follows:

(a) Laterally across a state highway at grade of the state highway.

(b) Upon any county highway within the Counties of Butte, Colusa, Fresno, Glenn, Imperial, Kern, Kings, Madera, Merced, Riverside, Sacramento, San Benito, San Bernardino, San Joaquin, Stanislaus, Sutter, Tehama, Tulare, Yolo, and Yuba except as prohibited or limited on county highways or portions thereof by resolution of the county board of supervisors having jurisdiction.

SEC. 2. Due to the unique facts and circumstances applicable only in the counties specified in this act, the Legislature finds and declares that a general statute cannot be made applicable within the

meaning of Section 16 of Article IV of the California Constitution, and, therefore, a special statute is necessary.

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

In order to allow the use of the cotton module movers in the counties added to Section 35555 of the Vehicle Code by this act, before the start of the 1996 cotton harvest, it is necessary that this act take effect immediately.

CHAPTER 324

An act to amend Section 70141.7 of the Government Code, relating to courts.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 70141.7 of the Government Code is amended to read:

70141.7. In any county with a population exceeding 650,000 and not exceeding 700,000, as determined by the 1970 federal census, the superior court may appoint four commissioners. The superior court may appoint a fifth commissioner if the superior court eliminates an occupied juvenile court referee position. The superior court may provide that the commissioners, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties prescribed in Section 259a of the Code of Civil Procedure and in addition thereto the duties of a probate commissioner appointed pursuant to Section 69897 of this code. The superior court may also authorize the commissioners to perform the duties of a juvenile court referee appointed pursuant to Section 553 of the Welfare and Institutions Code. Any commissioner authorized to perform the duties set forth above shall receive a salary equal to 80 percent of the salary of a judge of the superior court; provided, that upon the adoption of a resolution of the board of supervisors so providing, which takes effect on or after January 1, 1987, the salary shall be equal to 85 percent of the salary of a judge of the superior court. The salary shall be automatically increased periodically at the time and in the manner specified by Section 68203. Each commissioner shall also be allowed actual traveling expenses pursuant to Section 70148.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local

agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 325

An act to amend Sections 15051, 15053, 15054, and 15055 of, and to add Article 14 (commencing with Section 15101) to Chapter 6 of Division 7 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 15051 of the Food and Agricultural Code is amended to read:

15051. (a) Each person shall obtain a license from the secretary for each location where commercial feed is manufactured, distributed, sold, or stored for later sale.

(b) This section also shall apply to a person whenever the person's name and address appears on the label of commercial feed as guarantor.

(c) The following persons are exempt from this section:

(1) A person that makes only retail sales of commercial feed which bear the tag or other approved indication that the commercial feed is from a licensed manufacturer or guarantor who has assumed full tax responsibility for the tonnage tax due under this chapter.

(2) A person who manufactures commercial feed exclusively for feeding to his or her own animals.

SEC. 1.5. Section 15053 of the Food and Agricultural Code is amended to read:

15053. Each application for a license shall be accompanied by a fee of fifty dollars ($50) for each location for each two-year period beginning July 1 of each odd-numbered year, or portion of a two-year period beginning July 1 of each odd-numbered year.

SEC. 2. Section 15054 of the Food and Agricultural Code is amended to read:

15054. All licenses shall be renewed on July 1 of each odd-numbered year and shall be valid until June 30 of the next

odd-numbered year. Each application for renewal shall be accompanied by a fee of fifty dollars ($50) for each location operated.

SEC. 3. Section 15055 of the Food and Agricultural Code is amended to read:

15055. If a license is not renewed within one calendar month following its expiration, a penalty of twenty dollars ($20) shall be added to the fee.

SEC. 4. Article 14 (commencing with Section 15101) is added to Chapter 6 of Division 7 of the Food and Agricultural Code, to read:

Article 14. Complaints

15101. For purposes of this chapter, any person may file a complaint with the branch regarding the safety of whole hays if he or she submits a written complaint and pays a filing fee of two hundred fifty dollars ($250). The filing fee, which shall be used for purposes of investigating complaints filed pursuant to this article, shall be deposited in the Department of Food and Agriculture Fund to the account of the Commercial Feed Inspection Program.

15102. (a) Upon the filing of a complaint pursuant to Section 15101, the secretary shall conduct an investigation with regard to the safety of whole hays.

(b) Absent the filing of a complaint pursuant to Section 15101, the secretary may conduct an investigation with regard to the safety of whole hays if he or she determines that an investigation is necessary in order to protect animal health or the health of the public.

15103. (a) If the secretary determines that the complaint is valid and the hay is unsafe, the secretary may require the seller of the hay to reimburse the filing fee to the person filing the complaint.

(b) The secretary also may collect from any seller of hay the costs incurred by the secretary, not to exceed two thousand five hundred dollars ($2,500), in conducting any investigation regarding the safety of whole hay sold by that seller if the hay is ultimately deemed to be unsafe.

CHAPTER 326

An act relating to parks and recreation, and making an appropriation therefor.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. (a) For the development of land and other improvements within the California Citrus State Historic Park, and

for the acquisition of land in and near the California Citrus State Historic Park, located in the Arlington Heights area of Riverside, the City of Riverside may encumber money granted to the city pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (b) of Section 5907 of the Public Resources Code.

(b) The amount of the funds to be encumbered for purposes of subdivision (a) shall be determined by resolution of the City Council of the City of Riverside.

(c) Any funds expended pursuant to this section shall be for purposes that are consistent with the general plan for the California Citrus State Historic Park.

SEC. 2. Section 1 of this act is an amendment to the California Wildlife, Coastal, and Park Land Conservation Act (Division 5.8 (commencing with Section 5900) of the Public Resources Code) within the meaning of Section 6 of that act, and is consistent with the purposes of that act.

CHAPTER 327

An act to add and repeal Title 11.5 (commencing with Section 14170) of Part 4 of the Penal Code, relating to crime prevention.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Title 11.5 (commencing with Section 14170) is added to Part 4 of the Penal Code, to read:

TITLE 11.5. RURAL CRIME PREVENTION DEMONSTRATION PROJECT

14170. The Legislature finds and declares that California has experienced a severe escalation in crimes in general, both property and personal, and that there has been no concentrated effort applied to the prevention of crimes against the agricultural industry. Currently, no national or state agency keeps track of statistics on rural crime. According to media reports, this state lost millions of dollars worth of crops, livestock, and equipment in 1994 and 1995. A majority of these crimes occurred in agricultural-based counties. However, there has been no effort on the part of any state or local agency to accurately record these types of crimes.

The Legislature further finds and declares that there are no state or local law enforcement agencies in this state with programs that are specially designed to detect or monitor agricultural-based criminal activities. In addition, local law enforcement agencies do not possess

the jurisdictional authority, investigative facilities, or data systems to coordinate a comprehensive approach to the state's agricultural crime problem.

The Legislature additionally finds and declares that the proliferation of agricultural crime in the various rural counties of this state is a threat to the vitality of our rich agrarian tradition. Rural crime, if left unchecked, endangers an entire industry that is vital to America's continued economic role in the world, and therefore requires a proactive response from the Legislature. The intent of the Legislature in authorizing the Rural Crime Prevention Demonstration Project pursuant to this act is to provide for the protection and safety of the state's agriculture industry by creating statewide standards and methods of detecting and tracking agrarian crime.

14171. (a) The County of Tulare may develop the Rural Crime Prevention Demonstration Project which shall be administered by the Tulare County District Attorney's Office under a joint powers agreement with the Tulare County Sheriff's Office entered into pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

The parties to this agreement shall form a task force to include the Office of the Tulare County Agricultural Commissioner. The task force shall be an interactive team working together to develop problemsolving and crime control techniques, to encourage timely reporting of crimes, and to evaluate the results of these activities. The task force shall operate from a joint facility in order to facilitate investigative coordination. The task force shall also consult with experts from the United States military, the California Military Department, the Department of Justice, other law enforcement entities, and various other state and private organizations as deemed necessary to maximize the effectiveness of this project. Media and community support shall be solicited to promote this project.

(b) The staff for this pilot project shall consist of the following persons:

(1) A Tulare County sheriff's sergeant selected by the sheriff.

(2) Four Tulare County deputy sheriffs selected by the sheriff to provide the necessary patrol and protective services.

(3) A deputy district attorney and a criminal investigator selected by the district attorney to investigate, prepare, and vertically prosecute all cases generated as a result of the project.

(4) An office assistant and an account clerk selected by the district attorney to support the task force, manage the required budget, tabulate data for research, and prepare all necessary reports.

14172. (a) If the County of Tulare elects to develop the pilot project pursuant to this title, the project shall commence within 120 days of this title becoming operative, and shall continue for 36 months. Evaluation of all data collected with respect to this project shall continue during this 36-month period.

An additional three months shall be provided for the final compilation of data to be submitted to the Legislature.

(b) The County of Tulare shall report annually to the Legislature on the activities and accomplishments of the project. The report shall include all of the following information:

(1) A summary of the project's operation, activities, and costs.

(2) An itemized list of the number of arrests made during the life of the project.

(3) An account of the county's investigative role and itemization of the services provided by the county to other law enforcement agencies.

14173. The County of Tulare shall adopt rules and regulations for the implementation and administration of this project.

14174. At the end of each fiscal year, the County of Tulare shall prepare and submit to the Legislature a detailed cost-benefit analysis of the entire project, wherein the cost to operate the project shall be measured against savings realized from crime prevention, crime suppression, and the number of prosecutions resulting from the project. These savings shall include the reduction of economic loss resulting from crime during the life of the project.

14175. This title is repealed as of January 1, 2000, unless a later enacted statute, which is chaptered before this date, deletes or extends the date.

CHAPTER 328

An act to amend Sections 3146, 3148, and 3152 of the Business and Professions Code, relating to optometry.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 3146 of the Business and Professions Code is amended to read:

3146. A certificate issued under this chapter expires at 12 p.m. on the last day of the certificate holder's birth month following its original issuance and thereafter at 12 p.m. on the last day of the certificate holder's birth month every two years if not renewed. To renew an unexpired certificate, the certificate holder shall, before the time that the certificate would otherwise expire, apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

SEC. 2. Section 3148 of the Business and Professions Code is amended to read:

3148. From each fee for the renewal of a certificate of registration for the biennial renewal of a certificate of registration there shall be paid the sum of sixteen dollars ($16) by the Director of Consumer Affairs to the University of California.

This sum shall be used at and by the University of California solely for the advancement of optometrical research and the maintenance and support of the department at the university in which the science of optometry is taught.

The balance of each renewal fee shall be paid into the Optometry Fund.

SEC. 3. Section 3152 of the Business and Professions Code is amended to read:

3152. The amount of fees and penalties prescribed by this chapter shall be established by the board in amounts not greater than those specified in the following schedule:

(a) The fee for applicants applying for a certificate of registration who present credentials of graduation from an accredited school of optometry shall not exceed two hundred seventy-five dollars ($275) that shall not be refunded, except that applicants who are found ineligible to take an examination for a certificate of registration are entitled to a refund of a maximum of one hundred seventy-five dollars ($175).

(b) The fee for biennial renewal of a certificate of registration shall not exceed three hundred dollars ($300).

(c) The delinquency fee shall not exceed twenty-five dollars ($25).

(d) The annual fee for the renewal of a branch office license shall not exceed seventy-five dollars ($75).

(e) The fee for a branch office license shall not exceed seventy-five dollars ($75).

(f) The penalty for failure to pay the annual fee for renewal of a branch office license shall not exceed twenty-five dollars ($25).

(g) The fee for restoration of a certificate of registration after suspension for failure to comply with the provisions of this chapter relating to branch offices shall not exceed seventy-five dollars ($75).

(h) The fee for issuance of a certification of registration or upon change of name authorized by law of a person holding a certificate of registration under this chapter shall not exceed twenty-five dollars ($25).

(i) The board shall submit a report to the fiscal and appropriate policy committees of the Legislature whenever the board increases any fee. The report shall specify the rationale and justification for that increase and include the percentage of the fee increase to be used for enforcement purposes.

CHAPTER 329

An act to amend and repeal Section 33413 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 33413 of the Health and Safety Code, as amended by Section 13 of Chapter 936 of the Statutes of 1994, is amended to read:

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project which is subject to a written agreement with the agency or where financial assistance has been provided by the agency, the agency shall, within four years of the destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units which have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs within the territorial jurisdiction of the agency. When dwelling units are destroyed or removed after September 1, 1989, 75 percent of the replacement dwelling units shall replace dwelling units available at affordable housing cost in the same income level of very low income households, lower income households, and persons and families of low and moderate income, as the persons displaced from those destroyed or removed units.

(b) (1) At least 30 percent of all new and substantially rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 50 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(2) (A) (i) At least 15 percent of all new and substantially rehabilitated dwelling units developed within a project area under the jurisdiction of an agency by public or private entities or persons other than the agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to very low income households.

(ii) To satisfy the provisions of this paragraph, in whole or in part, the agency may cause, by regulation or agreement, to be available, at affordable housing costs, to persons and families of low or moderate income or to very low income households, as applicable, two units outside a project area for each unit that otherwise would have had to be available inside a project area.

(iii) As used in this paragraph and in paragraph (1), "substantially rehabilitated dwelling units" means substantially rehabilitated multifamily rented dwelling units with three or more units or substantially rehabilitated, with agency assistance, single-family dwelling units with one or two units.

(iv) As used in this paragraph and in paragraph (1), "substantial rehabilitation" means rehabilitation, the value of which constitutes 25 percent of the after rehabilitation value of the dwelling, inclusive of the land value.

(v) To satisfy the provisions of this paragraph, the agency may aggregate new or substantially rehabilitated dwelling units in one or more project areas, provided that the agency finds, based on substantial evidence, after a public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or economic segregation.

(B) To satisfy the requirements of paragraph (1) and subparagraph (A), the agency may purchase, or otherwise acquire or cause by regulation or agreement the purchase or other acquisition of, long-term affordability covenants on multifamily units that restrict the cost of renting or purchasing those units that either: (i) are not presently available at affordable housing cost to persons and families of low or very low income households, as applicable; or (ii) are units that are presently available at affordable housing cost to this same group of persons or families, but are units that the agency finds, based upon substantial evidence, after a public hearing, cannot reasonably be expected to remain affordable to this same group of persons or families.

(C) To satisfy the requirements of paragraph (1) and subparagraph (A), the long-term affordability covenants purchased or otherwise acquired pursuant to subparagraph (B) shall be required to be maintained on dwelling units at affordable housing cost for not less than 30 years. Not more than 50 percent of the units made available pursuant to paragraph (1) and subparagraph (A) may be assisted through the purchase or acquisition of long-term affordability covenants pursuant to subparagraph (B). Not less than 50 percent of the units made available through the purchase or acquisition of long-term affordability covenants pursuant to subparagraph (B) shall be available at affordable housing cost to, and occupied by, very low income households.

(3) The requirements of this subdivision shall apply independently of the requirements of subdivision (a). The requirements of this subdivision shall apply, in the aggregate, to housing made available pursuant to paragraphs (1) and (2),

respectively, and not to each individual case of rehabilitation, development, or construction of dwelling units, unless an agency determines otherwise.

(4) Each redevelopment agency, as part of the implementation plan required by Section 33490, shall adopt a plan to comply with the requirements of this subdivision for each project area. The plan shall be consistent with, and may be included within, the community's housing element. The plan shall be reviewed and, if necessary, amended at least every five years in conjunction with either the housing element cycle or the plan implementation cycle. The plan shall ensure that the requirements of this subdivision are met every 10 years. If the requirements of this subdivision are not met by the end of each 10-year period, the agency shall meet these goals on an annual basis until the requirements for the 10-year period are met. If the agency has exceeded the requirements within the 10-year period, the agency may count the units that exceed the requirement in order to meet the requirements during the next 10-year period. The plan shall contain the contents required by paragraphs (2) and (3) of subdivision (a) of Section 33490.

(c) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, constructed, or price-restricted pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low-income, moderate-income, and very low income households, respectively, for the longest feasible time, as determined by the agency, but for not less than the period of the land use controls established in the redevelopment plan, except for the following:

(1) A longer period of time may be required by other provisions of law.

(2) (A) The agency may permit sales of owner-occupied units prior to the expiration of the period of the land use controls established by the agency for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds, based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency, and deposited into the Low and Moderate Income Housing Fund. The agency shall, within three years from the date of sale of units under this subparagraph, expend funds to make affordable an equal number of units at the same income level as units sold under this subparagraph.

(B) If land on which those dwelling units are located is deleted from the project area, the agency shall continue to require that those units remain affordable as specified in this subdivision. The

requirements of this subdivision shall be made enforceable in the same manner as provided in subdivision (f) of Section 33334.3.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1976, and to areas which are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. In addition, subdivision (a) shall apply to any other redevelopment project with respect to dwelling units destroyed or removed from the low- and moderate-income housing market on or after January 1, 1996, irrespective of the date of adoption of a final redevelopment plan or an amendment to a final redevelopment plan adding areas to a project area. Additionally, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall replace each dwelling unit with up to three replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, this section does not authorize an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

(f) Notwithstanding subdivision (a), the agency may replace destroyed or removed dwelling units with a fewer number of replacement dwelling units if the replacement dwelling units meet both of the following criteria:

(1) The total number of bedrooms in the replacement dwelling units equals or exceeds the number of bedrooms in the destroyed or removed units. Destroyed or removed units having one or no bedroom are deemed for this purpose to have one bedroom.

(2) The replacement units are affordable to the same income level of households as the destroyed or removed units.

(g) "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

(h) On or before January 1, 2000, the department shall report to the Legislature regarding the redevelopment agencies' use of the provisions that were added to this section by Chapter 942 of the Statutes of 1993 as further amended by Chapter 936 of the Statutes of 1994. The department may make this report part of its report to the Legislature pursuant to Section 33080.6.

(i) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 2. Section 33413 of the Health and Safety Code, as amended by Section 13.5 of Chapter 936 of the Statutes of 1994, is amended to read:

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project which is subject to a written agreement with the agency or where financial assistance has been provided by the agency, the agency shall, within four years of the destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units which have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing cost within the territorial jurisdiction of the agency. When dwelling units are destroyed or removed after September 1, 1989, 75 percent of the replacement dwelling units shall replace dwelling units available at affordable housing cost in the same income level of very low income households, lower income households, and persons and families of low and moderate income, as the persons displaced from those destroyed or removed units.

(b) (1) At least 30 percent of all new or rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 50 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(2) At least 15 percent of all new or rehabilitated dwelling units developed within the project area by public or private entities or persons other than the agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to very low income households.

(3) The requirements of this subdivision shall apply independently of the requirements of subdivision (a) and in the aggregate to housing made available pursuant to paragraphs (1) and (2), respectively, and not to each individual case of rehabilitation, development, or construction of dwelling units.

(4) Each redevelopment agency, as part of the implementation plan required by Section 33490, shall adopt a plan to comply with the requirements of this subdivision for each project area. The plan shall be consistent with, and may be included within, the community's housing element. The plan shall be reviewed and, if necessary, amended at least every five years in conjunction with either the housing element cycle or the plan implementation cycle. The plan

shall ensure that the requirements of this subdivision are met every 10 years. If the requirements of this subdivision are not met by the end of each 10-year period, the agency shall meet these goals on an annual basis until the requirements for the 10-year period are met. If the agency has exceeded the requirements within the 10-year period, the agency may count the units that exceed the requirement in order to meet the requirements during the next 10-year period. The plan shall contain the contents required by paragraphs (2) and (3) of subdivision (a) of Section 33490.

(c) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, or constructed pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low-income, moderate-income, and very low income households, respectively, for the longest feasible time, as determined by the agency, but for not less than the period of the land use controls established in the redevelopment plan, except to the extent a longer period of time may be required by other provisions of law. If land on which those dwelling units are located is deleted from the project area, the agency shall continue to require that those units remain affordable as specified in the previous sentence. These requirements shall be made enforceable in the same manner as provided in subdivision (e) of Section 33334.3.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1976, and to areas which are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. In addition, subdivision (a) shall apply to any other redevelopment project with respect to dwelling units destroyed or removed from the low- and moderate-income housing market on or after January 1, 1996, irrespective of the date of adoption of a final redevelopment plan or an amendment to a final redevelopment plan adding areas to a project area. Additionally, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall replace each dwelling unit with up to three replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, this section does not authorize an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

(f) Notwithstanding subdivision (a), the agency may replace destroyed or removed dwelling units with a fewer number of replacement dwelling units if the replacement dwelling units meet both of the following criteria:

(1) The total number of bedrooms in the replacement dwelling units equal or exceed the number of bedrooms in the destroyed or removed units. Destroyed or removed units having one or no bedroom are deemed for this purpose to have one bedroom.

(2) The replacement units are affordable to the same income level of households as the destroyed or removed units.

(g) "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

(h) Any dwelling units constructed, rehabilitated, or acquired prior to January 1, 1997, pursuant to provisions that were in effect at the time of the construction, rehabilitation, or acquisition may continue to be counted to meet the requirements of this section.

(i) This section shall become operative on January 1, 2001.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 330

An act to amend Sections 14551 and 14553 of, and to add Section 14551.5 to, the Financial Code, relating to credit unions.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 14551 of the Financial Code is amended to read:

14551. The supervisory committee may:

(a) Suspend at any time by unanimous vote, at a meeting called for that purpose, the credit committee, or any member thereof, or the credit manager, or any member of the board of directors, or any officer.

(b) By a majority vote call a meeting of the members to consider any violation of this division or the bylaws, or any practices of the credit union which, in the opinion of the committee, are unsafe or unauthorized.

(c) Inspect the securities, cash, and accounts of the credit union.

(d) Fill vacancies in the supervisory committee until the next annual meeting of the members.

(e) Declare vacant any office of a member of the supervisory committee if such member is absent from three consecutive regular meetings of the supervisory committee unless excused therefrom or is completely inactive as a member of the supervisory committee for a consecutive 12 months' period.

SEC. 2. Section 14551.5 is added to the Financial Code, to read:

14551.5. The supervisory committee shall be responsible for reviewing the credit union's policies and control procedures to safeguard against fraud and self-dealing, and the supervisory committee shall exercise whatever efforts are necessary pursuant to Sections 14551 and 14553 to meet those responsibilities.

SEC. 3. Section 14553 of the Financial Code is amended to read:

14553. (a) The supervisory committee shall at least once each year make or cause to be made an audit of the books and records and an examination of the business and affairs of the credit union. The supervisory committee shall make a full report of the assets and liabilities, receipts and disbursements of the credit union to the board of directors. Those reports shall be read at the annual meeting of members and filed with the records of the credit union.

(b) The supervisory committee may make or cause to be made any supplementary inspections of the securities, cash, and accounts of the credit union or audits as it deems necessary, and submit reports of those audits to the board of directors.

CHAPTER 331

An act to amend Section 7125 of the Business and Professions Code, relating to contractors.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 7125 of the Business and Professions Code is amended to read:

7125. (a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee have on file a Certificate of Workers' Compensation Insurance or Certification of

Self-Insurance. A Certificate of Workers' Compensation Insurance shall be issued and filed by one or more insurers duly licensed to write workers' compensation insurance in this state. A Certification of Self-Insurance shall be issued and filed by the Director of Industrial Relations. If reciprocity conditions exist, as defined in Section 3600.5 of the Labor Code, the registrar shall require the information deemed necessary to assure compliance with this section.

(b) This section does not apply to an applicant or licensee who has no employees provided that he or she files a statement with the board on a form prescribed by the registrar that he or she does not employ any person in any manner so as to become subject to the workers' compensation laws of California. The filing of a false statement constitutes a cause for disciplinary action.

(c) No certificate of workers' compensation insurance, certification of self-insurance, or exemption-certificate is required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) The insurer, including the State Compensation Insurance Fund, shall report to the registrar any cancellation of the policy within 10 days after the cancellation.

CHAPTER 332

An act to amend Section 12804 of the Government Code, to amend Sections 13073, 13100, 13101, 13103, 13104.5, 13105, 13107, 13108, 13109, 13113, 13114, 13115, 13120, 13121, 13122, 13124, 13127, 13128, 13129, 13140, 13142.6, 13143, 13143.8, 13144.1, 13146.3, 13158, and 25197.2 of, and to repeal Sections 13102, 13110, and 13111.2 of, the Health and Safety Code, to amend Section 13510.5 of the Penal Code, and to add Section 702 to the Public Resources Code, relating to fire protection.

[Approved by Governor July 29, 1996. Filed with Secretary of State July 29, 1996.]

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

SECTION 1. Section 12804 of the Government Code is amended to read:

12804. (a) The Agriculture and Services Agency is hereby renamed the State and Consumer Services Agency.

(b) The State and Consumer Services Agency consists of the following: the Department of General Services; the Department of Consumer Affairs; the Franchise Tax Board; the Public Employees' Retirement System; the State Teachers' Retirement System; the Department of Fair Employment and Housing; the California Museum of Science and Industry; and the California Building Standards Commission.

SEC. 2. Section 13073 of the Health and Safety Code is amended to read:

13073. The Office of Emergency Services shall carry out this chapter in cooperation with the Department of Forestry and Fire Protection, including the Office of the State Fire Marshal, and with the advice of the Fire and Rescue Service Advisory Committee/FIRESCOPE Board of Directors within the Office of Emergency Services. The Fire and Rescue Service Advisory Committee/FIRESCOPE Board of Directors shall submit periodic reports to the Joint Committee on Fire, Police, Emergency and Disaster Services of the Legislature on the status of the FIRESCOPE Program.

SEC. 3. Section 13100 of the Health and Safety Code is amended to read:

13100. (a) The Office of the State Fire Marshal is hereby created in the Department of Forestry and Fire Protection. The Office of the State Fire Marshal shall be administered by the State Fire Marshal, who shall be a Chief Deputy Director of Forestry and Fire Protection in accordance with paragraph (1) of subdivision (b) of Section 702 of the Public Resources Code and appointed pursuant to Section 13101 of this code.

(b) The Office of the State Fire Marshal and the State Fire Marshal in the Department of Forestry and Fire Protection succeed to, and are vested with, all of the powers, duties, responsibilities, and jurisdiction of the former Office of the State Fire Marshal and the former State Fire Marshal, as the case may be, in the State and Consumer Services Agency.

(c) Wherever any reference is made in any law to the former Office of the State Fire Marshal or to the former State Fire Marshal in the State and Consumer Services Agency pertaining to a power, duty, responsibility, or jurisdiction transferred to, and vested in, the Office of the State Fire Marshal or the State Fire Marshal in the Department of Forestry and Fire Protection, the reference shall be deemed to be a reference to, and to mean, the Office of the State Fire Marshal or the State Fire Marshal in the Department of Forestry and Fire Protection, as the case may be.

SEC. 4. Section 13101 of the Health and Safety Code is amended to read:

13101. The State Fire Marshal shall be appointed by the Governor with the advice and consent of the Senate and shall hold office at the pleasure of the Governor. In order to be eligible for appointment, he or she shall have had not less than eight years experience in a regularly organized fire department in this State. He or she shall be paid the annual salary provided for by Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 13102 of the Health and Safety Code is repealed.

SEC. 6. Section 13103 of the Health and Safety Code is amended to read:

13103. The State Fire Marshal may appoint those assistant or deputy state fire marshals as he or she may consider necessary from among active chiefs of fire departments, fire marshals of cities, counties, and districts providing fire protection, and the salaried field assistants of the State Fire Marshal.

The State Fire Marshal and the assistant or deputy state fire marshals shall exercise the functions of peace officers.

SEC. 7. Section 13104.5 of the Health and Safety Code is amended to read:

13104.5. Except on property which has been deeded to the state for taxes, the Department of Forestry and Fire Protection may abate fire hazards existing on property owned, controlled, or held in trust by the state, in areas not under the jurisdiction of the Director of Forestry and Fire Protection, upon the request of the legislative body of the city, county, or city and county within which the property is situated. The cost of the abatement shall be paid out of any money in the State Treasury appropriated for that purpose.

SEC. 8. Section 13105 of the Health and Safety Code is amended to read:

13105. The State Fire Marshal shall encourage the adoption of fire prevention measures by means of education, engineering, and enforcement and shall prepare or cause to be prepared for dissemination information relating to the subject of fire prevention and extinguishment.

SEC. 9. Section 13107 of the Health and Safety Code is amended to read:

13107. (a) The State Fire Marshal shall investigate every explosion or fire occurring in any state institution, state-owned building, or any building which is determined, pursuant to regulations adopted by the State Fire Marshal, to be state occupied, and every explosion or fire occurring in those areas of the state not under the jurisdiction of a legally organized fire department or fire protection district or other public entity, including, but not limited to, the state, which provides fire protection in which there is suspicion that the crime of arson or attempted arson has been committed.

(b) Upon request of the chief fire official of a legally organized fire department or fire protection district, or the governing body thereof, or upon request of the chief of a police department or the sheriff regarding a fire which occurs in an area where there is no operating arson investigation unit, the State Fire Marshal shall, within the limitation of resources and manpower established for those purposes, investigate any explosion or fire occurring within the jurisdiction of the requesting official in which there is suspicion that the crime of arson or attempted arson has been committed.

(c) The State Fire Marshal shall cooperate in the establishment of a program for training fire department personnel in arson investigation and detection.

(d) In order to carry out his or her responsibilities and duties pursuant to this section, the State Fire Marshal shall establish an arson investigation unit within his or her office, which shall be staffed with necessary personnel to perform the function for which the unit is established.

(e) If there is reason to believe that any fire or explosion investigated by the State Fire Marshal resulted from a crime or that a crime has been committed in connection with it, the State Fire Marshal shall report that fact in writing to the district attorney of the county in which the fire or explosion occurred.

SEC. 10. Section 13108 of the Health and Safety Code is amended to read:

13108. (a) Except as limited by Chapter 6 (commencing with Section 140) of Division 1 of the Labor Code and Section 18930 of this code, the State Fire Marshal shall prepare and adopt building standards, not inconsistent with existing laws or ordinances, relating to fire protection in the design and construction of the means of egress and the adequacy of exits from, and the installation and maintenance of fire alarm and fire extinguishment equipment or systems in, any state institution or other state-owned building or in any state-occupied building and submit those building standards to the State Building Standards Commission for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of this code. The State Fire Marshal shall prepare and adopt regulations other than building standards for the installation and maintenance of equipment and furnishings that present unusual fire hazards in any state institution or other state-owned building or in any state-occupied building. The State Fire Marshal shall adopt those regulations as are reasonably necessary to define what buildings shall be considered as state-occupied buildings.

(b) The fire chief of any city, county, or fire protection district, or that official's authorized representative, may enter any state institution or any other state-owned or state-occupied building for the purpose of preparing a fire suppression preplanning program or for the purpose of investigating any fire in a state-occupied building.

(c) Except as otherwise provided in this section, the State Fire Marshal shall enforce the regulations adopted by him or her and building standards relating to fire and panic safety published in the California Building Standards Code in all state-owned buildings, state-occupied buildings, and state institutions throughout the state. Upon written request from the chief fire official of any city, county, or fire protection district, the State Fire Marshal may authorize that chief fire official and his or her authorized representatives, in their geographical area of responsibility, to make fire prevention inspections of state-owned or state-occupied buildings, other than state institutions, for the purpose of enforcing the regulations relating to fire and panic safety adopted by the State Fire Marshal pursuant

to this section and building standards relating to fire and panic safety published in the California Building Standards Code. Authorization from the State Fire Marshal shall be limited to those fire departments or fire districts which maintain a fire prevention bureau staffed by paid personnel.

(d) Any requirement or order made by any chief fire official pursuant to this section may be appealed to the State Fire Marshal. The State Fire Marshal shall, upon receiving an appeal and subject to the provisions of Chapter 5 (commencing with Section 18945) of Part 2.5 of Division 13 of this code, determine if the requirement or order made is reasonably consistent with the fire and panic safety regulations adopted by him or her and building standards relating to fire and panic safety published in the California Building Standards Code.

SEC. 11. Section 13109 of the Health and Safety Code is amended to read:

13109. The State Fire Marshal, his or her deputies, or his or her salaried assistants, the chief of any city or county fire department or fire protection district and their authorized representatives may enter any building or premises not used for dwelling purposes at any reasonable hour for the purpose of enforcing this chapter. The owner, lessee, manager or operator of any such building or premises shall permit the State Fire Marshal, his or her deputies, his or her salaried assistants and the chief of any city or county fire department or fire protection district and their authorized representatives to enter and inspect them at the time and for the purpose stated in this section.

SEC. 12. Section 13110 of the Health and Safety Code is repealed.

SEC. 13. Section 13111.2 of the Health and Safety Code is repealed.

SEC. 14. Section 13113 of the Health and Safety Code is amended to read:

13113. (a) Except as otherwise provided in this section, no person, firm, or corporation shall establish, maintain, or operate any hospital, children's home, children's nursery, or institution, or a home or institution for the care of aged or senile persons, or any sanitarium or institution for insane or mentally retarded persons and any nursing or convalescent home, wherein more than six guests or patients are housed or cared for on a 24-hour-per-day basis unless there is installed and maintained in an operable condition in every building or portion thereof where patients or guests are housed an automatic sprinkler system approved by the State Fire Marshal.

(b) This section shall not apply to homes or institutions for the 24-hour-per-day care of ambulatory children if all of the following conditions are satisfied:

(1) The buildings or portions thereof in which children are housed are not more than two stories in height and are constructed and maintained in accordance with regulations adopted by the State Fire

Marshal pursuant to Section 13143 and building standards published in the California Building Standards Code.

(2) The buildings or portions thereof housing more than six children shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. The system shall be activated by detectors responding to invisible products of combustion other than heat.

(3) The buildings or portions thereof do not house mentally ill or mentally retarded children.

(c) This section shall not apply to any one-story building or structure of an institution or home for the care of the aged providing 24-hour-per-day care if such building or structure is used or intended to be used for the housing of no more than six ambulatory aged persons. However, the buildings or institutions shall have installed and maintained in an operable condition therein a fire alarm system of a type approved by the State Fire Marshal. The system shall be activated by detectors responding to products of combustion other than heat.

(d) This section shall not apply to occupancies, or any alterations thereto, located in type I construction, as defined by the State Fire Marshal, under construction or in existence on March 4, 1972.

(e) "Under construction," as used in this section, means that actual work shall have been performed on the construction site and shall not be construed to mean that the hospital, home, nursery, institution, sanitarium or any portion thereof, is in the planning stage.

SEC. 15. Section 13114 of the Health and Safety Code is amended to read:

13114. (a) The State Fire Marshal, with the advice of the State Board of Fire Services, shall adopt regulations and standards as he or she may determine to be necessary to control the quality and installation of fire alarm systems and fire alarm devices marketed, distributed, offered for sale, or sold in this state.

(b) No person shall market, distribute, offer for sale, or sell any fire alarm system or fire alarm device in this state unless the system or device has been approved and listed by the State Fire Marshal.

SEC. 16. Section 13115 of the Health and Safety Code is amended to read:

13115. (a) It is unlawful for any person, firm or corporation to establish, maintain or operate any circus, side show, carnival, tent show, theater, skating rink, dance hall, or a similar exhibition, production, engagement or offering or other place of assemblage in or under which 10 or more persons may gather for any lawful purpose, in any tent, awning or other fabric enclosure unless a tent, awning or other fabric enclosure, and all auxiliary tents, curtains, drops, awnings and all decorative materials, are made from a nonflammable material or are treated and maintained in a flame-retardant condition. This subdivision shall not apply to tents used to conduct committal services on the grounds of a cemetery, nor

to tents, awnings or other fabric enclosures erected and used within a sound stage, or other similar structural enclosure which is equipped with an overhead automatic sprinkler system.

(b) One year after the adoption of regulations by the State Fire Marshal, but not later than July 1, 1976, it shall be unlawful for any person to sell or offer for sale any tent designed and intended for use for occupancy by less than 10 persons unless the tent is made from flame-retardant fabrics or materials approved by the State Fire Marshal. One year after the adoption of regulations by the State Fire Marshal, but not later than July 1, 1976, all tents manufactured for sale in this state shall be flame retardant and shall be labeled in a manner specified by the State Fire Marshal. Any manufacturer of tents for sale in this state who fails to use flame-retardant fabrics or materials or who fails to label them as specified by the State Fire Marshal shall be strictly liable for any damage which occurs to any person as a result of a violation of this section.

(c) "Flame retardant," as used in this section, means a fabric or material resistant to flame or fire to the extent that it will successfully withstand standard fire-resistive tests adopted and promulgated by the State Fire Marshal.

SEC. 17. Section 13120 of the Health and Safety Code is amended to read:

13120. The State Fire Marshal shall establish minimum standard requirements, and shall adopt rules and regulations as are deemed necessary by him or her to properly regulate the manufacture, sale and application of flame-retardant chemicals and the sale of flame-retardant treated fabrics or materials used or intended for use in connection with any occupancy mentioned in Sections 13115 and 13119.

SEC. 18. Section 13121 of the Health and Safety Code is amended to read:

13121. The State Fire Marshal shall, before approving any flame-retardant chemical, fabric or material, require that flame-retardant chemicals and flame-retardant fabrics or materials be submitted to a laboratory approved by him or her for testing in accordance with the standards established pursuant to Section 13120.

SEC. 19. Section 13122 of the Health and Safety Code is amended to read:

13122. The State Fire Marshal shall promulgate and make available at cost of printing at least once each year a list of the flame-retardant chemicals, flame-retardant fabrics or materials, and flame-retardant application concerns approved by him or her. He or she may, without cost, furnish a single copy of each list to each flame-retardant chemical and application concern that is registered and approved by him or her and to all California fire officials.

SEC. 20. Section 13124 of the Health and Safety Code is amended to read:

13124. The name of any chemical, chemical concern or flame-retardant application concern whose name has been removed from the approved list shall not be restored to the approved list for a period of 90 days from the date of the removal.

SEC. 21. Section 13127 of the Health and Safety Code is amended to read:

13127. (a) Any chemical manufacturing concern, or any flame-retardant application concern, or any concern marketing a flame-retardant fabric or material that desires to have its name appear on the approved list shall first make application to the State Fire Marshal on forms provided by the State Fire Marshal.

(b) For purposes of this section, Sections 13128 and 13129:

(1) "General applicator" means a concern that engages in the business of or performs for a fee the application of a flame-retardant compound or chemical to any textile including decorative materials.

(2) "Limited applicator" means a concern that engages in the business of or performs for a fee the application of a flame-retardant compound or chemical to nontextile decorative items, including Christmas trees.

(c) (1) The annual registration fee renewal period for chemical manufacturing concerns, concerns marketing a flame-retardant fabric or material, and general applicators shall begin on January 1 and end on May 1 preceding the registration year for which the renewal is requested. A penalty of 50 percent of the listing fee shall be assessed in all cases where the renewal fees are not paid on or before May 1, preceding the registration year for which renewal is requested.

(2) The annual registration fee renewal period for limited applicators shall begin September 15 and end on October 31 preceding the registration year for which the renewal is requested. A penalty of 50 percent of the listing fee shall be assessed in all cases where the fees are not paid on or before October 31, preceding the registration year for which renewal is requested.

(d) All applications shall be accompanied by a registration fee established by the State Fire Marshal. The registration fee shall not exceed the amount necessary to cover the costs incurred by the State Fire Marshal in carrying out Sections 13120 to 13126, inclusive.

SEC. 22. Section 13128 of the Health and Safety Code is amended to read:

13128. (a) The annual and renewal registration fee period for chemical manufacturing concerns, concerns marketing a flame-retardant fabric or material, and general applicators shall be for the fiscal year period from July 1 to June 30 or for the remaining portion thereof.

(b) The annual and renewal registration fee period for limited applicators shall be for the fiscal year period from November 1 to October 31 or for the remaining portion thereof.

SEC. 23. Section 13129 of the Health and Safety Code is amended to read:

13129. (a) The State Fire Marshal shall remove from the approved list the names of all chemicals, chemically treated fabrics or materials and the names of all flame-retardant general applicator concerns for which renewal registration fees have not been paid prior to May 1 of each year.

(b) The State Fire Marshal shall remove from the approved list the names of all flame-retardant limited applicator concerns that have not paid their renewal registration fee prior to October 31 of each year.

SEC. 24. Section 13140 of the Health and Safety Code is amended to read:

13140. There is hereby created in the Office of the State Fire Marshal a State Board of Fire Services which shall consist of 18 members. The State Board of Fire Services succeeds to all of the powers, duties, and responsibilities of the State Fire Advisory Board, which is hereby abolished. Whenever the term "State Fire Advisory Board" appears in any other law, it means the State Board of Fire Services.

SEC. 25. Section 13142.6 of the Health and Safety Code is amended to read:

13142.6. (a) The board, under the direction of the vice chairperson, shall sit as a board of appeals on the application of the State Fire Marshal's regulations excepting application of building standards published in the California Building Standards Code, by the State Fire Marshal or his or her salaried assistants. When any affected person believes that the State Fire Marshal's regulations, excepting building standards, are being applied incorrectly, the person may appeal the decision of the State Fire Marshal to the board. The board shall not consider the appeal unless the matter has come to the attention of the State Fire Marshal and he or she has rendered a decision in writing. Any appeal to the board shall be made by the affected person or his or her agent in writing in the form and manner prescribed by the board. The decision of the board shall be binding upon the State Fire Marshal. Any decision made by the board shall be for the instant case only and shall not be construed as setting precedent for general application.

(b) When an affected person believes that building standards are being applied incorrectly by the State Fire Marshal or his or her salaried assistants, that person may appeal to the California Building Standards Commission pursuant to Chapter 5 (commencing with Section 18945) of Part 2.5 of Division 13 of this code.

SEC. 26. Section 13142.8 of the Health and Safety Code is amended to read:

13142.8. When the board sits as a board of appeals:

(a) The State Fire Marshal shall not sit as a member of the board.

(b) A member of the board shall not sit as a member or participant in the decision of any particular appeal if that member has a financial or other interest which would influence his or her decision on the particular appeal.

SEC. 27. Section 13143 of the Health and Safety Code is amended to read:

13143. (a) Except as provided in Section 18930, the State Fire Marshal, with the advice of the State Board of Fire Services, shall prepare, adopt, and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 and shall prepare and adopt other regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, home for the elderly, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any assembly occupancy where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section. Regulations adopted pursuant to this subdivision and building standards relating to fire and panic safety published in the California Building Standards Code shall establish minimum requirements relating to the means of egress and the adequacy of exits from, the installation and maintenance of fire extinguishing and fire alarm systems in, the storage and handling of combustible or explosive materials or substances, and the installation and maintenance of appliances, equipment, decorations, security bars, grills, grates, and furnishings that present a fire, explosion or panic hazard, and the minimum requirements shall be predicated on the height and fire-resistive qualities of the building or structure and the type of occupancy for which it is to be used. The building standards and other regulations shall apply to auxiliary or accessory buildings used or intended for use with any of the occupancies mentioned in this subdivision. Violation of any building standard or other regulation shall be a violation of the provisions of this chapter.

In preparing and adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13, and in preparing and adopting other regulations affecting public schools, the State Fire Marshal shall also secure the advice of the State Department of Education. No regulation adopted by the State Fire Marshal shall conflict with any rule, regulation, or building standard lawfully adopted or enforced by the Department of General Services pursuant to Article 3 (commencing with Section

39140) of Chapter 2 of Part 23 or Article 7 (commencing with Section 81130) of Chapter 1 of Part 49 of the Education Code.

In addition to any other requirements for location of exit signs or devices, the State Fire Marshal shall adopt building standards pursuant to this section establishing minimum requirements for the placement of distinctive devices, signs, or other means that identify exits and can be felt or seen near the floor. These building standards shall apply to all newly constructed buildings or structures subject to this subdivision for which a building permit is issued, (or construction commenced, where no building permit is issued) on or after January 1, 1989.

(b) Notwithstanding the provisions of subdivision (a) and Section 13143.6, facilities licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 which provide nonmedical board, room, and care for six or fewer ambulatory children placed with the licensee for care or foster family homes and family day care homes for children, licensed pursuant to Chapter 3.6 (commencing with Section 1597.50) of Division 2, with a capacity of six or fewer and providing care and supervision for ambulatory children or children two years of age or younger, or both, shall not be subject to the provisions of Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of this chapter or regulations adopted pursuant thereto. No city, county, or public district shall adopt or enforce any requirement for the prevention of fire or for the protection of life and property against fire and panic with respect to structures used as facilities specified in this subdivision, unless the requirement would be applicable to a structure regardless of the special occupancy. Nothing in this subdivision shall restrict the application of state or local housing standards to those facilities, if the standards are applicable to residential occupancies and are not based upon the use of the structure as a facility specified in this subdivision.

"Ambulatory children," as used in this subdivision, does not include nonambulatory persons, as defined in Section 13131, and relatives of the licensee or the licensee's spouse.

(c) The State Fire Marshal shall adopt building standards establishing regulations providing that all school classrooms constructed after January 1, 1990, not equipped with automatic sprinkler systems, which have metal grills or bars on all their windows and do not have at least two exit doors within three feet of each end of the classroom opening to the exterior of the building or to a common hallway used for evacuation purposes, shall have an inside release for the grills or bars on at least one window farthest from the exit doors. The window or windows with the inside release shall be clearly marked as an emergency exit, in accordance with regulations adopted by the State Fire Marshal.

SEC. 28. Section 13143.8 of the Health and Safety Code is amended to read:

13143.8. In case of conflict between the State Fire Marshal and the local enforcement agency in the interpretation or application of the provisions, regulations, or building standards of the State Fire Marshal by local enforcement agencies as they pertain to community care facilities, upon request of the permittee or licensee of the community care facility, the State Fire Marshal shall notify the local enforcement agency in writing of the State Fire Marshal's interpretation, and if the local enforcement agency fails to apply the State Fire Marshal's interpretation, the State Fire Marshal shall conduct an adjudication hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code before a hearing officer of the Office of Administrative Hearings, with the local enforcement agency as respondent, to resolve the conflict. The interpretation or application made by the hearing officer is binding on that local enforcement agency and the State Fire Marshal. The adjudication hearing shall be held within 30 days after the State Fire Marshal notifies the local enforcement agency of the interpretation, and a decision shall be rendered within 15 days of the hearing.

SEC. 29. Section 13144.1 of the Health and Safety Code is amended to read:

13144.1. (a) Except as provided in Sections 18930 and 18933, the State Fire Marshal shall biennially prepare and publish listings of construction materials and equipment and methods of construction and of installation of equipment, together with the name of any person, firm, corporation, association, or similar organization designated as the manufacturer, representative, or supplier, which are in conformity with building standards relating to fire and panic safety adopted and published in the State Building Standards Code and other fire and panic safety requirements adopted by the State Fire Marshal and published in Title 19 of the California Administrative Code. The State Fire Marshal shall in alternate years prepare and publish revisions to the listings.

Copies of the listings or revisions shall be distributed by the State Fire Marshal at the costs incurred by him or her for the printing and distribution of the listings or revisions to persons who have submitted written requests for the approved listings or revisions.

The purpose of this section is to provide enforcement authorities, architects, engineers, contractors, local building officials, and any other interested persons, with a reliable and readily available source of information of construction materials, equipment, methods of construction, and installation of equipment which meet the minimum requirements established or enforced by the State Fire Marshal, pursuant to Sections 13108 and 13143. No person, firm, corporation, association, or similar organization shall be denied listing if the material to be listed is approved by a testing organization using testing procedures approved by the State Fire Marshal.

It shall not be construed that because a material, assemblies of materials, method of construction and installation of equipment have not been listed, as provided by this section, the material, assemblies of materials, method of construction and installation of equipment does not conform to the fire and panic safety requirements as published in the State Building Standards Code or in Title 19 of the California Administrative Code.

(b) The State Fire Marshal may evaluate, test, approve, disapprove, and list any other fire safety product not covered in subdivision (a).

SEC. 30. Section 13146.3 of the Health and Safety Code is amended to read:

13146.3. The chief of any city or county fire department or district providing fire protection services and his or her authorized representatives shall inspect every building used as a public or private school within his or her jurisdiction, for the purpose of enforcing regulations promulgated pursuant to Section 13143, not less than once each year. The State Fire Marshal and his or her authorized representatives shall make these inspections not less than once each year in areas outside of corporate cities and districts providing fire protection services.

SEC. 31. Section 13158 of the Health and Safety Code is amended to read:

13158. The State Fire Marshal shall employ under civil service a program manager and staff as necessary to perform the functions for which the program has been established.

All personnel of the State Fire Training Program with the Department of Education shall be eligible to transfer to appropriate positions in the California Fire Service Training and Education Program provided they meet the qualifications for those positions.

SEC. 32. Section 25197.2 of the Health and Safety Code is amended to read:

25197.2. (a) The department shall establish a statewide Hazardous Waste Strike Force which shall consist of a representative from each of the following agencies:

(1) The Department of Transportation.
(2) The Department of Industrial Relations.
(3) The Department of Food and Agriculture.
(4) The State Water Resources Control Board.
(5) The State Air Resources Board.
(6) The Department of the California Highway Patrol.
(7) The Office of the State Fire Marshal in the Department of Forestry and Fire Protection.
(8) The California Integrated Waste Management Board.
(9) The Department of Fish and Game.
(10) The Office of Emergency Services.
(11) The Department of Toxic Substances Control.
(12) The Attorney General.

(13) The Department of Pesticide Regulation.

(b) The director, or the director's designee, shall direct and coordinate the activities of the Hazardous Waste Strike Force.

(c) The Hazardous Waste Strike Force shall do all of the following:

(1) Recommend standardized programs among the agencies represented on the Hazardous Waste Strike Force for the purposes of uniformly enforcing state hazardous waste statutes and regulations and reporting violators of these statutes and regulations.

(2) Recommend programs to publicize and improve the statewide telephone number established pursuant to paragraph (5) of subdivision (b) of Section 25197.1.

(3) Recommend local and regional programs to report information concerning violations of this chapter and any other hazardous waste statutes and regulations.

SEC. 33. Section 13510.5 of the Penal Code is amended to read:

13510.5. For the purpose of maintaining the level of competence of state law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards for training of peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who are employed by any railroad company, the California State Police Division, the University of California Police Department, a California State University police department, the Department of Alcoholic Beverage Control, the Division of Investigation of the Department of Consumer Affairs, the Wildlife Protection Branch of the Department of Fish and Game, the Department of Forestry and Fire Protection, including the Office of the State Fire Marshal, the Department of Motor Vehicles, the California Horse Racing Board, the Bureau of Food and Drug, the Division of Labor Law Enforcement, the Director of Parks and Recreation, the State Department of Health Services, the Department of Toxic Substances Control, the State Department of Social Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Alcohol and Drug Programs, the Office of Statewide Health Planning and Development, and the Department of Justice. All rules shall be adopted and amended pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 34. Section 702 is added to the Public Resources Code, to read:

702. (a) Pursuant to Section 13100 of the Health and Safety Code, there is within the department the Office of the State Fire Marshal.

(b) There shall be a Chief Deputy Director of Forestry and Fire Protection who shall administer the Office of the State Fire Marshal and who shall be known as the State Fire Marshal. The State Fire Marshal shall be appointed pursuant to Section 13101 of the Health and Safety Code.

(c) The State Fire Marshal may, with the approval of the director, appoint assistant or deputy state fire marshals and employ office and field assistants and other employees pursuant to Sections 12551, 13102, and 13103 of the Health and Safety Code.

(d) There is within the Office of the State Fire Marshal the State Board of Fire Services, established pursuant to Section 13140 of the Health and Safety Code. The State Board of Fire Services shall advise the State Fire Marshal as provided by law.

SEC. 35. (a) (1) The Office of the State Fire Marshal and the position of State Fire Marshal in the State and Consumer Services Agency are hereby abolished.

(2) The Office of the State Fire Marshal and the position of State Fire Marshal are hereby created in the Department of Forestry and Fire Protection.

(b) The functions of the former Office of the State Fire Marshal and the former position of State Fire Marshal in the State and Consumer Services Agency are hereby transferred to the Office of the State Fire Marshal or to the position of State Fire Marshal, as the case may be, in the Department of Forestry and Fire Protection.

(c) The Office of the State Fire Marshal and the State Fire Marshal in the Department of Forestry and Fire Protection hereby succeed to, and are vested with, all of the powers, duties, responsibilities, and jurisdiction of the former Office of the State Fire Marshal and the former position of State Fire Marshal in the State and Consumer Services Agency.

(d) The Office of the State Fire Marshal and the State Fire Marshal in the Department of Forestry and Fire Protection may use the unexpended balance of funds available for use in connection with the performance of the functions of the former Office of the State Fire Marshal or the former position of State Fire Marshal, as the case may be, in the State and Consumer Services Agency.

SEC. 36. (a) Any officer or employee of the former Office of the State Fire Marshal in the State and Consumer Services Agency who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Office of the State Fire Marshal in the Department of Forestry and Fire Protection.

(b) The status, position, and rights of any officer or employee specified in subdivision (a) shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Office of the State Fire Marshal in the Department of Forestry and Fire Protection, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 37. The Office of the State Fire Marshal and the State Fire Marshal in the Department of Forestry and Fire Protection shall have possession and control of all records, paper, offices, equipment, supplies, money, funds, appropriations, licenses, permits,

agreements, contracts, claims, judgments, lands, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the former Office of the State Fire Marshal or the former position of State Fire Marshal, as the case may be, in the State and Consumer Services Agency.

SEC. 38. (a) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by this reorganization plan shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(b) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by this reorganization plan, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under this reorganization plan.

SEC. 39. Nothing in this reorganization plan shall be construed to restrict the authority of the Department of Forestry and Fire Protection to administratively organize its functions or to provide necessary staff on and after the effective date of this reorganization plan.

SEC. 40. Upon the effective date of this reorganization plan, the Department of Finance may direct the transfer of such unexpended balances of appropriations and of other funds available for use in connection with any function or agency affected by this reorganization plan as the director determines to be necessary to facilitate the reorganization, for use in connection with the functions affected by the reorganization or for the use of any agency which has those functions after this reorganization plan takes effect, provided that unexpended balances so transferred shall be used only for the purpose for which the appropriation was originally made.

SEC. 41. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 333

An act to add Section 13211.5 to the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 5, 1996. Filed with Secretary of State August 5, 1996.]

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

SECTION 1. Section 13211.5 is added to the Elections Code, to read:

13211.5. (a) Each group of names of candidates for a particular office shall be printed in immediate succession to another group of names of candidates for a particular office so as to avoid unnecessary spacing or gaps in the sequence in which each series of groups of names are listed on the ballot.

(b) If it is necessary to leave spaces on the ballot in order to provide for the most efficient and least costly process of printing ballots, the spaces shall be located at the end of a column, page, or ballot card wherever possible.

(c) If due to voting system constraints it is necessary to leave a space between offices on a column, page, or ballot card, and the space exceeds one inch, written instructions and a downward arrow or other visual indicator shall be printed on the ballot to direct the voter to the next voting space.

SEC. 2. (a) Notwithstanding Section 9040, 9043, 9044, 9061, 9094, 13115, 13282, or any other provision of law, both Senate Constitutional Amendment 4 (Res. Ch. 36, Stats. 1996), and Senate Constitutional Amendment 18 (Res. Ch. 34, Stats. 1996), of the 1995–96 Regular Session, shall be submitted to the voters at the November 5, 1996, statewide general election.

(b) The Secretary of State shall ensure the placement of both Senate Constitutional Amendment 4 and Senate Constitutional Amendment 18 of the 1995–96 Regular Session on the November 5, 1996, general election ballot, in substantial compliance with any statutory time requirements applicable to the submission of statewide measures to the voters at a statewide election.

(c) Notwithstanding Section 9041, 9042, 9044, or 9060 of the Elections Code, or any other provision of law, arguments in support of Senate Constitutional Amendment 4 and Senate Constitutional Amendment 18 of the 1995–96 Regular Session shall be submitted to the Secretary of State as expeditiously as possible, but not later than one day after the effective date of this act. Arguments in opposition to these measures shall be submitted not later than two days after the effective date of this act.

(d) Notwithstanding Section 9082 of the Elections Code, the Secretary of State shall furnish copy for the preparation of the ballot pamphlets to the Office of State Printing at least 30 days prior to the date for required delivery to the elections officials as provided in Section 9094(a) of the Elections Code.

(e) Notwithstanding Sections 9051 and 13247 of the Elections Code, the Attorney General shall prepare and return to the Secretary of State a ballot title and a summary, as well as an abbreviated ballot statement, for both Senate Constitutional Amendment 4 and Senate Constitutional Amendment 18 of the 1995–96 Regular Session as expeditiously as possible, but not later than one day after the effective date of this act.

(f) Notwithstanding Section 9087 of the Elections Code, the Legislative Analyst shall prepare an impartial analysis of both Senate Constitutional Amendment 4 and Senate Constitutional Amendment 18 of the 1995–96 Regular Session as expeditiously as possible, but not later than one day after the effective date of this act, and the analyses shall not be submitted to a review committee.

(g) The Secretary of State shall include, in the ballot pamphlet mailed pursuant to Section 9094 of the Elections Code, the information specified in Section 9084 of the Elections Code regarding Senate Constitutional Amendment 4 and Senate Constitutional Amendment 18 of the 1995–96 Regular Session.

(h) The State Printer shall make every reasonable effort and use every legal means to implement the provisions of subdivision (g).

(i) Notwithstanding subdivision (g), if it is the determination of the State Printer that the inclusion of that information on the ballot pamphlet is not possible, or that the inclusion of that information would unduly delay or impede the timely printing of the official ballots, then, notwithstanding subdivisions (a) and (b), neither Senate Constitutional Amendment 4 nor Senate Constitutional Amendment 18 shall be placed on the ballot of the November 5, 1996, statewide general election, but shall instead appear on the ballot of the next statewide general election pursuant to Section 9040 of the Elections Code.

(j) Where voting is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section that Senate Constitutional Amendments 4 and 18 of the 1995–96 Regular Session be properly placed before, and duly

considered by, the voters at the November 5, 1996, general election, the use of voting machines is in compliance with this section.

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

In order to ensure that the requirements of this act are in effect in time for the 1996 general election, and in order to ensure that Senate Constitutional Amendment 4 and Senate Constitutional Amendment 18 of the 1995–96 Regular Session are submitted for voter approval at the 1996 general election, it is necessary that this act take effect immediately.

CHAPTER 334

An act to amend Section 25633 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 8, 1996. Filed with Secretary of State August 8, 1996.]

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

SECTION 1. Section 25633 of the Business and Professions Code is amended to read:

25633. Except as otherwise provided in this section, no person licensed as a manufacturer, winegrower, distilled spirits manufacturer's agent, rectifier, or wholesaler of any alcoholic beverage shall deliver or cause to be delivered any alcoholic beverage to or for any person holding an on-sale or off-sale license on Sunday or except between the hours of 3 a.m. and 8 p.m. of any day other than Sunday. Any alcoholic beverage may be delivered at the platform of the manufacturing, producing, or distributing plant at any time. Nothing contained in this section prohibits the transportation or the carriage and delivery in transit at any time of any alcoholic beverage between the premises of a manufacturer, winegrower, wholesaler, distiller, importer, or any of them. Every person violating the provisions of this section is guilty of a misdemeanor.

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

In order to allow delivery trucks to avoid traffic delays caused by vacation travel this summer and fall by being able to make deliveries

of alcoholic beverages during expanded hours, it is necessary that this act take effect immediately.

CHAPTER 335

An act to add Section 15819.95 to, and to repeal and add Section 15819.90 of, the Government Code, and to amend Sections 1010 and 1011 of the Military and Veterans Code, relating to veterans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 15819.90 of the Government Code, as added by Chapter 943 of the Statutes of 1995, is repealed.

SEC. 2. Section 15819.90 is added to the Government Code, to read:

15819.90. (a) It is the intent of the Legislature to make an appropriation for three additional sites of the Southern California Veterans' Home, for a total of four sites.

(b) (1) The board shall issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the construction of the three additional sites of the Southern California Veterans' Home only in accordance with the following schedule:

(A) Authorization and bond issuance for the second site shall take place after the department certifies that the construction of the first site, the veterans' home at Barstow, as set forth in Section 15819.85, has been completed and opened, and demonstrates to the State Public Works Board that the facility is fully operational and that there is a demonstrated demand for a second site.

(B) Authorization and bond issuance for the third site shall take place after the department certifies that the construction of the veterans' home at the second site, as set forth in subparagraph (A) has been completed and opened, and demonstrates to the State Public Works Board that the facility is fully operational and that there is a demonstrated demand for a third site.

(C) Authorization and bond issuance for the fourth site shall take place after the department certifies that the construction of the veterans' home at the third site, as set forth in subparagraph (B), has been completed and opened, and demonstrates to the State Public Works Board that the facility is fully operational and that there is a demonstrated demand for a fourth site.

(2) The second, third, and fourth sites shall be in addition to the first site provided for in Section 15819.85.

(c) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold pursuant to Chapter 5 (commencing with Section 15830) for capital outlay for this purpose shall not exceed the sum of thirty-six million dollars ($36,000,000). This amount shall be available as necessary for the site studies, suitability reports, environmental studies, master planning, architectural programming, schematics, preliminary plans, working drawings, construction, and equipment of sites two, three, and four of the Southern California Veterans Home. These funds shall also be used for repayment of any loan made pursuant to former Section 15819.90, as added by Chapter 943 of the Statutes of 1995, for costs related to the first and second sites.

(d) In addition to the funds appropriated pursuant to subdivision (g), the sum of sixty-six million dollars ($66,000,000) in federal matching funds available pursuant to the State Veterans' Home Assistance Improvement Act of 1977 (38 U.S.C.A. Sec. 8131 et seq.), is hereby appropriated to the board on behalf of the Department of Veterans Affairs for the purposes of construction or repayment of any loan related to the second, third, and fourth sites of the Southern California Veterans' Home. In the event that bonds are not issued or sold, any loans for the purposes of this section or former Section 15819.90, shall be repaid from the department's annual support appropriations.

(e) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold shall equal the costs of performance of all functions referred to in subdivision (c), and any additional amounts, as specified in subdivision (h).

(f) The amount of negotiable bond anticipation notes to be sold pursuant to this section shall not exceed the amount of revenue bonds or negotiable notes authorized by this section.

(g) Notwithstanding Section 13340, funds derived for the purposes of this section from the financing methods of Chapter 5 (commencing with Section 15830) are hereby appropriated, without regard to fiscal year, to the board on behalf of the Department of Veterans Affairs for the construction or repayment of any loans related to the second, third, and fourth sites of the Southern California Veterans' Home.

(h) The State Public Works Board may borrow funds for all phases of the projects from the Pooled Money Investment Account pursuant to Sections 16212 and 16313, and any other legal fund sources.

(i) The board may authorize the augmentation of the cost of the construction of the sites set forth in this chapter pursuant to the board's authority under Section 13332.11. In addition, the board may authorize any additional amounts necessary to pay the costs of financing, including, but not limited to, the payment of interest during construction of the sites, any additional amount as may be

authorized by the board to pay the cost of financing a reasonably required reserve fund, interest payable on any interim loan for the homes from the Pooled Money Investment Account pursuant to Section 16312, and the costs of issuance of permanent financing of the sites. Notwithstanding subdivision (d) of Section 13332.11, the board shall defer all augmentations in excess of 10 percent of the amount appropriated for each capital outlay project until the Legislature makes additional funds available for the specific project.

(j) The Department of Veterans Affairs is hereby authorized to enter into any lease agreement with the State Public Works Board necessary to achieve completion of the construction phase of the second, third, and fourth Southern California Veterans' Home project sites. The Director of Veterans Affairs shall notify the Chairperson of the Joint Legislative Budget Committee of the director's intention to execute any lease agreement authorized by this section at least 45 days prior to its execution.

SEC. 3. Section 15819.95 is added to the Government Code, to read:

15819.95. The funds generated from the issuance of the bonds pursuant to Section 15819.90 shall be expended only upon receipt of the matching amount of federal funds from the United States Department of Veterans Affairs. The Director of Veterans Affairs shall notify the Chief Clerk of the Assembly, the Secretary of State, and the State Public Works Board in writing that the federal matching funds have been provided, and the Chief Clerk of the Assembly shall publish this notification in the Assembly Journal.

The total amount of federal matching funds to be received is twenty-two million dollars ($22,000,000) for each of the second, third, and fourth sites, however, the entire amount does not need to be received prior to expenditure of the funds from the bond issuance authorized by Section 15819.90, if there has been a federal commitment to provide those matching funds. The board may allocate funds to the Department of Veterans Affairs for expenditures that are equal to a 35-percent portion of the total acquisition and construction costs.

SEC. 4. Section 1010 of the Military and Veterans Code is amended to read:

1010. As used in this chapter:

(a) "Home" means the Veterans' Home of California, Yountville, and the Veterans' Home of California, Barstow.

(b) "Administrator" means the Administrator of the Veterans' Home of California, Yountville, and the Administrator of each site of the southern California Veterans' Home, including, but not limited to, the Veterans' Home of California, Barstow.

(c) "Department" means the Department of Veterans Affairs.

(d) "Director" means the Director of Veterans Affairs.

(e) "Veteran" means a member of the home.

SEC. 5. Section 1011 of the Military and Veterans Code, as amended by Chapter 190 of the Statutes of 1995, is amended to read:

1011. (a) There is in the department a Veterans' Home of California Yountville, situated at Veterans' Home, Napa County.

(b) (1) The department may establish and construct a veterans' home in southern California that shall be located on one or more sites in the following cities: Barstow, Lancaster, and Chula Vista.

(2) When completed, the initial site shall be the Veterans' Home of California, Barstow, situated in Barstow, San Bernardino County.

(3) The second and third sites shall be located in the Cities of Lancaster and Chula Vista. The order of construction shall be determined by site availability and preparedness as determined pursuant to the process set forth in Section 1011.5.

(4) A fourth site shall be located in a southern California county based on recommendations made by the commission established pursuant to Section 1011.5.

(5) The department shall operate the several sites of the southern California veterans' home concurrently with the Yountville home.

(6) The department shall complete any preapplication process necessary with the United States Veterans' Administration for construction of the southern California veterans' home.

(7) There shall be an administrator for, and located at, each site of the southern California home.

SEC. 6. This bill shall not become operative unless AB 2015 of the 1995–96 Regular Session is enacted and takes effect on or prior to January 1, 1997.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the construction of essential homes for veterans be commenced and completed at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 336

An act to add Section 15819.92 to the Government Code, relating to veterans, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 15819.92 is added to the Government Code, to read:

15819.92. In addition to any funds made available through Section 15819.90, the sum of one hundred forty-four thousand dollars ($144,000) is hereby appropriated from the General Fund to the State Department of Veterans Affairs for allocation as follows:

(a) Fourteen thousand dollars ($14,000) to the Governor's Commission on a Southern California Veterans Home.

(b) Sixty-five thousand dollars ($65,000) to the California Veterans Home Project Team.

(c) Sixty-five thousand dollars ($65,000) to the California Veterans Home Project Team, only if an application for federal matching funds from the United States Department of Veterans Affairs is approved for funding.

SEC. 2. This bill shall not become operative unless Senate Bill 1382 of the 1995–96 Regular Session is enacted and takes effect on or prior to January 1, 1997.

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

In order that the construction of essential homes for veterans be commenced and completed at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 337

An act to amend Section 12302 of the Elections Code, relating to elections.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 12302 of the Elections Code is amended to read:

12302. (a) Except as provided in subdivision (b), each member of a precinct board shall be a voter of the precinct for which the member is appointed or a voter of a precinct situated in the same general area, except that county employees used as poll workers may reside outside of the precinct or the county. The member shall serve only in the precinct for which appointment is received.

(b) In order to provide for a greater awareness of the elections process, the rights and responsibilities of voters and the importance of participating in the electoral process, as well as to provide additional members of precinct boards, an elections official may appoint not more than two students per precinct to serve under the direct supervision of precinct board members designated by the

elections official. A student may be appointed, notwithstanding lack of eligibility to vote, subject to the approval of the board of the educational institution in which the student is enrolled, if the student possesses the following qualifications:

(1) Is at least 16 years of age at the time of the election to which he or she is serving as a member of a precinct board.

(2) Is a United States citizen or will be a citizen at the time of the election to which he or she is serving as a member of a precinct board.

(3) Is a student in good standing attending a public or private secondary educational institution.

(4) Is a senior and has a grade point average of at least 2.5 on a 4.0 scale.

(c) No student appointed pursuant to subdivision (b) shall be used by a precinct board to tally votes.

CHAPTER 338

An act to add Chapter 9.3 (commencing with Section 7195) to Division 3 of the Business and Professions Code, relating to home inspectors.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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 assure that consumers of home inspection services can rely upon the competence of home inspectors. It is the intent of the Legislature that, in ascertaining the degree of care that would be exercised by a reasonably prudent home inspector pursuant to Section 7196 of the Business and Professions Code, the court may consider the standards of practice and code of ethics of the California Real Estate Inspection Association, the American Society of Home Inspectors, or other nationally recognized professional home inspection associations.

SEC. 2. Chapter 9.3 (commencing with Section 7195) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 9.3. HOME INSPECTORS

7195. For purposes of this chapter, the following definitions apply:

(a) "Home inspection" is a noninvasive, physical examination, performed for a fee in connection with a transfer, as defined in subdivision (e), of real property, of the mechanical, electrical, or plumbing systems or the structural and essential components of a residential dwelling of one to four units designed to identify material

defects in those systems, structures and components. "Home inspection" also includes any consultation regarding the property that is represented to be a home inspection or any confusingly similar term.

(b) A "material defect" is a condition that significantly affects the value, desirability, habitability, or safety of the dwelling. Style or aesthetics shall not be considered in determining whether a system, structure, or component is defective.

(c) A "home inspection report" is a written report prepared for a fee and issued after a home inspection. The report clearly describes and identifies the inspected systems, structures, or components of the dwelling, any material defects identified, and any recommendations regarding the conditions observed or recommendations for evaluation by appropriate persons.

(d) A "home inspector" is any individual who performs a home inspection.

(e) "Transfer" is a transfer by sale, exchange, installment land sale contract, as defined in Section 2985 of the Civil Code, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

7196. It is the duty of a home inspector who is not licensed as a general contractor, structural pest control operator, or architect, or registered as a professional engineer to conduct a home inspection with the degree of care that a reasonably prudent home inspector would exercise.

7196.1. (a) Nothing in this chapter shall be construed to allow home inspectors who are not registered engineers to perform any analysis of the systems, components, or structural integrity of a dwelling that would constitute the practice of civil, electrical, or mechanical engineering, or to exempt a home inspector from Chapter 3 (commencing with Section 5500), Chapter 7 (commencing with Section 6700), Chapter 9 (commencing with Section 7000), or Chapter 14 (commencing with Section 8500) of Division 3.

(b) This chapter does not apply to a registered engineer, licensed land surveyor, or licensed architect acting pursuant to his or her professional registration or license, nor does it affect the obligations of a real estate licensee or transferor under Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 3 of Division 2 of, or Article 2 (commencing with Section 2079) of Chapter 3 of Title 6 of Part 4 of Division 3 of, the Civil Code.

7197. It is an unfair business practice for a home inspector, a company that employs the inspector, or a company that is controlled by a company that also has a financial interest in a company employing a home inspector, to do any of the following:

(a) To perform or offer to perform, for an additional fee, any repairs to a structure on which the inspector, or the inspector's company, has prepared a home inspection report in the past 12 months.

(b) Inspect for a fee any property in which the inspector, or the inspector's company, has any financial interest or any interest in the transfer of the property.

(c) To offer or deliver any compensation, inducement, or reward to the owner of the inspected property, the broker, or agent, for the referral of any business to the inspector or the inspection company.

(d) Accept an engagement to make an inspection or to prepare a report in which the employment itself or the fee payable for the inspection is contingent upon the conclusions in the report, preestablished findings, or the close of escrow.

(e) A home protection company that is affiliated with or that retains the home inspector does not violate this section if it performs repairs pursuant to claims made under the home protection contract.

7198. Contractual provisions that purport to waive the duty owed pursuant to Section 7196, or limit the liability of the home inspector to the cost of the home inspection report, are contrary to public policy and invalid.

7199. The time for commencement of a legal action for breach of duty arising from a home inspection report shall not exceed four years from the date of the inspection.

CHAPTER 339

An act to amend Section 25761 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 25761 of the Business and Professions Code is amended to read:

25761. All money collected as fees pursuant to this division, as payments under Section 23096, and under the excise tax provisions of this division or Part 14 (commencing with Section 32001) of Division 2 of the Revenue and Taxation Code shall be deposited in the State Treasury to the credit of the Alcohol Beverage Control Fund, which fund is continued in existence.

The money in the Alcohol Beverage Control Fund shall be expended as follows:

(a) The amount necessary for the allowance of the refunds provided for in this division or Part 14 (commencing with Section 32001) of Division 2 of the Revenue and Taxation Code is hereby appropriated, without regard to fiscal years, to the Controller for payment of these refunds.

(b) All money derived as payment under Section 23096 and from excise taxes under Part 14 (commencing with Section 32001) of Division 2 of the Revenue and Taxation Code remaining after compliance with subdivision (a) shall be transferred to the General Fund on the order of the Controller.

(c) All money derived as payments under Section 23954.5 shall be transferred to the General Fund on the order of the Controller.

(d) All other money collected as fees and deposited in the Alcohol Beverage Control Fund shall be allocated, upon appropriation by the Legislature, to the Department of Alcoholic Beverage Control for the enforcement and administration of the Alcoholic Beverage Control Act.

(e) Money transferred to the General Fund pursuant to subdivision (c) shall be in lieu of any assessment that would be made on the Department of Alcoholic Beverage Control pursuant to Section 11270 et seq. of the Government Code.

SEC. 2. It is the intent of the Legislature in enacting this act that all money collected as annual license renewal fees and surcharges to the annual licensee fees under the Alcoholic Beverage Control Act shall be used to supplement the enforcement efforts of the Department of Alcoholic Beverage Control and to provide for additional law enforcement training.

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

In order that enforcement personnel may be hired as soon as possible to protect the public safety, it is necessary that this act take effect immediately.

CHAPTER 340

An act to add Chapter 11 (commencing with Section 21750) to Division 8 of the Business and Professions Code, relating to copyright.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. The Legislature finds and declares that:

Under the copyright laws of the United States, a copyright owner may enforce his or her rights against the owners of restaurants, bars, retail establishments, doctors' and other professionals' offices, and similar places of business where members of the public may assemble for the public performance of nondramatic musical works. The performance may be in person by a performing artist hired by the proprietor, or on radio stations or other electronic media transmitted, received or rebroadcast by the proprietor at those places of business.

These proprietors are entitled to safeguards in the operation of their businesses that will protect them from arbitrary, capricious, and unfair trade practices, permit them to negotiate fairly with the copyright owners or their agents for the use of the nondramatic musical copyrighted work in their places of business, and thereafter will assure them the ability to ascertain their obligations and rights in the future use of the copyrighted work.

Although the rights and responsibilities regarding copyrighted works are founded in Article I, Section 8, clause 8 of the United States Constitution and exclusively governed by Title 17 of the United States Code, it is nonetheless essential that the State of California protect its business owners and citizens from the practices of those who would enforce their rights under the federal law in an arbitrary and capricious manner.

It is therefore in the best interests of the state, its business community and consumers alike, that these arbitrary, capricious, and unfair trade practices be prohibited and the agreements under which these rights and responsibilities are established be regulated by this state.

SEC. 2. Chapter 11 (commencing with Section 21750) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 11. COPYRIGHTED PERFORMANCES OF MUSICAL WORKS

21750. For purposes of this chapter, the following definitions apply:

(a) "Copyright owner" means the owner of a copyright of a nondramatic musical work recognized and enforceable under the copyright laws of the United States pursuant to Title 17 of the United States Code, P. L. 94-553 (17 U.S.C. Sec. 101 et seq.). "Copyright owner" does not include the owner of a copyright in a motion picture or audiovisual work, or in part of a motion picture or audiovisual work.

(b) "Performing rights society" means an association or corporation that licenses the public performance of nondramatic musical works on behalf of copyright owners, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc.

(c) "Proprietor" means the owner of a retail establishment, restaurant, inn, bar, tavern, or any other similar place of business or

professional office located in this state in which the public may assemble and in which nondramatic musical works may be performed, broadcast, or otherwise transmitted for the enjoyment of the assembled members of the public.

(d) "Royalty" or "royalties" means the fees payable to a copyright owner or performing rights society for the public performance of a nondramatic musical work.

21751. No copyright owner or performing rights society may enter into, or offer to enter into, a contract for the payment of royalties by a proprietor unless at least 72 hours prior to the execution of that contract, it provides to the proprietor, in writing, the following:

(a) A schedule of the rates and terms of royalties under the contract.

(b) Notice that the proprietor is entitled to the information contained in subdivision (a) and Section 21751.5.

21751.5. A performing rights society shall make available electronically to proprietors the most current available list of the members and affiliates represented by the performing rights society and the most current available list of no less than the performed works that the society licenses. A performing rights society may make additional information available to a proprietor at a reasonable cost.

21752. A contract for the payment of royalties executed in this state shall:

(a) Be in writing.

(b) Be signed by the parties.

(c) Include at least the following information:

(1) The proprietor's name and business address.

(2) The name and location of each place of business to which the contract applies.

(3) The duration of the contract.

(4) The schedule of rates and terms of the royalties to be collected under the contract, including any sliding scale or schedule for any increase or decrease of those rates for the duration of that contract.

21753. (a) No representative or agent of a performing rights society may do any of the following:

(1) Discuss with the proprietor or the proprietor's employee, a contract for payment of royalties by a proprietor or the use of copyrighted works by the proprietor, without first identifying himself or herself to the proprietor or the proprietor's employees.

(2) Engage in any coercive conduct, act, or practice that is substantially disruptive of a proprietor's business, or use or attempt to use a fraudulent act, as defined in Section 1572 of the Civil Code.

(3) Fail to comply with Section 21751, 21751.5, or 21752.

(b) This chapter does not prohibit a copyright owner or performing rights society from conducting investigations to determine the existence of music use by a proprietor or informing a

proprietor of the proprietor's obligation under Title 17 of the United States Code.

21754. A person who wilfully violates any of the provisions of this act is liable for a civil penalty of five thousand dollars ($5,000) per violation.

21755. A proprietor may bring an action or assert a counterclaim against a copyright owner or performing rights society to enjoin any violation of this chapter and to recover any damages sustained by the proprietor as a result of a violation of this chapter. If successful, the proprietor is entitled to recover treble damages, together with filing fees and reasonable costs of suit, in addition to any other legal or equitable relief.

If a proprietor prevails in a cause of action alleging a willful violation of paragraph (2) of subdivision (a) of Section 21753, the prevailing proprietor shall be awarded reasonable attorney's fees.

21756. The rights, remedies, and prohibitions accorded by this chapter are in addition to any other right, remedy, or prohibition accorded by law. Nothing in this chapter shall be construed to deny, abrogate, or impair any right, remedy, or prohibition.

21757. This chapter does not apply to contracts between copyright owners or performing rights societies and broadcasters licensed by the Federal Communications Commission. However, if a copyright owner or performing rights society is licensed by the Federal Communications Commission, this chapter applies to contracts between that copyright owner or performing rights society and a proprietor.

21758. This chapter does not apply to conduct engaged in while enforcing Section 653w of the Penal Code.

CHAPTER 341

An act to amend Section 69535 of the Education Code, relating to postsecondary education.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 69535 of the Education Code is amended to read:

69535. (a) Cal Grant Program awards shall be based upon the financial need of the applicant. The level of financial need of each applicant shall be determined by the commission pursuant to Article 1.5 (commencing with Section 69503).

(b) For the applicants so qualifying, academic criteria or criteria related to past performances shall be utilized as the criteria in determining eligibility for grants.

(c) All Cal Grant Program award recipients shall be residents of California, as determined by the commission pursuant to Part 41 (commencing with Section 68000), and shall remain eligible only if they are in attendance and making satisfactory progress through the instructional programs, as determined by the commission.

(d) Part-time students shall not be discriminated against in the selection of Cal Grant Program award recipients, and awards to part-time students shall be roughly proportional to the time spent in the instructional program, as determined by the commission. First-time Cal Grant Program award recipients who are part-time students shall be eligible for a full-time renewal award.

(e) Cal Grant Program awards shall be awarded without regard to race, religion, creed, sex, or age.

(f) No applicant shall receive more than one type of Cal Grant Program award concurrently. Except as provided in subdivisions (b) and (c) of Section 69535.1, no applicant shall:

(1) Receive one or a combination of Cal Grant Program awards in excess of a total of four years of full-time attendance in an undergraduate program.

(2) Have obtained a baccalaureate degree prior to receiving a Cal Grant Program award.

(g) Cal Grant Program awards, except as provided in subdivision (c) of Section 69535.1, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program of study leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(h) The commission may, for students who accelerate college attendance, increase the amount of award for one academic year proportional to the period of additional attendance resulting from attendance at a summer term, session, or quarter. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(i) The commission may provide by appropriate rules and regulations for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as the commission may deem proper.

(j) The commission may establish Cal Grant Program awards in one hundred dollar ($100) increments.

(k) A Cal Grant Program award may be utilized only at the following institutions or programs:

(1) Any California private or independent postsecondary educational institution or program that participates in two of the

three federal campus-based student aid programs and whose students participate in the Pell Grant program.

(2) Any nonprofit regionally accredited institution headquartered and operating in California that certifies to the Student Aid Commission that 10 percent of the institution's operating budget, as demonstrated in an audited financial statement, is expended for the purposes of institutionally funded student financial aid in the form of grants and that demonstrates to the Student Aid Commission that it has the administrative capacity to administer the funds.

(3) Any California public postsecondary educational institution or program.

CHAPTER 342

An act to amend Sections 10208.5, 10209.5, 10210, 10213.5, 10213.6, 10214.5, 10215, 10222, and 11011 of the Business and Professions Code, relating to real estate brokers, and making an appropriation therefor.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 10208.5 of the Business and Professions Code, as amended by Section 5 of Chapter 416 of the Statutes of 1993, is amended to read:

10208.5. The real estate broker license examination fee is ninety-five dollars ($95). The real estate broker license reexamination fee is ninety-five dollars ($95).

If an applicant fails to appear for the examination within two years from the date of filing his or her application and fee for the examination, his or her application shall thereupon lapse and no further proceedings thereon shall be taken.

This section shall remain in effect unless it is repealed pursuant to the provisions of Section 28 of Chapter 416 of the 1993–94 Regular Session.

SEC. 2. Section 10208.5 of the Business and Professions Code, as amended by Section 5.5 of Chapter 416 of the Statutes of 1993, is amended to read:

10208.5. The real estate broker license examination fee is fifty dollars ($50). The real estate broker license reexamination fee is fifty dollars ($50).

If an applicant fails to appear for the examination within two years from the date of filing his or her application and fee for the examination, his or her application shall thereupon lapse and no further proceedings thereon shall be taken.

This section shall only become operative pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 3. Section 10209.5 of the Business and Professions Code, as amended by Section 6 of Chapter 416 of the Statutes of 1993, is amended to read:

10209.5. The fee for a restricted broker license shall not exceed two hundred fifteen dollars ($215).

This section shall remain in effect unless it is repealed pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 4. Section 10209.5 of the Business and Professions Code, as added by Section 6.5 of Chapter 416 of the Statutes of 1993, is amended to read:

10209.5. The fee for a restricted broker license shall not exceed one hundred sixty-five dollars ($165).

This section shall only become operative pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 5. Section 10210 of the Business and Professions Code, as amended by Section 7 of Chapter 416 of the Statutes of 1993, is amended to read:

10210. The fee for a real estate broker license shall not exceed three hundred dollars ($300).

In the case of an original applicant, the fee is payable after the applicant is notified of passing the examination for license.

This section shall remain in effect unless it is repealed pursuant to the provisions of Section 28 of Chapter 416 of the 1993–94 Regular Session.

SEC. 6. Section 10210 of the Business and Professions Code, as added by Section 7.5 of Chapter 416 of the Statutes of 1993, is amended to read:

10210. The fee for a real estate broker license shall not exceed one hundred sixty-five dollars ($165).

In the case of an original applicant, the fee is payable after the applicant is notified of passing the examination for license.

This section shall only become operative pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 7. Section 10213.5 of the Business and Professions Code, as amended by Section 8 of Chapter 416 of the Statutes of 1993, is amended to read:

10213.5. The real estate salesperson license examination fee is sixty dollars ($60). The real estate salesperson license reexamination fee is sixty dollars ($60).

If an applicant fails to appear for the examination within two years from the date of filing his or her application and fee for the examination, his or her application shall thereupon lapse and no further proceedings thereon shall be taken.

This section shall remain in effect unless it is repealed pursuant to the provisions of Section 28 of Chapter 416 of the 1993–94 Regular Session.

SEC. 8. Section 10213.5 of the Business and Professions Code, as added by Section 8.5 of Chapter 416 of the Statutes of 1993, is amended to read:

10213.5. The real estate salesperson license examination fee is twenty-five dollars ($25). The real estate salesperson license reexamination fee is twenty-five dollars ($25).

If an applicant fails to appear for the examination within two years from the date of filing his or her application and fee for the examination, his or her application shall thereupon lapse and no further proceedings thereon shall be taken.

This section shall only become operative pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 9. Section 10213.6 of the Business and Professions Code, as amended by Section 9 of Chapter 416 of the Statutes of 1993, is amended to read:

10213.6. If an applicant for any examination fails to take the examination on the date scheduled, he or she may make application in writing to the principal office of the department in Sacramento for a new date. A fee of twenty dollars ($20) shall accompany the written request for applying for the first new examination date in the case of a broker applicant, and a fee of fifteen dollars ($15) shall accompany the written request for the first new examination date in the case of a salesperson applicant. A fee of thirty dollars ($30) shall accompany the written request for all subsequent new examination dates for both broker and salesperson applicants.

This section shall remain in effect unless it is repealed pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 10. Section 10213.6 of the Business and Professions Code, as added by Section 9.5 of Chapter 416 of the Statutes of 1993, is amended to read:

10213.6. If an applicant for any examination fails to take the examination on the date scheduled, he or she may make application in writing to the principal office of the department in Sacramento for a new date. A fee of fifteen dollars ($15) shall accompany the written request for applying for the first new examination date in the case of a broker applicant, and a fee of ten dollars ($10) shall accompany the written request for the first new examination date in the case of a salesperson applicant. A fee of twenty-five dollars ($25) shall accompany the written request for all subsequent new examination dates for both broker and salesperson applicants.

This section shall only become operative pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 11. Section 10214.5 of the Business and Professions Code, as amended by Section 10 of Chapter 416 of the Statutes of 1993, is amended to read:

10214.5. The fee for a restricted salesperson license shall not exceed one hundred seventy dollars ($170), except that for an applicant qualifying pursuant to Section 10153.4 who has not satisfied

all of the educational requirements prior to issuance of the license, the fee shall not exceed one hundred ninety-five dollars ($195).

This section shall remain in effect unless it is repealed pursuant to the provisions of Section 28 of Chapter 416 of the Statute of 1993.

SEC. 12. Section 10214.5 of the Business and Professions Code, as added by Section 10.5 of Chapter 416 of the Statutes of 1993, is amended to read:

10214.5. The fee for a restricted salesperson license shall not exceed one hundred twenty dollars ($120).

This section shall only become operative pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 13. Section 10215 of the Business and Professions Code, as amended by Section 11 of Chapter 416 of the Statutes of 1993, is amended to read:

10215. The fee for a real estate salesperson license shall not exceed two hundred forty-five dollars ($245), except that for an applicant qualifying pursuant to Section 10153.4 who has not satisfied all of the educational requirements prior to issuance of the license, the fee shall not exceed two hundred seventy-five dollars ($275).

In the case of an original applicant, the fee is payable after the applicant is notified of passing the examination for license.

This section shall remain in effect unless it is repealed pursuant to the provisions of Section 28 of Chapter 416 of the 1993–94 Regular Session.

SEC. 14. Section 10215 of the Business and Professions Code, as added by Section 11.5 of Chapter 416 of the Statutes of 1993, is amended to read:

10215. The fee for a real estate salesperson license shall not exceed one hundred twenty dollars ($120), except that for an applicant qualifying pursuant to Section 10153.4 who has not satisfied all of the educational requirements prior to issuance of the license, the fee shall not exceed one hundred forty-five dollars ($145).

In the case of an original applicant, the fee is payable after the applicant is notified of passing the examination for license.

This section shall only become operative pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 15. Section 10222 of the Business and Professions Code, as amended by Section 12 of Chapter 416 of the Statutes of 1993, is amended to read:

10222. For any examination required under any order issued pursuant to the provisions of the Administrative Procedure Act, the fee is thirty dollars ($30) for salespersons and sixty dollars ($60) for brokers.

This section shall remain in effect unless it is repealed pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 16. Section 10222 of the Business and Professions Code, as added by Section 12.5 of Chapter 416 of the Statutes of 1993, is amended to read:

10222. For any examination required under any order issued pursuant to the provisions of the Administrative Procedure Act, the fee is twenty-five dollars ($25) for salespersons and fifty dollars ($50) for brokers.

This section shall only become operative pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

SEC. 17. Section 11011 of the Business and Professions Code, as amended by Section 27 of Chapter 416 of the Statutes of 1993, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(11) An amended public report to offer subdivision interests other than those described in Section 11004.5: Five hundred dollars ($500)

plus ten dollars ($10) for each subdivision interest to be offered under the amended public report for which a fee has not previously been paid.

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

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

This section shall remain in effect unless it is repealed pursuant to the provisions of Section 28 of Chapter 416 of the Statutes of 1993.

CHAPTER 343

An act to amend Section 49076 of the Education Code, and to add Section 827.1 to the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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.

(c) Notwithstanding any other provision of law, any school district, including any county office of education or superintendent of schools, may participate in an interagency data information system that permits access to a computerized data base system within and between governmental agencies or districts as to information or records which are nonprivileged, and where release is authorized as to the requesting agency under state or federal law or regulation, as long as each of the following requirements are met:

(1) Each agency and school district shall develop security procedures or devices by which unauthorized personnel cannot access data contained in the system.

(2) Each agency and school district shall develop procedures or devices to secure privileged or confidential data from unauthorized disclosure.

(3) Each school district shall comply with the access log requirements of Section 49064.

(4) The right of access granted shall not include the right to add, delete, or alter data without the written permission of the agency holding the data.

(5) No agency or school district may make public or otherwise release information on an individual contained in the data base where the information is protected from disclosure or release as to the requesting agency by state or federal law or regulation.

SEC. 2. Section 827.1 is added to the Welfare and Institutions Code, to read:

827.1. (a) Notwithstanding any other provision of law, a city, county, or city and county may establish a computerized data base system within that city, county, or city and county that permits the probation department, law enforcement agencies, and school districts to access probation department, law enforcement, school district, and juvenile court information and records which are nonprivileged and where release is authorized under state or federal law or regulation, regarding minors under the jurisdiction of the juvenile court pursuant to Section 602 or for whom a program of supervision has been undertaken where a petition could otherwise be filed pursuant to Section 602.

(b) Each city, county, or city and county permitting computer access to these agencies shall develop security procedures by which unauthorized personnel cannot access data contained in the system as well as procedures or devices to secure data from unauthorized access or disclosure. The right of access granted shall not include the right to add, delete, or alter data without the written permission of the agency holding the data.

CHAPTER 344

An act to amend Sections 15379.15 and 15379.16 of, and to add Section 15379.17 to, the Government Code, relating to economic development.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. (a) It is the intent of the Legislature that state government shall, through an industry-driven process, aid in the development of an effective manufacturing improvement infrastructure that encourages and supports the successful establishment, improvement, and growth of small manufacturers throughout the state. This infrastructure shall encourage the integration and communication of public and private resources to meet the needs of the manufacturing community. This infrastructure

shall support regional collaboration to deliver manufacturing improvement services between the state's manufacturing extension centers, regional technology alliances, higher education community, vocational education programs, manufacturing-related training programs, and other relevant public and private programs in a timely and effective manner.

(b) It is the further intent of the Legislature to encourage the California Council on Science and Technology to develop recommendations for the most effective and efficient way for the state to organize its delivery of technology services to California's industrial base, especially to its small- and medium-sized manufacturers. In developing these recommendations, the council should study the experiences of other states and use a systematic process to listen to the needs of industry.

SEC. 2. Section 15379.15 of the Government Code is amended to read:

15379.15. There is hereby established within the agency the Manufacturing Technology Program. The program shall provide matching grants and technical assistance to California nonprofit organizations, businesses, consortia, and public agencies. The program shall consist of the following two grant programs:

(a) The California Manufacturing Excellence Program, which shall provide matching grants pursuant to the requirements set forth in Section 15379.16 to nonprofit and public agencies and industry associations to perform one or more of the following functions:

(1) Establish and fund a California manufacturers excellence program.

(2) Develop and disseminate an inventory of resources available to assist manufacturers.

(3) Implement a strategy for addressing needs identified in the statewide California Manufacturing Excellence Program Plan, given available resources.

(4) Projects resulting in consortia partnership or alliances for manufacturing technology.

(b) The Manufacturers Technology Matching Grant Program, which shall provide matching grants pursuant to the selection process described in Sections 8449, 8450, 8451, 8452, 8453, 8454, 8456, and 15379.17, and technical assistance to California nonprofit organizations, public agencies, consortia, and manufacturers for projects qualifying for federal funds.

SEC. 3. Section 15379.16 of the Government Code is amended to read:

15379.16. (a) Grant awards under the California Manufacturing Excellence Program shall be based upon a competitive application process addressing the project's eligibility, a review of the proposal's scientific and technological aspects, and ability to fulfill the goals of the program.

(b) Awards shall be granted for projects in the following order of priority:

(1) Successful projects that have competed for and received a federal grant that is contingent upon the provision of matching funds.

(2) Projects that will use the grant funds as matching funds for a federal grant.

(3) Projects with additional sources of funding.

(4) Projects involving geographic areas or manufacturing segments targeted by the agency.

(5) Projects satisfying any other criteria developed by the agency.

(c) An example of projects to be considered is manufacturing extension efforts by nonprofit agencies or organizations to enhance productivity, quality, and efficiency of manufacturers to increase overall competitiveness.

SEC. 4. Section 15379.17 is added to the Government Code, to read:

15379.17. (a) The Manufacturers Technology Matching Grant Program is established to enhance California's competitiveness by assisting small- and medium-sized manufacturers within the state. Grants awarded pursuant to this program shall be based on a competitive process and shall be made to California-based small- and medium-sized manufacturers, nonprofit agencies, and consortia of small and medium-sized business and nonprofit agencies. A public or private university or community college may not function as a lead in a proposal for any funds under this program.

(b) An example of a project to be considered is a joint effort by federal laboratories, universities, and private companies to research and develop advanced manufacturing technologies that would significantly reduce the health, safety, and environmental hazards of an existing manufacturing process.

(c) For purposes of this section, a "small- and medium-sized manufacturer" means a manufacturer located within the state that has fewer than 500 employees.

SEC. 5. This act shall take effect only if Senate Bill 1801 of the 1995–96 Regular Session is enacted and takes effect.

CHAPTER 345

An act to add Section 1500.6 to the Evidence Code, relating to evidence.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 1500.6 is added to the Evidence Code, to read:

1500.6. (a) Notwithstanding Section 1500, a printed representation of an image stored on video or digital media shall be admissible to prove the existence and content of the image stored on the video or digital media.

Images stored on video or digital media, or copies of images stored on video or digital media, shall not be rendered inadmissible by the best evidence rule. Printed representations of images stored on video or digital media shall be presumed to be accurate representations of the images that they purport to represent. This presumption, however, is a presumption affecting the burden of producing evidence only. If any party to a judicial proceeding introduces evidence that such a printed representation is inaccurate or unreliable, the party introducing it into evidence shall have the burden of proving, by a preponderance of evidence, that the printed representation is the best available evidence of the existence and content of the images that it purports to represent.

(b) This section shall not be construed to abrogate the holding of People v. Enskat, (1971) 20 Cal. App. 3d Supp. 1.

CHAPTER 346

An act to add Section 5104 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 5104 is added to the Revenue and Taxation Code, to read:

5104. Any refund of taxes authorized pursuant to this article as a result of a reduction in the value of taxable property may be paid to the latest recorded owner of that property as shown on the tax roll, rather than to the individual or entity who paid the amount of tax to be refunded, if both of the following conditions are met:

(1) There has been no transfer of the property during or since the fiscal year for which the taxes subject to refund were levied.

(2) The amount of the refund is less than five thousand dollars ($5,000).

CHAPTER 347

An act to amend Section 65583.1 of the Government Code, relating to housing.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 65583.1 of the Government Code is amended to read:

65583.1. (a) The Department of Housing and Community Development, in evaluating a proposed or adopted housing element for consistency with state law, may allow a local government to identify adequate sites, as required pursuant to Section 65583, by a variety of methods, including, but not limited to, redesignation of property to a more intense land use category and increasing the density allowed within one or more categories. Nothing in this section reduces a local government's responsibility to identify, by income category, the total number of sites for residential development as required by this article.

(b) Sites that contain permanent housing units located on a military base undergoing closure or conversion may be identified as an adequate site provided the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

Any city, city and county, or county using this subdivision shall address the progress in meeting this section in the reports provided pursuant to paragraph (1) of subdivision (b) of Section 65400.

CHAPTER 348

An act to amend Section 26857.5 of the Government Code, relating to fees.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 26857.5 of the Government Code is amended to read:

26857.5. Notwithstanding any other provision of law, no fee shall be charged to file a respondent's or defendant's appearance,

stipulation if any, and waiver of rights in the action under the Soldiers' and Sailors' Civil Relief Act of 1940 in an action for dissolution of marriage, legal separation, or nullity, or to establish paternity, in any case wherein the respondent or defendant is a member of the armed forces of the United States and does not contest the action for dissolution of marriage, legal separation, or nullity, or to establish paternity.

CHAPTER 349

An act to amend Section 12978 of the Insurance Code, relating to insurance.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 12978 of the Insurance Code is amended to read:

12978. Notwithstanding any other provision of law, the commissioner may increase or decrease the fees set forth in this code as necessary to allow the department to meet the appropriation authorized by the annual Budget Act. However, any increase or decrease so made shall be made only in accordance with this section, and a fee increase shall not exceed 10 percent without the prior approval of the Legislature.

Any increase or decrease in the statutory fees made by the department pursuant to this section shall be by a uniform percentage for all fees, rounded to the nearest whole dollar.

A single annual increase or decrease in fees, on a fiscal year basis, may be made by the department at any time during the year provided it is announced by bulletin issued at least 90 days prior to the effective date of that increase or decrease. The bulletin shall be sent to all affected parties and to both houses of the Legislature. Any such fee increase or decrease may be rescinded by a majority vote of both houses of the Legislature not later than 60 days after the issuance of the bulletin announcing the increase or decrease.

In the event the bulletin is issued during the period between August 1 and December 1 of any year, the department shall provide notice in writing of the necessity of any fee increase or decrease as proposed in the bulletin upon issuance of the bulletin to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee.

If written notice is provided to the commissioner within 60 days of the issuance of the bulletin announcing the increase or decrease by

any of the chairpersons that there is an objection to the fee increase or decrease, the increase or decrease shall take effect February 1 of the following year unless rescinded by a majority vote of both houses of the Legislature by that date, rather than 60 days after issuance of the bulletin.

The limit on the amount which the fees may be increased or decreased shall be the amount necessary to provide sufficient moneys to meet the appropriations contained in the Governor's Budget for the next succeeding fiscal year, or, to the extent that moneys received or projected to be received by the department are insufficient to meet the appropriation authorized by the annual Budget Act during the then current fiscal year, an amount necessary to meet that appropriation.

SEC. 2. This act shall become operative only if Assembly Bill No. 3137 of the 1995–96 Regular Session is also enacted and becomes operative.

CHAPTER 350

An act to amend Section 11622.5 of the Insurance Code, relating to insurance.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 11622.5 of the Insurance Code is amended to read:

11622.5. The plan shall provide for effective dates for coverage consistent with all of the following:

(a) Except as provided in this section, in no event shall coverage be effective prior to the date and time of execution of the application forms. Postage meter or United States Postal Service postmarks shall not be recognized by the plan as establishing effective dates.

(b) (1) Beginning July 1, 1995, when the applicant requires that coverage be effective immediately, the effective date and time shall be established using an electronic effective date procedure established by the plan. The plan shall establish a future effective date using the electronic effective date procedure. The future effective date option shall be available upon request by an applicant. An applicant may request a future effective date of 15 days or less from the date of application completion.

(2) The manager of the plan shall establish and maintain a toll-free telephone number as part of the electronic effective date procedure. The manager shall maintain sufficient capacity to service, in a timely

manner, applications received by means of the electronic effective date procedure.

(3) The electronic effective date procedure shall be available only to producers of record who are certified by the plan.

(4) A producer of record shall have a duty to comply with the requirements of this section within 24 hours of the date and time the application is completed and executed.

(c) Coverage for vehicles shall become effective at the date and time the application is transmitted through the plan's electronic effective date procedure if and only if all of the following requirements are met:

(1) The producer of record and the applicant certify under penalty of perjury on the application the date and time that the application forms were completed and executed.

(2) The producer of record uses the electronic effective date procedure adopted pursuant to subdivision (b) and inserts the reference number or other required verification code on the application.

(3) The application forms and required deposit are mailed to the plan manager no later than two working days following the date the application forms are completed and executed. The mailing date is established by the United States Postal Service postmark on the envelope enclosing the application.

(d) If the application is made without using the electronic effective date procedure or if there is not compliance with the provisions of subdivision (c), coverage shall be effective as of 12:01 a.m. on the date following receipt of the application in the plan office unless a later date is requested.

(e) If the applicant desires coverage on a date later than that which would otherwise be fixed pursuant to this section, the applicant shall indicate that date and the plan manager shall fix the effective date of coverage as of 12:01 a.m. on the desired date of coverage. However, no date shall be later than 45 days after the date of application.

(f) The effective date for coverage for an additional vehicle to be added to an in-force policy or for other coverage to be added to an in-force policy shall not be subject to the requirements of this section, but shall be governed by the terms of the policy and other applicable laws and regulations.

(g) In order to provide evidence of a requested effective date, the producer of record shall maintain appropriate records of all risks for which he or she has designated the time and date of coverage. That evidence shall be in the form of completed applications, eligibility certification forms, a mail log, a check copy, a check register, a receipt, and other records created contemporaneously with the application, and shall permit inspection or photocopying of those records by the plan manager or the assigned insurer. The inspection

or photocopying shall be limited to situations where the effective date is an issue.

(h) Where the plan's electronic effective date procedure is disrupted due to failure of transmission or receiving equipment due to fire, earthquake, explosion, civil unrest, or similar disaster or emergency, the producer of record may bind coverage up to one day prior to the time the application forms and required deposit are mailed to the plan manager, as established by the United States Postal Service postmark on the envelope in which the application was enclosed.

(i) Notwithstanding any other provision of this section, where the producer of record discovers a material error in an application, the producer of record shall be authorized to rescind coverage bound for a period up to 24 hours after the date and time established pursuant to the plan's electronic effective date procedure.

(j) To ensure compliance with the electronic effective date procedure, application forms shall contain the following statement in 12-point boldface type:

IMPORTANT NOTICE

THIS POLICY IS NOT EFFECTIVE UNTIL YOUR APPLICATION IS ELECTRONICALLY TRANSMITTED TO THE PLAN BY YOUR AGENT OR BROKER. THE FOLLOWING CONDITIONS MUST ALSO BE MET:

(1) BOTH YOU AND YOUR AGENT OR BROKER MUST SIGN AND DATE A PROPERLY COMPLETED APPLICATION.

(2) YOUR AGENT OR BROKER MUST MAIL YOUR APPLICATION TO THE PLAN WITHIN TWO DAYS OF ITS COMPLETION.

YOU MAY REQUEST THAT YOUR AGENT OR BROKER TRANSMIT THE DOCUMENTS IN YOUR PRESENCE TO ENSURE IMMEDIATE COVERAGE, PROVIDED THE ABOVE REQUIREMENTS ARE MET.

IF THE ABOVE REQUIREMENTS ARE NOT MET, YOUR COVERAGE WILL TAKE EFFECT THE DAY AFTER THE PLAN OFFICE RECEIVES YOUR APPLICATION. YOU MAY REQUEST THAT YOUR AGENT OR BROKER NOTIFY YOU WHEN YOUR COVERAGE IS EFFECTIVE.

CHAPTER 351

An act to amend Sections 15048, 15049, and 15052 of the Corporations Code, relating to limited liability partnerships.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 15048 of the Corporations Code is amended to read:

15048. The name of a registered limited liability partnership shall contain the words "Registered Limited Liability Partnership" or "Limited Liability Partnership" or one of the abbreviations "L.L.P.," "LLP," "R.L.L.P.," or "RLLP" as the last words or letters of its name.

SEC. 2. Section 15049 of the Corporations Code is amended to read:

15049. (a) To become a registered limited liability partnership, a partnership, other than a limited partnership, shall file with the Secretary of State a registration, executed by one or more partners authorized to execute a registration, stating (1) the name of the partnership; (2) the address of its principal office; (3) the name and address of the agent for service of process on the limited liability partnership in California; (4) a brief statement of the business in which the partnership engages; (5) any other matters that the partnership determines to include; and (6) that the partnership is registering as a registered limited liability partnership.

(b) The registration shall be accompanied by a fee of seventy dollars ($70).

(c) The Secretary of State shall register as a registered limited liability partnership any partnership that submits a completed registration with the required fee.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the date of the original filing.

(e) A partnership becomes a registered limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the

registration and the payment of the fee required by subdivision (b). A partnership continues as a registered limited liability partnership until a notice that it is no longer a registered limited liability partnership has been filed pursuant to subdivision (b) of Section 15050 or, if applicable, until it has been dissolved and finally wound up. The status of a partnership as a registered limited liability partnership and the liability of a partner of the registered limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in a registration under subdivision (a) or an amended registration or notice under Section 15050.

(f) The fact that a registration or amended registration pursuant to this section is on file with the Secretary of State is notice that the partnership is a registered limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 15052.

(h) A limited liability partnership providing professional limited liability partnership services in this state shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or other agency that prescribes the rules and regulations governing the particular profession in which the partnership proposes to engage, pursuant to the applicable provisions of the Business and Professions Code relating to that profession. No such state board, commission, or other agency shall disclose, unless compelled by a subpoena or other order of a court of competent jurisdiction, any information it receives in the course of evaluating the compliance of a limited liability partnership with applicable statutory and administrative registration or filing requirements, provided that nothing herein shall be construed to prevent a state board, commission, or other agency from disclosing the manner in which the limited liability partnership has complied with the requirements of Section 15052, or the compliance or noncompliance by the limited liability partnership with any other requirements of the state board, commission, or other agency.

SEC. 3. Section 15052 of the Corporations Code is amended to read:

15052. (a) At the time of registration pursuant to Section 15049, in the case of a registered limited liability partnership, and Section 15055, in the case of a foreign limited liability partnership, and at all times during which those partnerships shall transact intrastate business, every registered limited liability partnership and foreign limited liability partnership, as the case may be, shall be required to provide security for claims against it as follows:

(1) For claims based upon acts, errors, or omissions arising out of the practice of public accountancy, a registered limited liability partnership or foreign limited liability partnership providing accountancy services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of insurance is not required to exceed five million dollars ($5,000,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance companies as security for payment of liabilities imposed by law for damages arising out of all claims in an amount of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services; however, the maximum amount of security is not required to exceed five million dollars ($5,000,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(C) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars ($10,000,000).

(2) For claims based upon acts, errors, or omissions arising out of the practice of law, a registered limited liability partnership or foreign limited liability partnership providing legal services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims in an amount for each claim of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services on behalf of the partnership; however, the maximum amount of insurance is not required to exceed seven million five hundred thousand dollars ($7,500,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(B) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance companies as security for payment of liabilities imposed by law for

damages arising out of all claims in an amount of at least one hundred thousand dollars ($100,000) multiplied by the number of licensed persons rendering professional services; however, the maximum amount of security is not required to exceed seven million five hundred thousand dollars ($7,500,000) for claims initially asserted in any one calendar year, less amounts paid in defending, settling, or discharging those claims.

(C) Each partner of a registered limited liability partnership or foreign limited liability partnership providing legal services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by paragraph (2) of this subdivision and the security otherwise provided in accordance with the provisions of subparagraphs (A) and (B) of paragraph (2) of this subdivision, provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Withdrawal by a partner shall not affect the rights or obligations of such partner arising prior to withdrawal. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), and (C) of paragraph (1) of subdivision (a) or subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (a), as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (C) of paragraph (1) of subdivision (a) shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

TRANSMITTAL FORM FOR EVIDENCING COMPLIANCE WITH SECTION 15052(a)(1)(C) OF THE CALIFORNIA CORPORATIONS CODE

The undersigned hereby confirms the following:

1. _____
Name of registered or foreign limited liability partnership

2. _____
Jurisdiction where partnership is organized

3. _____
Address of principal office

4. The registered or foreign limited liability partnership renders accountancy services and chooses to satisfy the requirements of Section 15052 by confirming, pursuant to Sections 15052(a)(1)(C) and 15052(c), that, as of the most recently completed fiscal year, the partnership had a net worth equal to or exceeding ten million dollars ($10,000,000).

5. _____
Title of authorized person executing this form

6. _____
Signature of authorized person executing this form

(c) Pursuant to subparagraph (C) of paragraph (1) of subdivision (a), a registered limited liability partnership or foreign limited liability partnership rendering accountancy services may satisfy the requirements of this section by confirming that, as of the last day of its most recently completed fiscal year, it had a net worth equal to or exceeding ten million dollars ($10,000,000). In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the optional security requirement shall be on file within four months of the completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other

insolvency proceeding is commenced with respect to the registered limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall thereafter comply with paragraph (1) or (2) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (b) of Section 15015.

CHAPTER 352

An act relating to local government organization.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. This section shall govern any proposal for a change of organization or reorganization submitted by the Lakeside, Riverview, or Padre Dam Municipal Water District in the County of San Diego that involve one or more dissolutions.

(a) In any resolution ordering a change of organization or reorganization subject to the confirmation of the voters , if required because the conducting authority finds that a petition has been signed by the required percentage of landowners or voters pursuant to subdivision (b) of Section 57081 of the Government Code, the conducting authority shall call that election within the territory of each district ordered to be formed or dissolved. An election called to confirm the reorganization shall be called, held, and conducted under one of the following conditions:

(1) Any dissolution that is part of the proposed reorganization shall be confirmed only if approved by a majority vote within the territory of the district proposed to be dissolved.

(2) The reorganization shall be confirmed only by both a majority vote within the territory of any district proposed to be dissolved and a majority vote within the territory of all or any other districts subject to the reorganization.

(b) Notwithstanding Section 57133 of the Government Code, and subject to Section 57134 of the Government Code, for proposals involving a dissolution that is governed by this section, the question or questions to be submitted at any special election or elections shall be in substantially the following form:

For each district dissolution: "Shall the order adopted on _____, _____, by the (Board of Supervisors of the County of _____, or other conducting authority)

ordering the dissolution of the _____ district be confirmed?"

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

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances involving specified special districts in San Diego County.

CHAPTER 353

An act to amend Section 35401.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 35401.5 of the Vehicle Code is amended to read:

35401.5. (a) A combination of vehicles consisting of a truck tractor and semitrailer, or of a truck tractor, semitrailer, and trailer, is not subject to the limitations of Sections 35400 and 35401, when operating on the National System of Interstate and Defense Highways or when using those portions of federal-aid primary system highways that have been qualified by the United States Secretary of Transportation for that use, or when using routes appropriately identified by the Department of Transportation or local authorities as provided in subdivision (c) or (d), if all of the following conditions are met:

(1) The length of the semitrailer in exclusive combination with a truck tractor does not exceed 48 feet. A semitrailer not more than 53 feet in length shall satisfy this requirement when configured with two or more rear axles, the rearmost of which is located 40 feet or less from the kingpin or when configured with a single axle which is located 38 feet or less from the kingpin. For purposes of this paragraph, a motor truck used in combination with a semitrailer, when that combination of vehicles is engaged solely in the transportation of motor vehicles, is considered to be a truck tractor.

(2) Neither the length of the semitrailer nor the length of the trailer when simultaneously in combination with a truck tractor exceeds 28 feet 6 inches.

(b) Subdivisions (b), (c), (d), and (e) of Section 35402 do not apply to combinations of vehicles operated subject to the exemptions provided by this section.

(c) Combinations of vehicles operated pursuant to subdivision (a) may also use highways not specified in subdivision (a) which provide reasonable access to terminals and facilities for purposes limited to fuel, food, lodging, and repair when that access is consistent with the safe operation of the combinations of vehicles and when the facility is within one road mile of identified points of ingress and egress to or from highways specified in subdivision (a) for use by those combinations of vehicles.

(d) The Department of Transportation or local authorities may establish a process whereby access to terminals or services may be applied for upon a route not previously established as an access route. The denial of a request for access to terminals and services shall be only on the basis of safety and an engineering analysis of the proposed access route. If a written request for access has been properly submitted and has not been acted upon within 90 days of receipt by the department or the appropriate local agency, the access shall be deemed automatically approved. Thereafter, the route shall be deemed open for access by all other vehicles of the same type regardless of ownership. In lieu of processing an access application, the Department of Transportation or local authorities with respect to highways under their respective jurisdictions may provide signing, mapping, or a listing of highways as necessary to indicate the use of specific routes as terminal access routes. For purposes of this subdivision, "terminal" means either of the following:

(1) A facility where freight originates, terminates, or is handled in the transportation process.

(2) A facility where a motor carrier maintains operating facilities.

(e) Nothing in subdivision (c) or (d) authorizes state or local agencies to require permits of terminal operators or to charge terminal operators fees for the purpose of attaining access for vehicles described in this section.

(f) Notwithstanding subdivision (d), the limitations of access specified in that subdivision do not apply to licensed carriers of household goods when directly enroute to or from a point of loading or unloading of household goods, if travel on highways other than those specified in subdivision (a) is necessary and incidental to the shipment of the household goods.

(g) (1) Notwithstanding Sections 35400 and 35401, the Department of Transportation or local authorities, with regard to highways under their respective jurisdictions, may, upon application, issue a special permit authorizing the applicant to operate a combination of vehicles consisting of a truck tractor semitrailer combination operated pursuant to subdivision (a) with a kingpin to rearmost axle measurement limit of not more than 46 feet on trailers used exclusively or primarily in connection with motorsports. As used

in this paragraph, "motorsports" means any event, and all activities leading up to that event, including, but not limited to, administration, testing, practice, promotion, and merchandising, that is sanctioned under the auspices of the member organizations of the Automobile Competition Committee for the United States.

(2) A local authority, as a condition of issuing a special permit under this subdivision, may establish reasonable controls on the allowable hours of operation of those semitrailers that are authorized to operate under this subdivision.

(h) The Legislature finds and declares both of the following:

(1) In authorizing the use of 53-foot semitrailers, it is the intent of the Legislature to conform with Section 2311(b) of Title 49 of the United States Code by permitting the continued use of semitrailers of the dimensions as those that were in actual and legal use on December 1, 1982, and does not intend this action to be a precedent for future increases in the parameters of any of those vehicles that would adversely affect the turning maneuverability of vehicle combinations.

(2) In authorizing the department to issue special transportation permits for motorsports, it is the intent of the Legislature to conform with Section 31111(b)(1)(E) of Title 49 of the United States Code. It is also the intent of the Legislature that this action not be a precedent for future increases in the distance from the kingpin to the rearmost axle of semitrailers that would adversely affect the turning maneuverability of vehicle combinations.

CHAPTER 354

An act to amend Sections 1320 and 1320.5 of, and to add Section 1305.4 to, the Penal Code, relating to failure to appear.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 1305.4 is added to the Penal Code, to read:

1305.4. Notwithstanding Section 1305, the surety or depositor may file a motion, based upon good cause, for an order extending the 180-day period provided in that section. The motion shall include a declaration or affidavit that states the reasons showing good cause to extend that period. The motion shall be duly served on the prosecuting agency at least 10 days prior to the hearing date. The court, upon a hearing and a showing of good cause, may order the period extended to a time not exceeding 180 days from its order.

SEC. 2. Section 1320 of the Penal Code is amended to read:

1320. (a) Every person who is charged with or convicted of the commission of a misdemeanor who is released from custody on his or her own recognizance and who in order to evade the process of the court willfully fails to appear as required, is guilty of a misdemeanor. It shall be presumed that a defendant who willfully fails to appear within 14 days of the date assigned for his or her appearance intended to evade the process of the court.

(b) Every person who is charged with or convicted of the commission of a felony who is released from custody on his or her own recognizance and who in order to evade the process of the court willfully fails to appear as required, is guilty of a felony, and upon conviction shall be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the state prison, or in the county jail for not more than one year, or by both that fine and imprisonment. It shall be presumed that a defendant who willfully fails to appear within 14 days of the date assigned for his or her appearance intended to evade the process of the court.

SEC. 3. Section 1320.5 of the Penal Code is amended to read:

1320.5. Every person who is charged with or convicted of the commission of a felony, who is released from custody on bail, and who in order to evade the process of the court willfully fails to appear as required, is guilty of a felony. Upon a conviction under this section, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000) or by imprisonment in the state prison, or in the county jail for not more than one year, or by both the fine and imprisonment. Willful failure to appear within 14 days of the date assigned for appearance may be found to have been for the purpose of evading the process of the court.

CHAPTER 355

An act to amend Section 903.2 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 903.2 of the Welfare and Institutions Code is amended to read:

903.2. (a) The juvenile court may require that the father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor shall be liable for the cost to the county of the probation supervision, home supervision, or electronic surveillance of the minor, pursuant to the order of the juvenile court, by the probation officer. The liability of these persons

(in this article called relatives) and estates shall be a joint and several liability.

(b) Liability shall be imposed on a person pursuant to this section only if he or she has the financial ability to pay. In evaluating a family's financial ability to pay under this section, the county shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income.

CHAPTER 356

An act to add and repeal Section 20175 of the Public Contract Code, relating to public works projects.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 20175 is added to the Public Contract Code, to read:

20175. (a) This section provides an alternative and optional procedure on bidding on building construction projects applicable only in the City of West Sacramento and the City of Davis, upon the approval of the city council of the respective city.

(b) (1) If the city council elects to proceed under this section, it shall, before entering into any contract requiring advertising for bids for a project, cause to be prepared estimates, and prepare documents, for the solicitation of bids on a design-and-build basis.

(2) For the purposes of this section, "design and build" means a method of procuring design and construction from a single source. The selection of the single source occurs before the development of complete plans and specifications.

(c) The request for submittals shall include all of the following:

(1) A clear and precise description of the services to be provided and work to be performed.

(2) A description of the format that submittals shall follow and the elements they shall contain, including the qualifications and relevant experience of the design professional and the contractor, and the criteria that shall be used in evaluating the submittal, including the bid price.

(3) The date on which the submittals are due, and the timetable that will be used in reviewing and evaluating the submittals.

(d) In addition to the information required in paragraph (2) of subdivision (c), bidders shall submit their proposals with the construction bid price and all cost information in a separate sealed envelope.

(e) All submittals received prior to the closing time stated in the request for submittal shall be reviewed to determine those that meet the format requirements and the standards specified in the request for submittal.

(f) The contract shall be awarded to the lowest responsible bidder meeting the standards of the request for submittal.

(g) For the purposes of this section, selections of design professionals shall meet the standards of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(h) The City of West Sacramento or the City of Davis, if it chooses to utilize this section, shall file, on or before September 1, 1998, and again on or before September 1, 2000, with the Committees on Local Government of the Senate and the Assembly, a report containing the following information:

(1) A description of each project procured through the design-and-build process authorized by this section including, but not limited to, all of the following:

(A) The type of facility.

(B) The gross square footage of the facility.

(C) The company or contractor who was awarded the project.

(D) The estimated and actual length of time to complete the project.

(E) The estimated and actual project cost.

(F) A description of the relative merits of projects authorized pursuant to this section and similar projects procured pursuant to existing requirements of this code.

(G) A description of any written protest concerning any aspect of the solicitation, bid, proposal, or award of projects pursuant to this section, including the resolution of the project.

(2) Other pertinent information that the city believes is instructive in evaluating whether the method of procurement should be continued or expanded, or both.

(i) This section shall be applicable only to any project for which the costs specified in any contract awarded pursuant to this section do not exceed fifty million dollars ($50,000,000).

(j) Contracts awarded pursuant to this section shall be valid until the project is completed, within the period specified in the contract entered into by the city prior to January 1, 2001.

(k) This section shall be applicable only to a project that is under the supervision of a licensed general building contractor within the meaning of Section 7057 of the Business and Professions Code.

(*l*) Nothing in this section shall limit any existing authority, whether explicit or implied, for cities to utilize design-build in contracting for public improvements.

(m) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2001, deletes or extends that date.

CHAPTER 357

An act to amend Sections 3001 and 5077 of the Penal Code, relating to parole, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 3001 of the Penal Code is amended to read:

3001. (a) Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was not imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison, and has been on parole continuously for one year since release from confinement, within 30 days, that person shall be discharged from parole, unless the Department of Corrections recommends to the Board of Prison Terms that the person be retained on parole and the board, for good cause, determines that the person will be retained . Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison, and has been on parole continuously for two years since release from confinement, the department shall discharge, within 30 days, that person from parole, unless the department recommends to the board that the person be retained on parole and the board for good cause, determines that the person will be retained . The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(b) Notwithstanding any other provision of law, when any person referred to in paragraph (2) of subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for three years since release from confinement, the board shall discharge, within 30 days, the person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(c) In the event of a retention on parole, the parolee shall be entitled to a review by the parole authority each year thereafter until the maximum statutory period of parole has expired.

(d) The amendments to this section made during the 1987–88 Regular Session of the Legislature shall only be applied prospectively and shall not extend the parole period for any person whose eligibility for discharge from parole was fixed as of the effective date of those amendments.

SEC. 2. Section 5077 of the Penal Code is amended to read:

5077. The Board of Prison Terms shall review the prisoners' requests for reconsideration of denial of good-time credit, and setting of parole length or conditions, and shall have the authority to modify the previously made decisions of the Department of Corrections as to these matters. The revocation of parole shall be determined by the Board of Prison Terms.

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 remedy the inconsistencies in law regarding parole, it is necessary that this act take effect immediately.

CHAPTER 358

An act to repeal and add Section 2889.5 of the Public Utilities Code, relating to public utilities.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 2889.5 of the Public Utilities Code is repealed.

SEC. 2. Section 2889.5 is added to the Public Utilities Code, to read:

2889.5. (a) No telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber until all of the following steps have been completed:

(1) The telephone corporation, its representatives or agents shall thoroughly inform the subscriber of the nature and extent of the service being offered.

(2) The telephone corporation, its representatives or agents shall specifically establish whether the subscriber intends to make any

change in his or her telephone service provider, and explain any charges associated with that change.

(3) For sales of residential service, the subscriber's decision to change his or her telephone service provider shall be confirmed by an independent third-party verification company. For purposes of this provision, the confirmation by a third-party verification company shall be made as follows:

(A) The third party verification company shall meet each of the following criteria:

(i) Be independent from the telephone corporation that seeks to provide the subscriber's new service.

(ii) Not be directly or indirectly managed, controlled, or directed, or owned wholly or in part, by the telephone corporation that seeks to provide the new service or by any corporation, firm, or person who directly or indirectly manages, controls, or directs, or owns more than 5 percent of the telephone corporation.

(iii) Operate from facilities physically separate from those of the telephone corporation that seeks to provide the subscriber's new service.

(iv) Not derive commissions or compensation based upon the number of sales confirmed.

(B) The telephone corporation seeking to verify the sale shall do so by connecting the subscriber by telephone to the third-party verification company or by arranging for the third party verification company to call the subscriber to confirm the sale.

(C) The third-party verification company shall obtain the subscriber's oral confirmation regarding the change, and shall record that confirmation by obtaining appropriate verification data. The record shall be available to the subscriber upon request. Information obtained from the subscriber through confirmation shall not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit by the aggrieved subscriber against the telephone corporation or its employees who are responsible for the violation.

(D) Notwithstanding subparagraphs (A), (B), and (C), a service provider shall not be required to comply with these provisions when the customer directly calls the local service provider to make changes in service providers. However, a service provider shall not avoid the verification requirements by asking a subscribing customer to contact a local exchange service provider directly to make any change in the service provider. A local exchange service provider shall be required to comply with these verification requirements for its own competitive services. However, a local exchange service provider shall not be required to perform any verification requirements for any changes solicited by another telephone corporation.

(4) For sales of all nonresidential services, the subscriber's decision to change his or her service provider shall be confirmed through any of the following means:

(A) Independent third party verification, as set forth in paragraph (3) of subdivision (a).

(B) The telephone corporation shall mail to the subscriber an information package seeking confirmation of his or her change in the telephone corporation. The information package shall describe the new service and shall include a postage prepaid postcard or mailer that the subscriber can use to deny, cancel, or confirm a service order, as soon as possible, and wait 14 days after the information package is mailed before making the change in the telephone corporation. The telephone corporation shall make the change only if the subscriber does not cancel the change in service order.

(C) Verify the subscriber's change in his or her telephone service provider by obtaining the subscriber's signature on a document fully explaining the nature and extent of the action. The document shall be a separate document whose sole purpose is to explain the nature and extent of the action.

(D) Obtain the subscriber's authorization through an electronic means that takes the information, including the calling number, and confirms the change to which the subscriber has given his or her consent.

(5) Where the telephone corporation obtains a written order for service, the document shall thoroughly inform the subscriber of the nature and extent of the action. The subscriber shall be furnished with a copy of the signed document. The subscriber by his or her signature on the document shall indicate a full understanding of the relationship being established with the telephone corporation. When a written subscriber solicitation or other document contains a letter of agency authorizing a change in service provider, in combination with other information including, but not limited to, inducements to subscribers to purchase service, the solicitation shall include a separate document whose sole purpose is to explain the nature and extent of the action. If any part of a mailing to a prospective subscriber is in language other than English, any written authorization contained in the mailing shall be sent to the same prospective subscriber in the same language.

(6) The telephone corporation shall retain a record of the verification of the sale for at least one year. These records shall be made available to the subscriber, the Attorney General, or the commission upon request.

(b) If a residential or business subscriber that has not signed an authorization notifies the telephone corporation within 90 days that he or she does not wish to change telephone corporations, the subscriber shall be switched back to his or her former telephone corporation at the expense of the telephone corporation that initiated the change.

(c) For purposes of this section, competitive services are those services where subscribers have the ability to presubscribe to a telephone service provider.

(d) When a subscriber changes telephone service providers, the change shall be conspicuously noticed on the subscriber's bill. Notice in the following form is deemed to comply with this subdivision:

"NOTICE: Your local (or long distance) telephone service provider has been changed from (name of prior provider) to (name of current provider).

Cost of change: $ _____."

(e) Any telephone corporation that violates the verification procedures described in this section shall be liable to the telephone corporation previously selected by the subscriber in an amount equal to all charges paid by the subscriber after the violation.

(f) The remedies provided by this section are in addition to any other remedies available by law.

(g) As described in federal law, no telephone corporation, or any person, firm, or corporation representing a telephone corporation, shall make any change or authorize a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber without having on file, or having instituted reasonable steps designed to obtain, signed, dated orders for service from the subscriber. All orders shall be in the form prescribed in federal law for letters of agency. As described in federal law, the telephone corporation is responsible for charges associated with disputed changes in telephone service for which it cannot produce a signed, dated order for service from the subscriber. This subdivision applies to all intrastate services for which competition has been authorized.

CHAPTER 359

An act to amend Section 1357 of the Health and Safety Code, and to amend Section 10700 of the Insurance Code, relating to health insurance.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 1357 of the Health and Safety Code 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, any 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 percentage 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 two, but no more than 50, eligible employees, the majority of whom were employed within this state, that 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 three eligible employees until July 1, 1997, and two 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, and that (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 also may include employees 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. 2. Section 10700 of the Insurance Code 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 workweek 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; or (4) (A) in the case of an eligible employee as defined in paragraph (1) of subdivision (f), 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 Health Insurance Plan of California.

(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 two, 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 three eligible employees until July 1, 1997, and two 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 employees 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 those 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.

CHAPTER 360

An act to amend Section 1357 of the Health and Safety Code, and to amend Section 10700 of the Insurance Code, relating to health insurance.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 1357 of the Health and Safety Code 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, any 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 percentage 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 two, but no more than 50, eligible employees, the majority of whom were employed within this state, that 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 three eligible

employees until July 1, 1997, and two 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, and that (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 also may include employees 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. 2. Section 10700 of the Insurance Code 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 workweek 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; or (4) (A) in the case of an eligible employee as defined in paragraph (1) of subdivision (f), 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 Health Insurance Plan of California.

(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 two, 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 three eligible employees until July 1, 1997, and two 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 employees 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 those 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.

CHAPTER 361

An act to amend Sections 5502, 5503, 5506, 5771, 5772, 5774.5, 5775, 5776, 5777, 5778, 11404, 11501, 11501.1, 11896, 11897, 12115, 12115.1, 12115.3, 12115.5, 12503, 12648, 12648.5, 12648.6, 12753, 12755, 12757.5, 12758, 12758.5, 12783, 12802, 12811, 12814, 12815, 12821, 12822, 12823, 12824, 12825, 12825.5, 12826, 12827, 12827.5, 12828.5, 12829, 12832, 12833, 12841, 12841.1, 12845, 12847, 12848, 12848.1, 12848.6, 12848.7, 12848.9, 12851, 12852, 12853, 12854, 12855, 12856, 12857, 12858, 12859, 12881, 12882, 12883, 12884, 12911, 12931, 12932, 12961, 12991, 12992, 12993, 12994, 12995, 13101, 13102, 13142, 13143, 13144, 13145, 13146, 13147, 13148, 13149, 13150, 13151, 13152, 14012, 14021, 14063, 14101, 14262 and 14513 of, to amend the heading of Chapter 2 (commencing with Section 12751) of Division 7 of, and to add Sections 11472 and 11472.1 to, the Food and Agricultural Code, relating to economic poisons.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 5502 of the Food and Agricultural Code is amended to read:

5502. The following definitions shall govern the construction of this chapter:

(a) "Agency" means an agency of state government that has responsibility for roadside vegetation control operations on, or along, roadways.

(b) "Pesticide" is defined in Section 12753.

(c) "Property owner" means an owner, lessee, or tenant of real property that is adjacent or contiguous to a roadway over which an agency has responsibility for roadside vegetation control.

(d) "Roadside" means the land adjacent to, or dividing the lanes of traffic of, a roadway.

(e) "Roadway" means any highway, superhighway, expressway, street, road, lane, or other public thoroughfare.

SEC. 2. Section 5503 of the Food and Agricultural Code is amended to read:

5503. The Legislature hereby finds and declares all of the following:

(a) The unannounced and poorly coordinated use of pesticides to control roadside vegetation has too frequently resulted in damage to adjacent or contiguous private property. In some instances, this activity has caused growers to needlessly suffer economic loss or damage to their crops.

(b) Property owners have a right to know beforehand the manner in which state government intends to control the roadside vegetation adjacent or contiguous to their property.

(c) It is in the public interest to establish a voluntary mechanism by which private property owners may meet and confer with representatives of state government to enter into mutually acceptable voluntary agreements to promote coordinated programs for roadside vegetation control, and thereby minimize damage to adjacent and contiguous property.

(d) Mutually acceptable agreements may include, but are not limited to, provisions whereby the property owner assumes responsibility for roadside vegetation control in a manner which is at least as effective as that proposed by state government, the use of mechanical means of vegetation control, the use of a combination of pesticide and mechanical means of control, a delay in the application of a pesticide, or the use of different pesticides.

(e) Private property owners and representatives of state government are encouraged to voluntarily develop creative and innovative means to accomplish the goals and objectives of this chapter.

SEC. 3. Section 5506 of the Food and Agricultural Code is amended to read:

5506. (a) Within 30 days of receipt of the information required to be provided pursuant to Section 5504, the property owner may request a meeting with representatives of the agency to discuss the agency's proposed schedule for, or method of, roadside vegetation control, or both the schedule and method to be used on, or along, the roadway adjacent or contiguous to his or her property.

(b) Upon receipt of a request for a meeting pursuant to this section, the agency shall meet with the property owner at a mutually agreeable time and location.

(c) The purpose of the meeting shall be to develop and adopt the following:

(1) A schedule for the roadside vegetation control operation .

(2) A method of roadside vegetation control that eliminates, or minimizes, damage to the property owner's property while preserving the ability of the agency to conduct an effective roadside vegetation control program.

(d) The agency shall consider and, if the facts presented to the agency warrant further action in order to carry out the objectives of this chapter, do any or all of the following:

(1) Revise the schedule for the roadside vegetation control operation.

(2) Revise the proposed methods of roadside vegetation control, including, but not limited to, the use of a pesticide or mechanical methods of control, or a combination thereof.

(3) Use different pesticides, or different combinations or concentrations of pesticides.

(4) Enter into an agreement with the property owner whereby the property owner agrees to assume the responsibility, in whole or in part, of roadside vegetation control by any lawful method of control, if the agency determines that the property owner's method is as effective as the method proposed to be used by the agency.

(e) The objective of this section is to establish a procedure for property owners and representatives of agencies to meet and confer in order to develop and adopt mutually acceptable times for, and methods of, well-coordinated and effective roadside vegetation control operations, and thereby minimize damage to adjacent or contiguous property.

(f) If agreement cannot be reached between the property owner and the agency, the agency shall maintain responsibility for decisions affecting roadside vegetation control in the disputed area.

SEC. 4. Section 5771 of the Food and Agricultural Code is amended to read:

5771. When the secretary proclaims an eradication project in an urban area pursuant to Article 4 (commencing with Section 5761), the secretary or the commissioner, pursuant to this article, shall notify residents and physicians practicing in the area, and the local broadcast and print media, before aerially applying a pesticide to effect the eradication.

SEC. 5. Section 5772 of the Food and Agricultural Code is amended to read:

5772. The notice shall be delivered at least 72 hours prior to applying the economic poison. When the application of a pesticide is to be made pursuant to an emergency, the notice shall be delivered at least 24 hours prior to applying the pesticide.

SEC. 6. Section 5774.5 of the Food and Agricultural Code is amended to read:

5774.5. (a) In addition to any other notice requirements of this article, if the secretary determines that it may become necessary to use aerial application of a pesticide in a pest eradication program over an urban area, the secretary shall notify, as soon as it is feasible, the city and county in that affected area of the possibility of an aerial application.

SEC. 7. Section 5775 of the Food and Agricultural Code is amended to read:

5775. If the date of a pesticide application is changed, the notice required by this article shall be redistributed and contain the revised information. Additionally, the secretary shall transmit the revised

information to the local broadcast and print media, including not less than two radio stations providing the broadest coverage in the eradication area. No pesticide shall be applied within 96 hours from the date of that change.

SEC. 8. Section 5776 of the Food and Agricultural Code is amended to read:

5776. The notice distributed pursuant to this article shall contain all of the following:

(a) The date and approximate time of all proposed pesticide applications in the eradication area.

(b) The type of pesticide to be applied.

(c) Any health and safety precautions that should be taken.

(d) A telephone number and address of public health personnel who are familiar with the eradication program.

SEC. 9. Section 5777 of the Food and Agricultural Code is amended to read:

5777. The notice, other than the notice specified in Section 5774.5, shall be in both English and in any other language in a city or county in the area where the pesticide is to be applied in which over 5 percent of the persons receiving the notice speak only that other language.

SEC. 10. Section 5778 of the Food and Agricultural Code is amended to read:

5778. In every county that contains an eradication area in which a pesticide is used in the eradication effort, the department shall establish and operate a telephone service to provide information to the public on health issues related to application of the pesticide.

SEC. 11. Section 11404 of the Food and Agricultural Code is amended to read:

11404. "Pesticide" is defined in Section 12753.

SEC. 12. Section 11472 is added to the Food and Agricultural Code, to read:

11472. The director shall keep a separate record of the classes and sources of income that is credited to, and disbursed from, the Department of Pesticide Regulation Fund.

SEC. 13. Section 11472.1 is added to the Food and Agricultural Code, to read:

11472.1. On or before October 31 of each year, the department shall publish a financial report regarding the preceding fiscal year and shall make this report available to the public. The report shall describe in detail the amount and source of funding of, and the costs to operate, each branch of the department. The department also shall include information in the report regarding the funding of major programs within those branches and other relevant information that may aid in evaluating the scope and impact of the activities of the department.

SEC. 14. Section 11501 of the Food and Agricultural Code is amended to read:

11501. The purposes of this division and Chapter 1 (commencing with Section 12501), Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), and Chapter 3.5 (commencing with Section 14101) of Division 7 are as follows:

(a) To provide for the proper, safe, and efficient use of pesticides essential for production of food and fiber and for protection of the public health and safety.

(b) To protect the environment from environmentally harmful pesticides by prohibiting, regulating, or ensuring proper stewardship of those pesticides.

(c) To assure the agricultural and pest control workers of safe working conditions where pesticides are present.

(d) To permit agricultural pest control by competent and responsible licensees and permittees under strict control of the director and commissioners.

(e) To assure consumers and users that pesticides are properly labeled and are appropriate for the use designated by the label and that state or local governmental dissemination of information on pesticidal uses of any registered pesticide product is consistent with the uses for which the product is registered.

(f) To encourage the development and implementation of pest management systems, stressing application of biological and cultural pest control techniques with selective pesticides when necessary to achieve acceptable levels of control with the least possible harm to nontarget organisms and the environment.

SEC. 15. Section 11501.1 of the Food and Agricultural Code is amended to read:

11501.1. (a) This division and Division 7 (commencing with Section 12501) are of statewide concern and occupy the whole field of regulation regarding the registration, sale, transportation, or use of pesticides to the exclusion of all local regulation. Except as otherwise specifically provided in this code, no ordinance or regulation of local government, including, but not limited to, an action by a local governmental agency or department, a county board of supervisors or a city council, or a local regulation adopted by the use of an initiative measure, may prohibit or in any way attempt to regulate any matter relating to the registration, sale, transportation, or use of pesticides, and any of these ordinances, laws, or regulations are void and of no force or effect.

(b) If the director determines that an ordinance or regulation, on its face or in its application, is preempted by subdivision (a), the director shall notify the promulgating entity that it is preempted by state law. If the entity does not repeal its ordinance or regulation, the director shall maintain an action for declaratory relief to have the ordinance or regulation declared void and of no force or effect, and shall also bring an action to enjoin enforcement of the ordinance or regulation.

(c) Neither this division nor Division 7 (commencing with Section 12501) is a limitation on the authority of a state agency or department to enforce or administer any law that the agency or department is authorized or required to enforce or administer.

(d) At the request of any state agency disseminating information on the pesticidal uses of any product, the director shall consult with, and provide technical assistance to, that agency to ensure that the dissemination is based on valid scientific information and consistent with state law.

SEC. 16. Section 11896 of the Food and Agricultural Code is amended to read:

11896. The director, upon a finding that the use, handling, delivery, or sale of a pesticide in violation of any provision of this division, or any regulation issued pursuant to it, is taking place, or appears imminent, and that activity if allowed to proceed will present an immediate hazard or cause irreparable damage, may issue an order to the persons responsible for such activity to cease and desist from further commission of the violation.

SEC. 17. Section 11897 of the Food and Agricultural Code is amended to read:

11897. The agricultural commissioner, upon a finding that the use, handling, delivery or sale of a pesticide in violation of any provision of this division, or any regulation issued pursuant to it, is taking place, or appears imminent, and that activity if allowed to proceed will present an immediate hazard or cause irreparable damage, may issue an order to the persons responsible for the activity to cease and desist from further commission of the violation.

Any person aggrieved by a cease and desist order issued by an agricultural commissioner may appeal the order to the director, who shall affirm, modify, or rescind the order. The order of the agricultural commissioner shall remain in force during the appeal to the director, and until the director's decision has been rendered.

SEC. 18. Section 12115 of the Food and Agricultural Code is amended to read:

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 pesticides registered by the director and labeled for agricultural use where the dealer is the person who first sold the pesticide 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 pesticides for use in this state.

SEC. 19. Section 12115.1 of the Food and Agricultural Code is amended to read:

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 pesticides registered by the director and labeled for agricultural use where the dealer is the person who first sold the pesticide into or within this state. Revenue received under this section shall be distributed as provided in subdivisions (b) and (c) of Section 12841.1.

SEC. 20. Section 12115.3 of the Food and Agricultural Code is amended to read:

12115.3. (a) Each licensed pesticide dealer shall maintain at its principal place of business the records of its purchases, sales, and distributions of pesticides 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 pesticides 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 pesticide 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.

SEC. 21. Section 12115.5 of the Food and Agricultural Code is amended to read:

12115.5. Any licensed pesticide dealer who purchases pesticide 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.

SEC. 22. Section 12503 of the Food and Agricultural Code is amended to read:

12503. "Pesticide chemical" means any substance that is used in the production, storage, or transportation of produce that is a pesticide as defined in Section 12753.

SEC. 23. Section 12648 of the Food and Agricultural Code is amended to read:

12648. (a) Notwithstanding any other provision of this code, a site within this state that has been treated with, or a plant, crop, or

commodity, whether grown in this state or elsewhere, that has been treated with, or grown on a site treated with, a pesticide that is not registered for use on that plant, crop, commodity, or site is a public nuisance and may be seized by order of the director.

(b) The unlawful treatment described in subdivision (a) creates, in favor of the director, rebuttable presumptions affecting the burden of producing evidence pursuant to Section 604 of the Evidence Code as follows:

(1) That the treated plant, crop, commodity, or site, or any plant, crop, or commodity grown on the treated site, presents a hazard to human health or the environment.

(2) That the pesticide was used to gain an unfair business advantage for the owner or person in possession or control of the plant, crop, commodity, or site.

(c) The director shall provide notice to the owner or person in possession or control of the plant, crop, commodity, or site prior to seizure, unless the director has reason to believe that prior notice would result in the director's loss of control of that plant, crop, commodity, or site, in which case, notice shall be given as soon as practical, but, in any event within five days of the seizure. The notice shall specify the grounds for the seizure and provide that the owner or person in possession or control, within 15 days of receipt of the notice, may request a hearing before the director to contest the seizure or rebut the presumptions specified in subdivision (b). The hearing shall be held not later than five days from the date the owner or person's request is received by the director. The director shall render a written decision within five days of the hearing or within five days of the expiration of the time to request a hearing if no hearing was requested. The decision shall either release the plant, crop, commodity, or site from seizure or make any of the following orders:

(1) Destruction of the plant, crop, or commodity.

(2) Prohibition of harvest or sale of the plant, crop, or commodity grown on the site.

(3) Prohibition of the use or planting of the site, which may be for the period of any plant back time specified for the economic poison used on the site.

(4) Any other appropriate action or measure.

(d) Review of the decision of the director may be sought by the owner or person in possession or control of the plant, crop, commodity, or site pursuant to Section 1094.5 of the Code of Civil Procedure.

SEC. 24. Section 12648.5 of the Food and Agricultural Code is amended to read:

12648.5. (a) It is unlawful for the owner of a plant, crop, or commodity to knowingly treat or apply to that plant, crop, or commodity, or cause that plant, crop, or commodity to be treated or

applied, with a pesticide that was stolen or otherwise acquired by illegal means.

(b) The owner of a crop, who is found by a court to have violated this section, in addition to any other penalties imposed by a court, shall be subject to a fine of ten thousand dollars ($10,000) plus an amount equal to one-half the value of the crop on which the illegally obtained pesticide was applied.

(c) For purposes of this section, "one-half the value of the crop" means one-half the market value of the crop that was actually treated with the illegally obtained pesticide as determined by the actual sale of the crop or, if the crop is not actually sold, as determined by the director based on an average of the typical market value for such a crop sold in the normal channels of trade in the year in which the crop was produced and in the preceding two years.

(d) Moneys received as a result of fines and penalties imposed pursuant to this section shall be divided and distributed as follows:

(1) Fifty percent to the county in which the case was brought to court or in which a court-approved settlement of the matter was negotiated.

(2) Twenty-five percent to the office of the county agricultural commissioner.

(3) Twenty-five percent to the department.

SEC. 25. Section 12648.6 of the Food and Agricultural Code is amended to read:

12648.6. Any person who is licensed pursuant to this code and who is found by a court to have knowingly sold, applied, or provided pesticides that were stolen or otherwise obtained illegally, in addition to any other penalty that may be imposed, shall have his or her license or licenses suspended for a minimum of 18 months.

SEC. 26. The heading of Chapter 2 (commencing with Section 12751) of Division 7 of the Food and Agricultural Code is amended to read:

CHAPTER 2. PESTICIDES

SEC. 27. Section 12753 of the Food and Agricultural Code is amended to read:

12753. "Pesticide" includes any of the following:

(a) Any spray adjuvant.

(b) Any substance, or mixture of substances which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, as defined in Section 12754.5, which may infest or be detrimental to vegetation, man, animals, or households, or be present in any agricultural or nonagricultural environment whatsoever.

SEC. 28. Section 12755 of the Food and Agricultural Code is amended to read:

12755. "Registrant" means a person that has registered a pesticide and has obtained a certificate of registration from the department.

SEC. 29. Section 12757.5 of the Food and Agricultural Code is amended to read:

12757.5. "Service container" means any container, other than the original labeled container of a registered pesticide provided by the registrant, that is utilized to hold, store, or transport the pesticide or the use-dilution of the pesticide.

SEC. 30. Section 12758 of the Food and Agricultural Code is amended to read:

12758. "Spray adjuvant" means any wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent, with or without toxic properties of its own, which is intended to be used with another pesticide as an aid to the application or effect of the other pesticide, and sold in a package that is separate from that of the pesticide other than a spray adjuvant with which it is to be used.

SEC. 31. Section 12758.5 of the Food and Agricultural Code is amended to read:

12758.5. "Use-dilution" means a dilution specified on the label or labeling that produces the concentration of the pesticide for a particular purpose or effect.

SEC. 32. Section 12783 of the Food and Agricultural Code is amended to read:

12783. Any person who is charged with the enforcement or execution of this chapter shall not be directly or indirectly interested in the sale, manufacture, or distribution of any pesticide.

SEC. 33. Section 12802 of the Food and Agricultural Code is amended to read:

12802. A person may mix or dilute any registered pesticide in accordance with its registered labeling for his or her own use or for use in his or her own business without having become a registrant pursuant to this chapter.

SEC. 34. Section 12811 of the Food and Agricultural Code is amended to read:

12811. Every manufacturer of, importer of, or dealer in any pesticide, except a person that sells any raw material to a manufacturer of any pesticide or a dealer or agent that sells any pesticide that has been registered by the manufacturer or wholesaler, shall obtain a certificate of registration from the department before the pesticide is offered for sale.

SEC. 35. Section 12814 of the Food and Agricultural Code is amended to read:

12814. Any county, state, or federal officer or employee who sells any pesticide at cost is not required to pay any fee that is imposed by this chapter.

SEC. 36. Section 12815 of the Food and Agricultural Code is amended to read:

12815. If a manufacturer, importer, or dealer in pesticides that applies for registration of economic poisons has complied with this chapter and the regulations that are adopted pursuant to it, the director shall register each pesticide that is sought to be registered and issue a certificate of registration to the applicant that authorizes the manufacture and sale of the pesticide in this state.

SEC. 37. Section 12821 of the Food and Agricultural Code is amended to read:

12821. Each applicant for a certificate of registration shall also file a statement of every brand, trademark, and kind of pesticide that the applicant intends to manufacture or sell, the correct name and percentage of each active ingredient in the pesticide, and the total percentage of inert ingredients that are contained in the pesticide. The director, whenever he or she deems it necessary for the effective administration of this chapter, may require the submission of the complete formula for the pesticide.

SEC. 38. Section 12822 of the Food and Agricultural Code is amended to read:

12822. A supplemental application for registration of any additional pesticide may be submitted at any time without payment of the penalty required by Section 12818.

SEC. 39. Section 12823 of the Food and Agricultural Code is amended to read:

12823. A change in the name or percentage, or both, of an inert ingredient is not a change in composition of the pesticide that requires a new registration unless the change in inert material results in a change in the use or application of the pesticide.

SEC. 40. Section 12824 of the Food and Agricultural Code is amended to read:

12824. The director shall endeavor to eliminate from use in the state any pesticide that endangers the agricultural or nonagricultural environment, is not beneficial for the purposes for which it is sold, or is misrepresented. In carrying out this responsibility, the director shall develop an orderly program for the continuous evaluation of all pesticides actually registered.

Before a substance is registered as a pesticide for the first time there shall be a thorough evaluation in accordance with this section. Appropriate restrictions may be placed upon its use including, but not limited to, limitations on quantity, area, and manner of application. All pesticides for which renewal of registration is sought also shall be evaluated in accordance with this section.

The director may establish specific criteria to evaluate a pesticide with regard to the factors listed in Section 12825. The department may establish performance standards, and tests that are to be conducted or financed, or both, by the manufacturer of those pesticides.

SEC. 41. Section 12825 of the Food and Agricultural Code is amended to read:

12825. Pursuant to Section 12824, the director may, after hearing, cancel the registration of, or refuse to register, any pesticide:

(a) That has demonstrated serious uncontrollable adverse effects either within or outside the agricultural environment.

(b) The use of which is of less public value or greater detriment to the environment than the benefit received by its use.

(c) For which there is a reasonable effective and practicable alternate material or procedure that is demonstrably less destructive to the environment.

(d) That, when properly used, is detrimental to vegetation, except weeds, to domestic animals, or to the public health and safety.

(e) That is of little or no value for the purpose for which it is intended.

(f) Concerning which any false or misleading statement is made or implied by the registrant or his or her agent, either verbally or in writing, or in the form of any advertising literature.

(g) For which the director determines the registrant has failed to report an adverse effect or risk as required by Section 12825.5.

(h) If the director determines that the registrant has failed to submit the data required by regulation to be submitted as part of the reevaluation of the registrant's product.

(i) That is required to be registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and that is not so registered.

In making a determination pursuant to this section, the director may require those practical demonstrations as are necessary to determine the facts.

SEC. 42. Section 12825.5 of the Food and Agricultural Code is amended to read:

12825.5. (a) If, during the registration process or at any time after the registration of a pesticide, the registrant has factual or scientific evidence of any adverse effect or risk of the pesticide to human health, livestock, crops, or the environment that has not been previously submitted to the department, the registrant shall submit the evidence to the director in a timely manner. All such information, including, but not limited to, that information required under Section 6 (a) (2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136d (a) (2)), shall be submitted to the director.

(b) The director may adopt regulations that are reasonably necessary to carry out this section.

SEC. 43. Section 12826 of the Food and Agricultural Code is amended to read:

12826. If the director has reason to believe that any of the conditions stated in Section 12825 are applicable to any registered pesticide and that the use or continued use of that pesticide

constitutes an immediate substantial danger to persons or to the environment, the director, after notice to the registrant, may suspend the registration of that pesticide pending a hearing and final decision. If an accusation pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code is not filed within 10 days from the date of the notice, the suspension shall be terminated.

SEC. 44. Section 12827 of the Food and Agricultural Code is amended to read:

12827. The director may cancel a certificate of registration, or, refuse to issue certification to any manufacturer, importer, or dealer in any pesticide that repeatedly violates any of the provisions of this chapter or the regulations of the director.

The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The director has all the powers that are granted therein.

SEC. 45. Section 12827.5 of the Food and Agricultural Code is amended to read:

12827.5. Whenever the director cancels the registration of, or refuses to register, any pesticide currently registered by the United States Environmental Protection Agency, the director shall provide the applicant or registrant with the basis for the decision and the reasons why a conclusion different from, contrary to, or inconsistent with, the conclusion and findings of the United States Environmental Protection Agency was reached.

SEC. 46. Section 12828.5 of the Food and Agricultural Code is amended to read:

12828.5. (a) A registrant at any time may request that the registration of any of its pesticides be voluntarily canceled. The request shall be in writing and shall include a waiver of the registrant's right to a hearing on the cancellation.

(b) The director shall mail a notice of cancellation of registration of the pesticides to the registrant. The notice shall specify the effective date of the cancellation.

(c) The pesticides for which the registration is canceled may be sold and possessed as if the product's registration was not renewed unless the director determines that protection of human health or the environment require otherwise, in which case the cancellation notice shall specify the conditions under which the product may be sold or possessed after cancellation of its registration.

SEC. 47. Section 12829 of the Food and Agricultural Code is amended to read:

12829. If a person has a research authorization for a pesticide issued pursuant to Section 6260 of Title 3 of the California Code of Regulations for the purpose of testing the pesticide, and the produce on which the pesticide was tested is required to be destroyed, any actual costs incurred by the commissioner to investigate and confirm

the destruction of the produce shall be paid for by the person who has the research authorization. The costs charged by the commissioner shall not exceed one hundred twenty-five dollars ($125) per testsite. The board of supervisors of each county may adopt a fee schedule to cover the commissioner's costs under this section.

SEC. 48. Section 12832 of the Food and Agricultural Code is amended to read:

12832. (a) Notwithstanding any other provision of this chapter, alfalfa and all vegetable crops, when grown for seed production, with the exception of corn, beans, pumpkin, and peas, shall be considered a nonfood and nonfeed site of pesticide use for the purpose of pesticide registration. In order to be determined to be a nonfood or nonfeed site for the purposes of this section, the following conditions shall be met:

(1) All seed screenings shall be disposed of in such a way that they cannot be distributed or used for food or feed. The seed conditioner shall keep records of screenings disposal for three years from the date of disposal and shall furnish the records to the director upon request. Disposal records shall consist of documentation from a controlled waste disposal site, incinerator, cogeneration plant, composting facility, or other equivalent disposal site.

(2) No portion of the seed plant, including, but not limited to, green chop, hay, pellets, meal, whole seed, cracked seed, or seed screenings shall be used or distributed for food or feed purposes.

(3) All seed crops grown on a nonfood or nonfeed site in this state, or conditioned in this state, shall bear a tag or container label that forbids the use of the seed for human consumption or animal feed.

(4) No seed grown on a nonfood or nonfeed site in this state, or conditioned in this state, may be distributed for human consumption or animal feed.

(b) Nothing in this section prevents the department from imposing conditions for alfalfa seed sites in addition to those contained in this section, or from rescinding any current label requirements for pesticides approved for alfalfa seed production.

(c) Nothing in this section exempts the department from reviewing worker safety evaluations with regard to the use of pesticides involving crops specified in subdivision (a).

(d) A violation of any condition specified in subdivision (a) by the person responsible for the use of the pesticide is a violation of this chapter, and is subject to the civil and criminal penalties and injunctive relief provisions specified in Article 12 (commencing with Section 12996). A violation of any condition specified in subdivision (a) by the person responsible for the disposition of seed screenings is a violation of Chapter 6 (commencing with Section 14901) and is subject to enforcement by the Department of Food and Agriculture.

SEC. 49. Section 12833 of the Food and Agricultural Code is amended to read:

12833. (a) Notwithstanding any other provision of this chapter, the director may issue a certificate of emergency registration for a pesticide if all of the following conditions are met:

(1) The pesticide is currently registered by the United States Environmental Protection Agency pursuant to Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136a) for the use specified in subparagraph (B) of paragraph (5).

(2) The active ingredient of the pesticide was previously registered under Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136p) in order to respond to an emergency pest control problem.

(3) The applicant demonstrates to the department that the pesticide qualifies for registration pursuant to Section 12815 and the department determines that it is probable that the pesticide will receive registration pursuant to this division within one year.

(4) The applicant for emergency registration submits to the director all data required for registration pursuant to this division and the regulations adopted pursuant to this division.

(5) The director makes both of the following findings based on substantial evidence:

(A) The use of the pesticide during the period of emergency registration will not pose a potential significant risk to public health or safety or to the environment. In making this finding, the director shall review the risks associated with the use of the pesticide and determine if those risks are significant given the limitations that will be imposed on the use of the pesticide during the emergency registration period.

(B) The emergency registration of the pesticide is necessary in order to effectively respond to an emergency pest control problem. For purposes of this subparagraph, an emergency pest control problem shall be deemed to exist if the director finds that a pest infestation is present in the state for which no feasible pest control method is available that is a reasonable alternative to the use of the pesticide for which the emergency registration is requested. In making a determination pursuant to this subparagraph, the director shall identify the pest infestation that is the subject of the emergency, describe the pest control methods that have been demonstrated as ineffective against the infestation or that are otherwise not reasonable alternatives, and summarize the evidence that demonstrates that the pesticide for which emergency registration has been requested is efficacious against the pest infestation.

(b) At the same time as the director issues a certificate of emergency registration for a pesticide pursuant to this section, the director shall establish limitations on the use of the pesticide that the director determines are necessary to prevent a potential significant risk to human health or safety or the environment. The director shall limit the use of any pesticide granted a certificate of emergency

registration to the control of the emergency pest infestation described in subparagraph (B) of paragraph (5) of subdivision (a).

(c) A certificate of emergency registration may be issued for a period not to exceed one year and may be renewed one time only.

(d) A certificate of emergency registration may not be renewed unless the director does all of the following:

(1) Publishes a notice that an application for renewal of the certificate of emergency registration has been received.

(2) Makes all of the following findings:

(A) That the findings made by the director in support of the certificate of emergency registration pursuant to paragraph (5) of subdivision (a) remain valid.

(B) That there are no indications that the pesticide, when used in accordance with applicable label instructions and the limitations established pursuant to subdivision (b), poses a significant risk to worker safety and health. The director shall base this finding on a review of the data required for registration pursuant to this division, experience with the use of the pesticide during the period the certificate of emergency registration was in effect, and any other information the director has required the applicant to submit or received from the applicant or any other person.

(C) That the failure to complete the registration of the pesticide during the period the certificate of emergency registration was in effect is due to circumstances that were not under the control of the applicant, and that the data required for registration pursuant to this division is complete and meets all of the requirements of this division and the regulations adopted pursuant to this division.

(3) Convenes a workshop, if one is requested by any interested or aggrieved person, concerning the reasons for the renewal of the certificate of emergency registration. The director shall review information and comments provided by persons who attend the workshop and take that information and those comments into account in determining if the certificate of emergency registration may be renewed.

(e) The director shall immediately revoke any certificate of emergency registration issued pursuant to this section if either of the following occurs:

(1) The United States Environmental Protection Agency suspends or cancels the registration of the pesticide or the particular use of the active ingredient in the pesticide that allows it to be used in the emergency pest infestation described in subparagraph (B) of paragraph (5) of subdivision (a).

(2) The director determines during a subsequent review of data required for registration pursuant to this division that the use of the pesticide will pose a potential significant risk to the public health or safety or to the environment.

SEC. 50. 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 pesticides for use in this state. There is a rebuttable presumption that pesticide 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 pesticides 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 pesticides. 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 pesticides, and is sold in combination, and whether the mill assessment under this section shall be on the pesticide value only, when the product is designed, developed, manufactured, and sold primarily for other than a pesticide 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 a pesticide use, the assessment provided by this section shall be paid on the equivalent percentage of the sales price of the active ingredients of the pesticide 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 pesticide portion to the total sales price of the combination product.

(c) For purposes of this section, "active ingredient" means any active ingredient that is required to be stated on the label on any registered pesticide under Section 12883.

(d) Assessments provided for in this article for sales of registered pesticides 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 pesticide into or within this state or have actual knowledge, at the time of its sale, that the pesticide 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 pesticide 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 pesticides

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 pesticides 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 pesticides.

SEC. 51. 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 pesticides 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. 52. Section 12845 of the Food and Agricultural Code is amended to read:

12845. (a) The director may adopt regulations that require registrants to provide information determined by the director to be necessary to enable the director to perform the audit authorized pursuant to Section 12842 and to carry out other powers or duties under this division.

(b) The regulations adopted pursuant to this section may include, but are not limited to, a requirement that a registrant provide the director with information on the quarterly dollar sales of each registered pesticide sold for use in this state and the quarterly pounds of each registered pesticide sold for use in this state.

SEC. 53. Section 12847 of the Food and Agricultural Code is amended to read:

12847. Sales invoices for pesticides 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 pesticides 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. 54. Section 12848 of the Food and Agricultural Code is amended to read:

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 pesticide 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 pesticides that are labeled only for nonagricultural uses.

SEC. 55. Section 12848.1 of the Food and Agricultural Code is amended to read:

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 pesticide products that are labeled for agricultural use.

SEC. 56. Section 12848.6 of the Food and Agricultural Code is amended to read:

12848.6. (a) Every person who is required to be licensed as a pesticide broker pursuant to Section 12848 shall pay to the director an assessment of 9 mills ($0.009) per dollar of sales for all sales by that person into or within this state of pesticides registered by the director and labeled for agricultural use, if that person is the first person to sell the pesticide into or within this state.

(b) Until June 30, 1997, each person specified in subdivision (a) shall pay an additional assessment of 12 mills ($0.012) per dollar of sales for all sales by the person of its registered and labeled pesticides for use in this state.

SEC. 57. Section 12848.7 of the Food and Agricultural Code is amended to read:

12848.7. In addition to any assessment required to be paid pursuant to Section 12848.6, each person who is required to be licensed as a pesticide broker pursuant to Section 12848 shall pay to

the director an assessment of one mill ($0.001) per dollar of sales for all sales by that person into or within this state of pesticides registered by the director and labeled for agricultural use, if that person is the first person to sell the pesticide into or within this state. Revenue received under this section shall be distributed as provided in subdivisions (b) and (c) of Section 12841.1.

SEC. 58. Section 12848.9 of the Food and Agricultural Code is amended to read:

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 pesticides 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 pesticide 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.

SEC. 59. Section 12851 of the Food and Agricultural Code is amended to read:

12851. The registrant of any pesticide shall attach to each separate lot, and each separate, finished, sealed, or closed container or package of pesticide that the registrant intends to sell within this state, a plainly printed label, that states all of the following:

(a) The name, brand, or trademark, if any, under which the pesticide is sold.

(b) The name and address of the registered manufacturer, importer, or vendor.

SEC. 60. Section 12852 of the Food and Agricultural Code is amended to read:

12852. The registrant of any pesticide that is sold or delivered to a consumer in this state shall furnish printed directions for use, and dilution if any, upon the label, or shall enclose the printed directions in each container or package of the pesticide.

SEC. 61. Section 12853 of the Food and Agricultural Code is amended to read:

12853. A registrant of pesticides may print upon the label of any sealed or closed container or package of pesticide that the registrant intends to sell within this state, or upon the label of any opened lot from which sales have been authorized by the director, such

limitations of warranty with respect to the use of the pesticide, as the registrant may consider proper.

SEC. 62. Section 12854 of the Food and Agricultural Code is amended to read:

12854. No limitations of warranty by the seller shall exclude or waive either of the following implied warranties:

(a) That the pesticide corresponds to all claims and descriptions that the registrant has made in respect to it in print.

(b) That the pesticide is reasonably fit for use for any purpose for which it is intended according to any printed statement of the registrant.

SEC. 63. Section 12855 of the Food and Agricultural Code is amended to read:

12855. Except as otherwise provided in this article, the registrant is not liable for any injury or damage that is suffered solely by reason of any of the following:

(a) The use of the pesticide for a purpose that is not indicated by the label.

(b) The use of the pesticide contrary to the printed directions of the registrant or seller.

(c) The breach of any warranty by the registrant that is not expressly printed on the label.

SEC. 64. Section 12856 of the Food and Agricultural Code is amended to read:

12856. Except as otherwise provided in Section 12857, a pesticide shall not be sold unless it is in a registrant's sealed or closed container or package.

SEC. 65. Section 12857 of the Food and Agricultural Code is amended to read:

12857. The director , pursuant to regulations prescribed by him or her, may authorize sales of pesticides to be made out of a registrant's opened but properly labeled lot, container, or package. The director shall serve notice of the proposed action by depositing a copy of it in a United States post office, inclosed in a sealed envelope with postage prepaid and addressed to each registrant at his or her last address on file with the department. The director shall allow 15 days, during which time any protest may be filed.

SEC. 66. Section 12858 of the Food and Agricultural Code is amended to read:

12858. The statement of ingredients in any pesticide that is intended and sold for internal administration to animals may be given in terms of dosage in lieu of percentage by weight as required by Article 4 (commencing with Section 12811) and Article 6 (commencing with Section 12881).

SEC. 67. Section 12859 of the Food and Agricultural Code is amended to read:

12859. The director shall adopt regulations governing the labeling of service containers. The labeling regulations shall not

apply to containers used by a person engaging in the business of farming when the containers are used on the property that the person is farming. The regulations shall provide that the labeling only include the following:

(a) The name and address of the person or firm responsible for the container.

(b) The identity of the pesticide in the container.

(c) The word "DANGER", "WARNING", or "CAUTION" in accordance with the label on the original container.

SEC. 68. Section 12881 of the Food and Agricultural Code is amended to read:

12881. A pesticide is misbranded in any of the following cases:

(a) The package or label bears any false or misleading statement, design, or device regarding the article or any ingredient or substance that is contained in it.

(b) The package or label is falsely branded as to the place of manufacture or production of the pesticide.

(c) It is an imitation of, or offered for sale under the name of, another article.

(d) It is labeled or branded so as to deceive or mislead the purchaser.

SEC. 69. Section 12882 of the Food and Agricultural Code is amended to read:

12882. A pesticide is also misbranded in any of the following cases:

(a) The contents of the package as originally put up have been removed in whole or in part and other contents placed in the package.

(b) The contents of the package are of a quality below that of the guarantee on the label, on the application for registration of the pesticide, or of the analysis of the representative sample delivered in connection with the application for registration of the pesticide.

(c) If the contents of any package of a pesticide is stated in terms of weight or measure, and the weight or measure is not plainly and correctly stated on the outside of the package.

(d) The label does not conform to the registered label approved by the director under the standards of this division.

SEC. 70. Section 12883 of the Food and Agricultural Code is amended to read:

12883. Except as otherwise provided in Section 12884 , a pesticide is also misbranded when the label fails to state one of the following:

(a) The name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide.

(b) The name of each active ingredient, together with the name of each and the total percentage of the inert ingredients, if there are any, in the pesticide.

A pesticide that is sold only as a spray adjuvant is not misbranded if the total percentage of the constituents ineffective as a spray adjuvant is stated on the label without mention of the terms "active

ingredient" or "inert ingredient" in lieu of one of the options required by this section.

SEC. 71. Section 12884 of the Food and Agricultural Code is amended to read:

12884. If the preparation is highly toxic to humans, as determined by regulations of the director, a pesticide is misbranded if the label fails to state the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide.

SEC. 72. Section 12911 of the Food and Agricultural Code is amended to read:

12911. A pesticide is adulterated in any of the following cases:

(a) Its strength or purity falls below the standard or quality that it is represented to have.

(b) Any ingredient that is necessary to its effectiveness has been wholly or in part abstracted or omitted in its manufacture, or other materials substituted for that ingredient.

(c) It is intended for use on vegetation and contains any substance that is seriously injurious to vegetation, except weeds, if used according to the directions that are furnished with it.

SEC. 73. Section 12931 of the Food and Agricultural Code is amended to read:

12931. The director shall take samples of pesticides, make analyses or examinations of them, and make such investigations as are necessary for the full enforcement of this chapter.

SEC. 74. Section 12932 of the Food and Agricultural Code is amended to read:

12932. The director shall periodically, at least annually, print and distribute the results of examinations or chemical analyses of official samples of pesticides that are taken by him or her, and such additional information as the director deems advisable.

SEC. 75. Section 12961 of the Food and Agricultural Code is amended to read:

12961. The director may seize and quarantine any pesticide that is adulterated, misbranded, or detrimental to agriculture or to the public health, or which is otherwise not in conformity with any provision of this chapter.

SEC. 76. Section 12991 of the Food and Agricultural Code is amended to read:

12991. It is unlawful for any person, by himself or herself, or through another, in connection with any substance or mixture of substances included within the scope of this chapter, to do any of the following:

(a) Make any material or substantial misrepresentation.

(b) Make any false promises of a character likely to influence, induce or deceive.

(c) Engage in illegitimate business or dishonest dealing.

(d) Cause to be published or distributed any false or misleading literature, or cause to be displayed any false or misleading advertisement.

(e) For any person to use, store, transport, handle, or dispose of any pesticide, or of any container that holds or has held a pesticide, except in compliance with rules and regulations of the director.

SEC. 77. Section 12992 of the Food and Agricultural Code is amended to read:

12992. It is unlawful for any person to sell any adulterated or misbranded pesticide.

In any prosecution of any agent or dealer under this section it is a complete defense to prove that the adulterated or misbranded pesticide that is the basis of the prosecution was guaranteed by the party from whom the agent or dealer purchased it to be not adulterated or misbranded.

SEC. 78. Section 12993 of the Food and Agricultural Code is amended to read:

12993. It is unlawful for any person to manufacture, deliver, or sell any pesticide or any substance or mixture of substances that is represented to be a pesticide, or to retail any formula for a pesticide in conjunction with the sale or gift of materials that are represented to be the essential ingredients necessary to constitute a pesticide, which is not registered pursuant to this chapter, or for which the registration has been suspended or canceled, except as provided in regulations adopted by the director or as provided in the notice or order of suspension or cancellation. This section, however, does not apply to any pesticide product of a registrant that is manufactured solely for export outside this state, and which is so exported.

SEC. 79. Section 12994 of the Food and Agricultural Code is amended to read:

12994. It is unlawful for any person to transport, destroy, or dispose of any quarantined pesticide, unless the person has received written permission from the director.

SEC. 80. Section 12995 of the Food and Agricultural Code is amended to read:

12995. Except as provided in regulations adopted by the director or as provided in the notice or order of suspension or cancellation, it is unlawful for any person, by himself or herself or through another, to possess or use any pesticide that is not registered pursuant to this chapter, or for which registration has been suspended.

SEC. 81. Section 13101 of the Food and Agricultural Code is amended to read:

13101. The director, upon a finding that the use, handling, delivery, or sale of a pesticide in violation of any provision of this division, or any regulation issued pursuant to it, is taking place, or appears imminent, and that activity, if allowed to proceed, will present an immediate hazard or cause irreparable damage, may issue

an order to the persons responsible for that activity to cease and desist from further commission of the violation.

SEC. 82. Section 13102 of the Food and Agricultural Code is amended to read:

13102. The agricultural commissioner, upon a finding that the use, handling, delivery, or sale of a pesticide in violation of any provision of this division, or any regulation issued pursuant to it, is taking place, or appears imminent, and that activity, if allowed to proceed, will present an immediate hazard or cause irreparable damage, may issue an order to the persons responsible for that activity to cease and desist from further commission of the violation.

Any person aggrieved by a cease and desist order issued by an agricultural commissioner may appeal the order to the director, who shall affirm, modify, or rescind the order. The order of the agricultural commissioner shall remain in force during the appeal to the director, and until the director's decision has been rendered.

SEC. 83. Section 13142 of the Food and Agricultural Code is amended to read:

13142. For the purposes of this article, the following definitions apply:

(a) "Active ingredient" has the same meaning as defined in Section 136 of Title 7 of the United States Code.

(b) "Agricultural use" has the same meaning as defined in Section 11408.

(c) "Board" means the State Water Resources Control Board.

(d) "Chemigation" means a method of irrigation whereby a pesticide is mixed with irrigation water before the water is applied to the crop or to the soil.

(e) "Degradation product" means a substance resulting from the transformation of a pesticide by physicochemical or biochemical means.

(f) "Groundwater protection data gap" means that, for a particular pesticide, the director, after study, has been unable to determine that each study required pursuant to subdivision (a) of Section 13143 has been submitted or that each study submitted pursuant to subdivision (a) of Section 13143 is valid, complete, and adequate.

(g) "Henry's Law constant" is an indicator of the escaping tendency of dilute solutes from water and is approximated by the ratio of the vapor pressure to the water solubility at the same temperature.

(h) "Pesticide" is defined in Section 12753.

(i) "Pesticide registrant" means a person that has registered a pesticide pursuant to this chapter.

(j) "Pollution" means the introduction into the groundwaters of the state of an active ingredient, other specified product, or degradation product of an active ingredient of a pesticide above a

level, with an adequate margin of safety, that does not cause adverse health effects.

(k) "Soil adsorption coefficient" is a measure of the tendency of pesticides, or their biologically active transformation products, to bond to the surfaces of soil particles.

(*l*) "Soil microbial zone" means the zone of the soil below which the activity of microbial species is so reduced that it has no significant effect on pesticide breakdown.

SEC. 84. Section 13143 of the Food and Agricultural Code is amended to read:

13143. (a) Not later than December 1, 1986, a person that has registered a pesticide in California for agricultural use shall submit to the director the information prescribed in this subdivision. The information shall be submitted for each active ingredient in each pesticide registered. The registrant shall submit all of the following information:

(1) Water solubility.

(2) Vapor pressure.

(3) Octanol-water partition coefficient.

(4) The soil adsorption coefficient.

(5) Henry's Law constant.

(6) Dissipation studies, including hydrolysis, photolysis, aerobic and anaerobic soil metabolism, and field dissipation, under California or similar environmental use conditions.

(7) Any additional information the director determines is necessary.

(b) The director also may require the information prescribed in subdivision (a) for other specified ingredients and degradation products of an active ingredient in any pesticide. The director shall also require this information when the State Department of Health Services or the board submits a written request for the information to the director, if the State Department of Health Services or the board specifies the reasons why it considers the information necessary. The director shall deny the request upon a written finding that, based on available scientific evidence, the request would not further the purposes of this article.

(c) All information submitted pursuant to subdivision (a) shall be presented in English and summarized in tabular form on no more than three sheets of paper with the actual studies, including methods and protocols attached. All information , at a minimum, shall meet the testing methods and reporting requirements provided by the Environmental Protection Agency Pesticide Assessment Guidelines, Subdivision D Series 60 to 64, inclusive, for product chemistry and Subdivision N Series 161 to 164, inclusive, for environmental fate, including information required for degradation products in specific studies. With prior approval from the director, registrants may use specified alternative protocols as permitted by the United States Environmental Protection Agency guidelines, if the director finds

use of the protocol is consistent with, and accomplishes the objectives of, this article. Studies conducted on active ingredients in the formulation of pesticides shall meet the same testing methods as required for studies conducted on active ingredients. The department, in consultation with the board, in addition, may require specified testing protocols that are specific to California soil and climatic conditions. The director may give a pesticide registrant an extension of up to two years if it determines that this additional time is necessary and warranted to complete the studies required in paragraph (6) of subdivision (a). No extension of the deadline for these studies shall go beyond December 1, 1989. When seeking the extension, the registrant shall submit to the director a written report on the current status of the dissipation studies for which the extension is being sought. For registrants granted an extension pursuant to this section, Section 13145 shall be effective upon the completion date established by the director.

(d) The director may grant the registrant an extension beyond the one authorized in subdivision (c), if all of the following conditions are met:

(1) The registrant submits a written request to the director for an extension beyond the one granted pursuant to subdivision (c). The request shall include the reasons why the extension is necessary and the findings produced by the study up to the time the request is made.

(2) The director finds that the registrant has made every effort to complete the studies required in paragraph (6) of subdivision (a) within the required time limits of the extension granted pursuant to subdivision (c) and that those studies could not be completed within the required time limits due to circumstances beyond the control of the registrant.

(3) The director establishes a final deadline, not to exceed one year beyond the time limit of the extension granted pursuant to subdivision (c), and a schedule of progress by which the registrant shall complete the studies required in paragraph (6) of subdivision (a).

(e) After December 1, 1986, no registration of any new pesticide shall be granted unless the applicant submits all of the information required by the director pursuant to this article and the director finds that the information meets the requirements of this article.

SEC. 85. Section 13144 of the Food and Agricultural Code is amended to read:

13144. (a) Not later than December 1, 1986, the department shall establish specific numerical values for water solubility, soil adsorption coefficient (Koc), hydrolysis, aerobic and anaerobic soil metabolism, and field dissipation. The values established by the department shall be at least equal to those established by the Environmental Protection Agency. The department may revise the numerical values when the department finds that the revision is necessary to protect

the groundwater of the state. The numerical values established or revised by the department shall always be at least as stringent as the values being used by the Environmental Protection Agency at the time the values are established or revised by the department.

(b) Not later than December 1, 1987, and annually thereafter, the director shall report the following information to the Legislature, the State Department of Health Services, and the board for each pesticide registered for agricultural use:

(1) A list of each active ingredient, other specified ingredient, or degradation product of an active ingredient of a pesticide for which there is a groundwater protection data gap.

(2) A list of each pesticide that contains an active ingredient, other specified ingredients, or degradation product of an active ingredient that is greater than one or more of the numerical values established pursuant to subdivision (a), or is less than the numerical value in the case of soil adsorption coefficient, in both of the following categories:

(A) Water solubility or soil adsorption coefficient (Koc).

(B) Hydrolysis, aerobic soil metabolism, anaerobic soil metabolism, or field dissipation.

(3) For each economic poison listed pursuant to paragraph (2) for which information is available, a list of the amount sold in California during the most recent year for which sales information is available and where and for what purpose the pesticide was used, when this information is available in the pesticide use report.

(c) The department shall determine to the extent possible, the toxicological significance of the degradation products and other specified ingredients identified pursuant to paragraph (2) of subdivision (b).

SEC. 86. Section 13145 of the Food and Agricultural Code is amended to read:

13145. (a) Any registrant of a pesticide identified in paragraph (1) of subdivision (b) of Section 13144 is subject to a fine of up to ten thousand dollars ($10,000) for each day the groundwater protection data gap exists. In determining the amount of the fine, the director shall consider both of the following:

(1) The extent to which the registrant has made every effort to submit valid, complete, and adequate information within the required time limits.

(2) Circumstances beyond the control of the registrant that have prevented the registrant from submitting valid, complete, and adequate information within the required time limits.

(b) If there is a dispute between the director and a registrant regarding the existence of a groundwater protection data gap and the director desires to levy a fine on the registrant pursuant to this section, the director shall submit the issues of the dispute to the subcommittee created pursuant to subdivision (b) of Section 13150. The subcommittee shall review the evidence submitted by the

registrant and the director and make recommendations to the director on whether or not the groundwater data gap exists.

(c) Subdivisions (a) and (b) shall not apply to pesticide products whose registration has lapsed or has been canceled, or to products that have been granted a current extension pursuant to Section 13143.

(d) The director shall, by regulation, establish a list of pesticides that have the potential to pollute groundwater. The list shall be entitled the Groundwater Protection List. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director shall immediately place all pesticides identified in paragraph (2) of subdivision (b) of Section 13144 on the Groundwater Protection List and shall regulate the use of these pesticides if the pesticide is intended to be applied to or injected into the soil by ground-based application equipment or by chemigation, or the label of the pesticide requires or recommends that the application be followed, within 72 hours, by flood or furrow irrigation. The director shall adopt regulations to carry out this article. The regulations shall include, but are not limited to, the following:

(1) Any person who uses a pesticide that has been placed on the Groundwater Protection List and does not file a report pursuant to Section 12979, is required to report to the county agricultural commissioner the use of the pesticide on a form prescribed by the director. The reporting deadline shall conform to the deadline established for the reporting of the use of restricted materials.

(2) Dealers of pesticides shall make quarterly reports to the director of all sales of pesticides that have been placed on the Groundwater Protection List to persons who are not otherwise required to file a report pursuant to either paragraph (1) or Section 12979. This report shall include lists of all sales by purchases.

SEC. 87. Section 13146 of the Food and Agricultural Code is amended to read:

13146. (a) The director shall not register or renew the registration of a pesticide intended to be applied to or injected into the ground by ground-based application equipment or by chemigation after December 1, 1988, if there is a groundwater protection data gap for that pesticide, unless the registrant has been granted a current extension pursuant to Section 13143.

(b) The director shall not register or renew the registration of a pesticide intended for use with other than ground-based application equipment after December 1, 1989, if there is a groundwater protection data gap for that pesticide, unless the registrant has been granted a current extension pursuant to Section 13143.

(c) If a registrant does not comply with the information requirements of Section 13143, the department shall file the information requirements of Section 13143 in accordance with procedures provided in subparagraph (B) of paragraph (2) of

subsection (c) of Section 136a of Title 7 of the United States Code. In order to carry out this section, the director has the same authority to require information from registrants of active pesticide ingredients that the administrator of the Environmental Protection Agency has pursuant to subparagraph (B) of paragraph (2) of subsection (c) of Section 136a of Title 7 of the United States Code. On or before July 1, 1986, the director shall, by regulation, prescribe procedures for resolving disputes or funding the filing of the information requirements of Section 13143. The procedures may include mediation and arbitration. The arbitration procedures, insofar as practical, shall be consistent with the federal act, or otherwise shall be in accordance with the commercial arbitration rules established by the American Arbitration Association. The procedures shall be established so as to resolve any dispute with the timetable established in Section 13143.

(d) For an active ingredient or pesticide for which a registrant or registrants do not provide the information required pursuant to Section 13143, the director may determine the active ingredient or pesticide to be critical to agricultural production and the director may utilize assessments charged to those registrants of the active ingredient for which the information is required pursuant to Section 13143 in amounts necessary to cover the department's expenses in obtaining the information. The assessment shall be made pursuant to Section 12824. The director may also request an appropriation to be used in combination with assessments to obtain the required information.

SEC. 88. Section 13147 of the Food and Agricultural Code is amended to read:

13147. The director shall annually request a budget appropriation in order to meet the reasonable and anticipated costs of conducting soil and water monitoring pursuant to Section 13148, a review of data submitted pursuant to Section 13143, and the administration of pesticides placed on the Groundwater Protection List pursuant to this article.

SEC. 89. Section 13148 of the Food and Agricultural Code is amended to read:

13148. (a) In order to more accurately determine the mobility and persistence of the pesticides identified pursuant to paragraph (2) of subdivision (b) of Section 13144 and to determine if these pesticides have migrated to groundwaters of the state, the director shall conduct soil and groundwater monitoring statewide in areas of the state where the pesticide is primarily used or where other factors identified pursuant to Section 13143 and subdivision (b) of Section 13144, including physicochemical characteristics and use practices of the pesticides, indicate a probability that the pesticide may migrate to the groundwaters of the state. The monitoring shall commence within one year after the pesticide is placed on the Groundwater Protection List and shall be conducted in accordance with standard

protocol and testing procedures established pursuant to subdivision (b). Monitoring programs shall replicate conditions under which the pesticide is normally used in the area of monitoring. In developing a monitoring program, the director shall coordinate with other agencies that conduct soil and groundwater monitoring.

(b) Within 90 days after a pesticide is placed on the Groundwater Protection List pursuant to subdivision (d) of Section 13145, the director, in consultation with the board, shall develop a standard protocol and testing procedure for each pesticide identified pursuant to subdivision (d) of Section 13145.

(c) The director shall report all monitoring results to the State Department of Health Services and the board.

SEC. 90. Section 13149 of the Food and Agricultural Code is amended to read:

13149. (a) Within 90 days after a pesticide is found under any of the conditions listed in paragraph (1), (2), or (3), the director shall determine whether the pesticide resulted from agricultural use in accordance with state and federal laws and regulations, and shall state in writing the reasons for the determination.

(1) An active ingredient of a pesticide has been found at or below the deepest of the following depths:

(A) Eight feet below the soil surface.

(B) Below the root zone of the crop where the active ingredient was found.

(C) Below the soil microbial zone.

(2) An active ingredient of a pesticide has been found in the groundwaters of the state.

(3) The pesticide has degradation products or other specified ingredients that pose a threat to public health and that have been found under the conditions specified for active ingredients in either paragraph (1) or (2).

(b) Upon a determination by the director that a pesticide meets any of the conditions specified in paragraph (1), (2), or (3) of subdivision (a) as a result of agricultural use in accordance with state and federal laws and regulations, the director shall immediately notify the registrant of the determination and of the registrant's opportunity to request a hearing pursuant to subdivision (c).

(c) Any pesticide that meets any of the conditions in subdivision (b) shall be subject to Section 13150 if the registrant of the pesticide requests, within 30 days after the notice is issued, that the subcommittee conduct a hearing, as described in Section 13150. Notwithstanding any other provision of law, if the registrant does not request the hearing within 30 days after the notice is issued, the director shall cancel the registration of the pesticide.

(d) For the purposes of this section, any finding of a pesticide shall result from either an analytical method approved by the department that provides unequivocal identification of a chemical, such as mass spectroscopy, or from verification, within 30 days, by a second

analytical method or a second analytical laboratory approved by the department.

SEC. 91. Section 13150 of the Food and Agricultural Code is amended to read:

13150. The director may allow the continued registration, sale, and use of a pesticide that meets any one of the conditions specified in Section 13149 if all of the following conditions are met:

(a) The registrant submits a report and documented evidence that demonstrate both of the following:

(1) That the presence in the soil of any active ingredient, other specified ingredient, or degradation product does not threaten to pollute the groundwater of the state in any region within the state in which the pesticide may be used according to the terms under which it is registered.

(2) That any active ingredient, other specified ingredient, or degradation product that has been found in groundwater has not polluted, and does not threaten to pollute, the groundwater of the state in any region within the state in which the pesticide may be used according to the terms under which it is registered.

(b) A subcommittee of the director's pesticide registration and evaluation committee, consisting of one member each representing the director, the State Department of Health Services, and the board, holds a hearing, within 180 days after it is requested by the registrant, to review the report and documented evidence submitted by the registrant and any other information or data that the subcommittee determines is necessary to make a finding.

(c) The subcommittee, within 90 days after the hearing is conducted, makes any of the following findings and recommendations:

(1) That the ingredient found in the soil or groundwater has not polluted, and does not threaten to pollute, the groundwater of the state.

(2) That the agricultural use of the pesticide can be modified so that there is a high probability that the pesticide would not pollute the groundwater of the state.

(3) That modification of the agricultural use of the pesticide pursuant to paragraph (2) or cancellation of the pesticide will cause severe economic hardship on the state's agricultural industry, and that no alternative products or practices can be effectively used so that there is a high probability that pollution of the groundwater of the state will not occur. The subcommittee shall recommend a level of the pesticide that does not significantly diminish the margin of safety recognized by the subcommittee to not cause adverse health effects.

When the subcommittee makes a finding pursuant to paragraph (2) or this paragraph (3), it shall determine whether the adverse health effects of the pesticide are carcinogenic, mutagenic, teratogenic, or neurotoxic.

(d) The director, within 30 days after the subcommittee issues its findings, does any of the following:

(1) Concurs with the subcommittee finding pursuant to paragraph (1) of subdivision (c).

(2) Concurs with the subcommittee finding pursuant to paragraph (2) of subdivision (c), and adopts modifications that result in a high probability that the pesticide would not pollute the groundwaters of the state.

(3) Concurs with the subcommittee findings pursuant to paragraph (3) of subdivision (c), or determines that the subcommittee finding pursuant to paragraph (2) of subdivision (c) will cause severe economic hardship on the state's agricultural industry. In either case, the director shall adopt the subcommittee's recommended level or shall establish a different level, provided the level does not significantly diminish the margin of safety to not cause adverse health effects.

(4) Determines that, contrary to the finding of the subcommittee, no pollution or threat to pollution exists. The director shall state the reasons for his or her decisions in writing at the time any action is taken, specifying any differences with the subcommittee's findings and recommendations. The written statement shall be transmitted to the appropriate committees of the Senate and Assembly, the State Department of Health Services, and the board.

When the director takes action pursuant to paragraph (2) or (3), he or she shall determine whether the adverse health effects of the pesticide are carcinogenic, mutagenic, teratogenic, or neurotoxic.

SEC. 92. Section 13151 of the Food and Agricultural Code is amended to read:

13151. Any pesticide identified pursuant to Section 13149 that fails to meet any of the conditions of Section 13150 shall be canceled.

SEC. 93. Section 13152 of the Food and Agricultural Code is amended to read:

13152. (a) The director shall conduct ongoing soil and groundwater monitoring of any pesticide whose continued use is permitted pursuant to paragraph (3) of subdivision (d) of Section 13150.

(b) Any pesticide monitored pursuant to this section that is determined, by review of monitoring data and any other relevant data, to pollute the groundwaters of the state two years after the director takes action pursuant to paragraph (3) of subdivision (d) of Section 13150 shall be canceled unless the director has determined that the adverse health effects of the pesticide are not carcinogenic, mutagenic, teratogenic, or neurotoxic.

(c) The director shall maintain a statewide data base of wells sampled for pesticide active ingredients. All agencies shall submit to the director, in a timely manner, the results of any well sampling for pesticide active ingredients and the results of any well sampling that detect any pesticide active ingredients.

(d) Not later than June 30, 1986, the director, the State Department of Health Services, and the board shall jointly establish minimum requirements for well sampling that will ensure precise and accurate results. The requirements shall be distributed to all agencies that conduct well sampling. All well sampling conducted after December 1, 1986, shall meet the minimum requirements established pursuant to this subdivision.

(e) The director, in consultation with the State Department of Health Services and the board, shall report the following information to the Legislature, the State Department of Health Services, and the board on or before December 1, 1986, and annually thereafter:

(1) The number of wells sampled for pesticide active ingredients, the location of the wells from which the samples were taken, the well numbers, if available, and the agencies responsible for drawing and analyzing the samples.

(2) The number of well samples with detectable levels of pesticide active ingredients, the location of the wells from which the samples were taken, the well numbers, if available, and the agencies responsible for drawing and analyzing the samples.

(3) An analysis of the results of well sampling described in paragraphs (1) and (2), to determine the probable source of the residues. The analysis shall consider factors such as the physical and chemical characteristics of the pesticide , volume of use and method of application of the pesticide, irrigation practices related to use of the pesticide, and types of soil in areas where the pesticide is applied.

(4) Actions taken by the director and the board to prevent pesticides from migrating to groundwaters of the state.

SEC. 94. Section 14012 of the Food and Agricultural Code is amended to read:

14012. (a) Any person who is required to register pesticides under Article 4 (commencing with Section 12811) of Chapter 2, and who sells or transfers any restricted material, shall keep accurate records of the amount and type of material involved in every sale or transfer of any restricted material. The records shall be open during ordinary business hours to the inspection of the director.

(b) Each commissioner shall submit to the director a copy of each pesticide use report received pursuant to Section 14011.5, and any other relevant information the director may require. Copies of the reports from the commissioners shall be rendered to the director within one calendar month after they are received.

The contents of these reports shall be summarized quarterly by the director as to the type of material and amounts, and the summaries shall be made a public record. The director may publish or distribute the summaries.

SEC. 95. Section 14021 of the Food and Agricultural Code is amended to read:

14021. (a) As used in this article, "pesticide" is defined in Section 12753.

(b) For purposes of this article, "toxic air contaminant" means an air pollutant that may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health. Pesticides that have been identified as hazardous air pollutants pursuant to Section 7412 of Title 42 of the United States Code shall be identified by the director as toxic air contaminants.

SEC. 96. Section 14063 of the Food and Agricultural Code is amended to read:

14063. Subject to regulations of the director, any of the following persons may sell, use, or possess Compound 1080 for the purposes or uses that are specified:

(a) Any federal, state, county, or municipal officer or employee, in his or her official capacity, or any person under the immediate supervision of that officer or employee, may possess Compound 1080 for use for pest control purposes.

(b) Any research or chemical laboratory may possess Compound 1080 for use for the purposes of the laboratory.

(c) Any person duly licensed as a structural pest control operator under Chapter 14 (commencing with Section 8500), Division 3 of the Business and Professions Code, may possess Compound 1080 for use in his or her business.

(d) Any wholesaler or jobber of any pesticide may sell Compound 1080 to any person included within the above classifications, or for export.

SEC. 97. Section 14101 of the Food and Agricultural Code is amended to read:

14101. As used in this division, "environment" means the aggregate of all factors that influence the conditions of life in or about the state or within any portion thereof, and which are affected by the use of pesticides or related materials within the state.

SEC. 98. Section 14262 of the Food and Agricultural Code is amended to read:

14262. This chapter also does not apply to any of the following:

(a) Any livestock drug that is intended for, and that is used solely for, laboratory or experimental purposes.

(b) Any substance that is intended for, and that is used primarily as a pesticide and that is registered as a pesticide under Chapter 2 (commencing with Section 12751).

(c) Any biological product that is manufactured under a license issued by the United States Department of Agriculture or the State Department of Health.

(d) Any drug that is required by federal law to be sold on prescription only.

SEC. 99. Section 14513 of the Food and Agricultural Code is amended to read:

14513. "Auxiliary soil and plant substance" means any chemical or biological substance or mixture of substances or device distributed

in this state to be applied to soil, plants, or seeds for soil corrective purposes; or that is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants; or that is intended to produce any chemical, biochemical, biological, or physical change in soil; but does not include commercial fertilizers, agricultural minerals, pesticides, soil amendments, or manures. It shall include the following:

(a) Bacterial inoculants.

(b) Biotics.

(c) Lignin or humus preparations.

(d) Microbial products, including genetically engineered microorganisms.

(e) Soil binding agents.

(f) Synthetic polyelectrolytes.

(g) Wetting agents to promote water penetration.

(h) Any similar product intended to be used for influencing soils, plant growth, or crop or plant quality.

CHAPTER 362

An act to amend Sections 8670.21, 8670.48, and 8670.49 of the Government Code, and to amend Sections 445, 446, 449, and 449.5 of, to amend and renumber Sections 447 and 448 of, to add Sections 447 and 447.5 to, and to repeal and add Section 445.5 of, the Harbors and Navigation Code, and to amend Section 46012 of the Revenue and Taxation Code, relating to vessels.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 8670.21 of the Government Code is amended to read:

8670.21. (a) As used in this section, the following terms have the following meaning:

(1) "Vessels" means vessels as defined in Section 21 of the Harbors and Navigation Code.

(2) "VTS system" means a vessel traffic service system.

(b) The administrator shall negotiate an agreement with the Coast Guard, appropriate port agencies, or appropriate organizations, for a VTS system to protect the harbors of this state. The administrator may include in the agreement provisions for vessel traffic monitoring and communications systems for areas of the coast outside of harbors or negotiate a separate agreement for that purpose. The purpose of a VTS system and a vessel traffic monitoring and communications system shall be to aid navigation by providing

satellite tracking, radar, or other information regarding ship locations and traffic to prevent collisions and groundings.

(c) The administrator shall, in consultation with the Coast Guard, develop a plan for implementing VTS systems pursuant to subdivision (b) for the Ports of Los Angeles and Long Beach, the Harbors of San Francisco, San Pablo, and Suisun Bays, and the Santa Barbara Channel, and for any other area where establishing a VTS system or a vessel monitoring and communications system is recommended by the Coast Guard. The plan shall provide for the areas described in this subdivision, and for any other system and areas that are recommended by the Coast Guard, or recommended by the administrator and approved by the Coast Guard. Only systems that will be operated by the Coast Guard, or that will have direct communication with a Coast Guard officer who has Captain of the Port enforcement authority, shall be included in the plan. The plan shall be amended periodically to reflect any changes in Coast Guard recommendations or operations, or any changes in the agreements entered into pursuant to subdivision (b). The plan shall, to the extent allowable given federal requirements, provide for the best achievable protection.

(d) (1) The administrator shall attempt to provide funding for VTS systems and vessel monitoring and communications systems through voluntary funding, or services in kind, provided by the maritime industry. If agreement on voluntary funding or services in kind cannot be reached, the administrator may establish a fee system that reflects the commercial maritime activity of each of the respective harbors or areas for which a VTS system or a vessel monitoring and communications system is established. Using that fee system, the administrator shall fund VTS systems and vessel monitoring and communications systems.

(2) The money collected pursuant to this subdivision shall be deposited in the Vessel Safety Account, which is hereby created in the Oil Spill Prevention and Administration Fund. The money in the Vessel Safety Account is hereby continuously appropriated for the sole purpose of funding VTS systems and vessel monitoring and communications systems. Other than the fees imposed pursuant to this subdivision that are deposited in the Vessel Safety Account, no funds from the Oil Spill Prevention and Administration Fund may be used to pay for VTS systems or vessel traffic monitoring and communications systems.

(3) The administrator shall adopt regulations to implement this subdivision. The administrator may adopt regulations prohibiting barges and tankers from accepting or unloading oil at marine terminals if a barge or tanker is not in compliance with required VTS system or vessel traffic monitoring and communications system equipment.

(e) If a VTS system covers waters outside the jurisdiction of a local port authority, the administrator may grant such money as

determined to be necessary for the purchase and installation of equipment required for the establishment or expansion of the VTS system. Those grants may be made from the Oil Spill Response Trust Fund in accordance with Section 8670.49, as individual and nonrecurring appropriations through the budget process, but shall not exceed the amount of interest earned from money in that fund.

(f) (1) The Marine Exchange of Los Angeles-Long Beach Harbor, Inc., a corporation organized under the Non-Profit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Government Code), may operate a VTS system in the VTS area described in Section 445 of the Harbors and Navigation Code if the VTS system is approved by the Coast Guard and certified by the administrator as meeting the requirements of this chapter. The marine exchange shall cooperate fully with the administrator in the development and implementation of that VTS system. Upon certification by the administrator that the Coast Guard has commenced operation of a VTS system for the VTS area, the authorization for the marine exchange to operate a VTS system shall terminate.

(2) The Port of Los Angeles and the Port of Long Beach may impose fees upon all covered vessels, as defined in Section 445.5 of the Harbors and Navigation Code, for the funding of the VTS system operated by the marine exchange.

(3) No vessel that is required to comply with Article 4 (commencing with Section 445) of Chapter 1 of Division 3 of the Harbors and Navigation Code shall assert any claim against the marine exchange or any officer, director, employee, or representative of the marine exchange for any damage, loss, or expense, including any rights of indemnity or other rights of any kind, sustained by that vessel or its owners, agents, charterers, operators, crew, or third parties arising out of, or connected with, directly or indirectly, the marine exchange's operation of the vessel traffic service, even though resulting in whole or in part from the negligent acts or omissions of the marine exchange or of an officer, director, employee, or representative of the marine exchange.

(4) Each vessel required to comply with Article 4 (commencing with Section 445) of Chapter 1 of Division 3 of the Harbors and Navigation Code shall defend, indemnify, and hold harmless the marine exchange and its officers, directors, employees, and representatives from any and all claims, suits, or actions of any nature by whomsoever asserted, even though resulting or alleged to have resulted from negligent acts or omissions of the marine exchange or of an officer, director, employee, or representative of the marine exchange.

(5) Nothing in this subdivision shall affect any liability or rights that may arise by reason of the gross negligence or intentional or willful misconduct of the marine exchange or of an officer, director, employee, or representative of the marine exchange in the operation

of the VTS system, including any liability pursuant to subdivision (c) of Section 449.5 of the Harbors and Navigation Code.

(6) The marine exchange and its officers and directors are subject to Section 5047.5 of the Corporations Code to the extent that the marine exchange meets the criteria specified in that section.

(7) Nothing in this section shall be deemed to include the marine exchange or its officers, directors, employees, or representatives within the definition of "responsible party" pursuant to subdivision (q) of Section 8670.3 for purposes of this chapter.

(8) On or before January 1, 1997, and every two years thereafter, the marine exchange shall submit a report containing a complete description of the VTS system operated by the marine exchange to the administrator. Upon receiving that biennial report, the administrator shall determine, after a public hearing, whether the elements and operation of the VTS system are consistent with the Harbor Safety Plan for the Ports of Los Angeles and Long Beach developed pursuant to Section 8670.23.1 and the standards for the statewide vessel traffic service systems plan developed pursuant to subdivision (c). If the administrator determines that the VTS system is inconsistent with the Harbor Safety Plan for the Ports of Los Angeles and Long Beach developed pursuant to Section 8670.23.1 or with the statewide vessel traffic service systems plan developed pursuant to subdivision (c), the administrator shall issue an order to the marine exchange specifying modifications to the VTS system to eliminate the inconsistencies. If the marine exchange has not complied with such an order within six months of issuance, the administrator may, in addition to or in lieu of any other enforcement action authorized by this chapter or Article 4 (commencing with Section 445) of Chapter 1 of Division 3 of the Harbors and Navigation Code, and after a public hearing, administratively revoke the authorization for the marine exchange to operate a VTS system. If authorization for the marine exchange to operate a VTS system is revoked, the administrator shall take any action necessary to expeditiously establish a VTS system for the VTS area described in Section 445 of the Harbors and Navigation Code. The action may include the assessment of fees on vessels, port users, and ports, and needed expenditures, as provided in subdivision (d).

(g) Any VTS system or vessel traffic monitoring and communications system that is determined to be necessary by the administrator, but which has not been approved by the Coast Guard, may not be included in the plan until that inclusion has been given specific approval by the Legislature, by statute.

(h) It is the intent of the Legislature that VTS systems and vessel traffic monitoring and communications systems be completed and operated by the Coast Guard, except that, with respect to the VTS area described in Section 445 of the Harbors and Navigation Code, a VTS system may be operated by the Marine Exchange of Los Angeles-Long Beach, Inc. pursuant to subdivision (f).

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 designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code, or that additional money is 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 designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code, 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 the amounts specified in Section 46012 of the Revenue and Taxation Code.

(i) (1) The administrator shall authorize refunds of any money collected, for reporting periods after January 31, 1991, in excess of the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code, 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 that the Treasurer has certified to the administrator as being required for the purposes specified in paragraph (7) of subdivision (k). The State Board of Equalization, 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.

(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 State Board of Equalization 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, as specified in subdivision (n), 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, as specified in subdivision (n), 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 financial security in the amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, 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).

(8) To pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as incurred by the network of oiled wildlife rescue and rehabilitation stations created pursuant to Section 8670.37.5.

(*l*) (1) 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 until July 1, 1998, on funds deposited pursuant to subdivision (a) of Section 46012 of the Revenue and Taxation Code, 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, equip, operate, and maintain the network of rescue and rehabilitation stations for oiled wildlife as described in Section 8670.37.5 and to support technology development and research related to oiled wildlife care. Interest earned on the financial security portion of the fund, required to be accessible pursuant to subdivision (b) of Section 46012 of the Revenue and Taxation Code shall not be available for that purpose. If the fund exceeds that designated amount, the interest not needed to equip, operate, and maintain the network of rescue and rehabilitation stations, or for appropriate technology development and research regarding oiled wildlife care, shall be deposited into the Oil Spill Prevention and Administration Fund, and shall be available for the purposes authorized by Article 6 (commencing with Section 8670.38).

(2) (A) For the fiscal year beginning July 1, 1998, and each year thereafter, consistent with this article, the administrator shall submit for appropriation, through the Governor's budget, an amount up to one million three hundred thousand dollars ($1,300,000), of the interest earned on the funds deposited into the Oil Spill Response Trust Fund, for the purpose of equipping, operating, and maintaining the network of oiled wildlife rescue and rehabilitation stations established pursuant to Section 8670.37.5 and for support of

technology development and research related to oiled wildlife care. Through the budget process, the Legislature shall review and approve the appropriation. The remaining interest shall be deposited into the Oil Spill Prevention and Administration Fund pursuant to paragraph (1).

(B) The administrator shall report to the Legislature not later than June 30, 2002, on the progress and effectiveness of the network of oiled wildlife rescue and rehabilitation stations established pursuant to Section 8670.37.5, and the adequacy of the Oil Spill Response Trust Fund to meet the purposes for which it was established.

(C) At the administrator's request, the funds made available pursuant to this paragraph may be directly appropriated to a suitable program for wildlife health and rehabilitation within a school of veterinary medicine within this state, provided that an agreement exists, consistent with this chapter, between the administrator and an appropriate representative of the program for carrying out that purpose. The administrator shall attempt to have such an agreement in place at all times. The agreement shall ensure that the training of, and the care provided by, the program staff are at levels that are consistent with those standards generally accepted within the veterinary profession.

(D) The funds made available pursuant to this paragraph shall not be considered an offset to any other state funds appropriated to the program, the program's associated school of veterinary medicine, or the program's associated college or university, and the funds shall not be used for any other purpose. If an offset does occur or the funds are used for an unintended purpose, expenditure of any appropriation of funds pursuant to this paragraph may be terminated by the administrator and the administrator may request a reappropriation to accomplish the intended purpose. The administrator shall annually review and approve the proposed uses of any funds made available pursuant to this paragraph.

(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 money in the fund shall be used solely for the purposes specified in subdivision (k).

(n) For the purposes of paragraphs (1) and (2) of subdivision (k), "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 financial security, in the designated amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, which may be drawn upon immediately by the administrator upon making the determinations required by Section 8670.49. The financial security shall be in the form described in subdivision (a) of Section 8670.53.3.

(q) Nothing in this section limits the authority of the administrator to raise 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) (1) Except to pay for the arrangement of financial security as authorized by paragraph (5) of subdivision (k) and subdivision (p) of Section 8670.48, to pay for the construction, equipping, operation, and maintenance of rescue and rehabilitation facilities, and technology development for oiled wildlife care from interest earned on funds deposited in the fund as authorized by subdivision (*l*) of Section 8670.48, and to pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as incurred by the network of oiled wildlife rescue and rehabilitation stations pursuant to subdivision (f) of Section 8670.37.5, and to pay for the expansion, in the VTS area, pursuant to Section 445 of the Harbors and Navigation Code, of the vessel traffic service system (VTS system) authorized pursuant to subdivision (f) of Section 8670.21, the administrator may only expend money from the fund if a spill has occurred and both of the following determinations have been made:

(A) 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.

(B) Federal oil spill funds are not available or will not be available in an adequate period of time.

(2) Notwithstanding any other provision of 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 paragraph (1) of 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 445 of the Harbors and Navigation Code is amended to read:

445. (a) The Marine Exchange of Los Angeles-Long Beach Harbor, Inc., hereafter referred to as the marine exchange, a corporation organized under the Non-Profit Mutual Benefit Corporation Law, Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code, may operate a vessel traffic service, in cooperation with, and subject to the supervision of, the United States Coast Guard, for the waters of San Pedro Bay, San Pedro Channel, and Santa Monica Bay, within a radius of 25 nautical miles of the Point Fermin Light. These waters shall be known in this article as the "VTS area."

(b) This article applies only to the VTS area.

SEC. 5. Section 445.5 of the Harbors and Navigation Code is repealed.

SEC. 6. Section 445.5 is added to the Harbors and Navigation Code, to read:

445.5. "Covered vessel," as used in this article, means any of the following:

(a) Every power-driven vessel of 40 meters (approximately 131 feet) or more in length, while navigating.

(b) Every towing vessel of 8 meters (approximately 26 feet) or more in length, while navigating. "Towing vessel," as used in this article, means any commercial vessel engaged in towing another vessel astern or alongside or by pushing it ahead.

(c) Every vessel issued a certificate to carry 50 or more passengers for hire, when engaged in trade.

SEC. 7. Section 446 of the Harbors and Navigation Code is amended to read:

446. Prior to entering the VTS area, every covered vessel shall report to the marine exchange the vessel's name, call sign, location, course, speed, destination, estimated time of arrival, and any impairment to the operation or navigation of the vessel, and, while transiting the VTS area, every covered vessel shall comply with the requirements of Section 447.5.

SEC. 8. Section 447 of the Harbors and Navigation Code is amended and renumbered to read:

448. The vessel traffic service shall be advisory in nature. Nothing in this article relieves, or is intended to relieve, any vessel, its owners, agents, charterers, operators, or other responsible or designated parties of command of the vessel or of any responsibilities they would otherwise have respecting the navigation and operation of any vessel. Each vessel within the VTS area shall be responsible for its safe navigation in accordance with the International Regulations for Preventing Collisions at Sea (1972) and any other international and local rules and regulations.

SEC. 9. Section 447 is added to the Harbors and Navigation Code, to read:

447. The following vessels, while transiting the VTS area, shall comply with the requirements of Section 447.5:

(a) Every power-driven vessel of 20 meters or more in length.

(b) Every vessel of 100 gross tons or more carrying one or more passengers for hire.

(c) Every dredge and floating plant.

SEC. 10. Section 447.5 is added to the Harbors and Navigation Code, to read:

447.5. While transiting the VTS area, every vessel described in Sections 445.5 and 447 shall do all of the following:

(a) Maintain continuous radio monitoring or communication with the marine exchange on the radio channel dedicated to the vessel traffic service.

(b) Respond promptly when hailed by the marine exchange.

(c) Communicate with the marine exchange in the English language.

(d) Comply with all VTS measures established by the marine exchange that do not conflict with federal and state statutes or regulations or the Los Angeles and Long Beach Harbor Safety Plan prepared pursuant to Section 8670.23.1 of the Government Code.

SEC. 11. Section 448 of the Harbors and Navigation Code is amended and renumbered to read:

448.5. (a) It shall be understood and agreed, and shall be the essence of the marine exchange's operation of the vessel traffic service, that the marine exchange act as agent of each vessel subject to the requirements of this article within the VTS area in providing vessel traffic information and performing all other acts incidental to operation of the vessel traffic service.

(b) No vessel subject to the requirements of this article shall assert any claim against the marine exchange or any officer, director, employee, or representative of the marine exchange for any damage, loss, or expense, including any rights of indemnity or other rights of any kind, sustained by the vessel or its owners, agents, charterers, operators, crew, or third parties arising out of, or connected with, directly or indirectly, the marine exchange's operation of the vessel traffic service, even though resulting in whole or in part from negligent acts or omissions, of the marine exchange or any officer, director, employee, or representative of the marine exchange.

(c) Each vessel subject to the requirements of this article shall defend, indemnify, and hold harmless the marine exchange and its officers, directors, employees, and representatives from any and all claims, suits, or actions of any nature by whomsoever asserted, even though resulting or alleged to have resulted from negligent acts or omissions of the marine exchange or an officer, director, employee, or representative of the marine exchange.

(d) Nothing in subdivisions (b) and (c) shall affect liability or rights that may arise by reason of the gross negligence or intentional or willful misconduct of the marine exchange or an officer, director,

employee, or representative of the marine exchange in the operation of the vessel traffic service.

SEC. 12. Section 449 of the Harbors and Navigation Code is amended to read:

449. (a) The marine exchange and its officers and directors are subject to Section 5047.5 of the Corporations Code to the extent that the marine exchange meets the criteria specified in that section.

(b) Nothing in this section shall be deemed to include the marine exchange or its officers, directors, employees, or representatives within the meaning of "responsible party" as defined in subdivision (q) of Section 8670.3 of the Government Code and subdivision (p) of Section 8750 of the Public Resources Code for the purposes of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Article 3.5 (commencing with Section 8574.1) of Chapter 7 and Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code and Division 7.8 (commencing with Section 8750) of the Public Resources Code).

SEC. 13. Section 449.5 of the Harbors and Navigation Code is amended to read:

449.5. (a) If the authorization for the marine exchange to operate its vessel traffic service is not revoked pursuant to Section 449.3, on or before January 1, 1997, and every two years thereafter, the marine exchange shall submit a complete description of the vessel traffic service to the administrator. After a public hearing, the administrator shall, in accordance with paragraph (8) of subdivision (f) of Section 8670.21 of the Government Code, determine whether the elements and operation of the vessel traffic service are consistent with the harbor safety plan for the Los Angeles and Long Beach harbors developed pursuant to Section 8670.23.1 of the Government Code and the standards of a statewide vessel traffic service plan or system developed pursuant to Section 8670.21 of the Government Code.

(b) If, pursuant to subdivision (a), the administrator determines that the vessel traffic service is inconsistent with the harbor safety plan for the Los Angeles and Long Beach harbors developed pursuant to Section 8670.23.1 of the Government Code and the standards of a statewide vessel traffic service plan or vessel traffic monitoring and communications system developed pursuant to Section 8670.21 of the Government Code, the administrator shall issue an order to the marine exchange which specifies modifications to the vessel traffic service to eliminate the inconsistencies.

(c) If the marine exchange has not complied with an order within six months of issuance, then the administrator, after a public hearing, may take any or all of the following actions:

(1) Impose on the marine exchange an administrative fine of not more than five thousand dollars ($5,000) for each day the marine exchange does not comply with the administrator's order.

(2) Administratively revoke the authorization provided to the marine exchange by Section 445 to operate the vessel traffic service.

(d) If authorization for the marine exchange to operate the vessel traffic service is revoked pursuant to this section, the administrator shall take any action that is necessary to expeditiously establish a vessel traffic service for the Los Angeles and Long Beach harbors. The action may include the assessment of fees on vessels, port users, and ports, and the making of needed expenditures, as provided in subdivision (d) of Section 8670.21.

SEC. 14. Section 46012 of the Revenue and Taxation Code is amended to read:

46012. "Designated amount" means an amount equal to one hundred nine million seven hundred fifty thousand dollars ($109,750,000), subject to the following:

(a) Fifty-four million eight hundred seventy-five thousand dollars ($54,875,000) shall be retained in the Oil Spill Response Trust Fund as cash.

(b) Fifty-four million eight hundred seventy-five thousand dollars ($54,875,000) shall be accessible in the Oil Spill Response Trust Fund in the form of financial security obtained by the Treasurer.

CHAPTER 363

An act to amend Section 655.6 of the Harbors and Navigation Code, relating to vessels.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 655.6 of the Harbors and Navigation Code is amended to read:

655.6. (a) It is an infraction for a person under the age of 21 years who has 0.01 percent or more, by weight, of alcohol in his or her blood to operate any motorized vessel or manipulate water skis, an aquaplane, or a similar device.

(b) A person may be found to be in violation of subdivision (a) if the person was, at the time of operating any motorized vessel or manipulating water skis, an aquaplane, or a similar device, under the age of 21 years and under the influence of, or affected by, an alcoholic beverage regardless of whether a chemical test was made to determine that person's blood-alcohol concentration and if the trier of fact finds that the person had consumed an alcoholic beverage and was operating any motorized vessel or manipulating water skis, an aquaplane, or a similar device while having a concentration of 0.01 percent or more, by weight, of alcohol in his or her blood.

(c) Section 655.1 applies to violations of this section.

(d) A violation of this section is punishable by a fine not exceeding one hundred dollars ($100). A second violation occurring within one year of a prior violation which resulted in a conviction is punishable by a fine not exceeding two hundred dollars ($200). A third or any subsequent conviction within a period of one year of two or more prior infractions which resulted in convictions is punishable by a fine not exceeding two hundred fifty dollars ($250). A person found to have committed a violation of this section shall be required to participate in an alcohol education or community service program as provided in Section 23141 of the Vehicle Code.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 364

An act to amend Section 53227 of the Government Code, relating to public employees.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 53227 of the Government Code is amended to read:

53227. (a) An employee of a local agency may not be sworn into office as an elected or appointed member of the legislative body of that local agency unless he or she resigns as an employee. If the employee does not resign, the employment shall automatically terminate upon his or her being sworn into office.

(b) For any individual who is an employee of a local agency and an elected or appointed member of that local agency's legislative body prior to January 1, 1996, this section shall apply when he or she is reelected or reappointed, on or after January 1, 1996, as a member of the local agency's legislative body.

(c) This section does not apply to any volunteer firefighter who does not receive a salary, or where the salary the volunteer firefighter would otherwise receive is applied directly by the local agency toward the purchase of disability, life, health, or similar insurance coverage.

CHAPTER 365

An act to amend Section 2207 of the Public Resources Code, relating to mining.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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 $7^1/_2$-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) (A) The board shall adopt, by regulation, 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, and may adopt those regulations as emergency regulations. 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.

(B) Regulations adopted pursuant to this subdivision 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 any emergency regulations pursuant to this subdivision shall be considered necessary to address an emergency and shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(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 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.

(5) 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 $1^1/_2$ 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 366

An act to add Section 6202.7 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 17, 1996. Filed with
Secretary of State August 19, 1996.]

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

SECTION 1. Section 6202.7 is added to the Revenue and Taxation Code, to read:

6202.7. Any retailer who loans any motor vehicle to any employee of the University of California or the California State University shall be liable for the use tax on the loan of that vehicle equal to the amount of tax that would have applied if the vehicle had been leased at fair rental value for a time period equal to the period the vehicle is loaned to the university or state university employee, provided that all of the following conditions are met:

(a) The vehicle is for the employee's exclusive use.

(b) The loan of the vehicle has been approved by the chancellor of the university or the president of the state university.

(c) It is demonstrated that the loan of the vehicle is not dependent upon the retailer receiving any automotive-related business from the university or the state university.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 367

An act to amend Section 71011 of, and to add Section 71031 to, the Public Resources Code, relating to environmental protection, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1996. Filed with
Secretary of State August 19, 1996.]

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

SECTION 1. Section 71011 of the Public Resources Code is amended to read:

71011. "Environmental agency" means any of the following:

(a) The Department of Toxic Substances Control, the Department of Pesticide Regulation, the State Air Resources Board, the State Water Resources Control Board, the California Integrated

Waste Management Board, and the Office of Environmental Health Hazard Assessment.

(b) A California regional water quality control board.

(c) A district, as defined in Section 39025 of the Health and Safety Code.

(d) An enforcement agency, as defined in Section 40130 of the Public Resources Code.

(e) A county agricultural commissioner with respect to his or her administration of Divisions 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of the Food and Agricultural Code.

(f) The local agency responsible for administering Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code concerning underground storage tanks and any underground storage tank ordinance adopted by a city or county.

(g) The local agency responsible for the administration of the requirements imposed pursuant to Section 13370.5 of the Water Code.

(h) A certified unified program agency as provided in Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code.

(i) Any other state, regional, or local permit agency for the project that participates at the request of the permit applicant upon the permit agency's agreement to be subject to this division.

SEC. 2. Section 71031 is added to the Public Resources Code, to read:

71031. (a) Each state environmental agency, as defined in subdivisions (a) and (b) of Section 71011, in consultation and coordination with all interested parties, may adopt a process to precertify equipment and processes as being in compliance with any laws and regulations applicable to the state environmental agency. The secretary shall ensure that, to the extent one or more state environmental agencies adopt regulations pursuant to this section, the regulations are standardized and coordinated in the most efficient and effective manner feasible.

(b) If a state environmental agency adopts regulations pursuant to subdivision (a), it shall, to the extent feasible and appropriate, adopt standardized permits to incorporate equipment and processes precertified pursuant to subdivision (a). Where applicable, the state environmental agencies shall include, as part of their precertification, a model standardized permit ordinance that local environmental agencies may adopt.

(c) Local environmental agencies, as defined in subdivisions (c) to (h), inclusive, of Section 71011, may adopt standardized permits to incorporate equipment and processes precertified pursuant to subdivision (a). Nothing in this section shall limit the ability of a local environmental agency to adopt additional requirements as part of the standardized permit to meet local health and safety concerns.

(d) For purposes of this section, a "standardized permit" means a permit for pollution sources or activities that are the same or similar in their nature, and which require the submission of the same or similar information for purposes of issuing, monitoring, and enforcing permit requirements.

(e) Nothing in this section shall result in the reduction or elimination of environmental or public health protection or public participation, as provided under all applicable laws, in the issuance of any permit authorized by this section.

(f) Any environmental agency may charge a reasonable fee for costs incurred pursuant to this section, not to exceed estimated reasonable costs. Any fee shall be subject to Section 57001 of the Health and Safety 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 reduce the existing burdens of the permitting process on businesses in this state, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 368

An act to repeal Section 19781 of the Government Code, relating to the state civil service.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 19781 of the Government Code is repealed.

CHAPTER 369

An act to amend Section 21029 of the Government Code, relating to public employee retirement.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 21029 of the Government Code is amended to read:

21029. "Public service" with respect to a state member or a school member or with respect to a retired former state employee or a retired former school employee, who retired on or after December 31, 1981, also means active service, prior to entering this system as a state member or as a school member, of not less than one year in the Armed Forces of the United States, or, active service, prior to entering this system as a state or school member, of not less than one year in the Merchant Marine of the United States prior to January 1, 1950. Public service credit shall not be granted if the service described above terminated with a discharge under dishonorable conditions. The public service credit to be granted for that service shall be on the basis of one year of credit for each year of credited state service, but shall not exceed a total of four years of public service credit regardless of the number of years of either that service or subsequent state service. A state member or a school member or a retired former state employee or a retired former school employee electing to receive a credit for that public service shall have been credited with at least one year of state service on the date of election or the date of retirement.

An election by a state member or a school member with respect to public service under this section may be made only while the member is in state, university, or school employment, and a retired former employee shall have retired immediately following service as a state member or as a school member. The retirement allowance of a retired former state employee or a retired former school employee, who elects to receive public service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election. For the purposes of this section, a member as described in subdivision (d) of Section 20776, shall also mean a former state employee or a former school employee, who retired on or after December 31, 1981.

A member or retired former employee who elects to become subject to this section shall pay all reasonable administrative costs and contributions, sufficient to cover the total employer and employee cost plus interest of the military service credit, at rates to be determined by the board. The amount shall be contributed in lump sum or by installments over a period and subject to minimum payments as may be prescribed by regulations of the board. Payments for administrative costs shall be credited to the current appropriation for support of the board and available for expenditures by the board to fund positions deemed necessary by the board to implement this section.

Notwithstanding Section 21072, a member or a retired former employee whose military service credited pursuant to this section is subject to Section 21076 shall pay, in addition to all reasonable administrative costs, contributions, sufficient to cover the total employer cost plus interest of the military service credit, at rates to be determined by the board.

Contributions paid by a person subject to Section 21076 for service under this section shall be credited to the appropriate state employer account.

The board has no duty to locate or notify any eligible former member who is currently retired or to provide the name or address of any such retired person, agency, or entity for the purpose of notifying those persons.

CHAPTER 370

An act to amend Sections 8731 and 8733.5 of the Health and Safety Code, relating to cemeteries.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 8731 of the Health and Safety Code is amended to read:

8731. (a) The cemetery authority may appoint a board of trustees of not less than three in number as trustees of its endowment care fund. The members of the board of trustees shall hold office subject to the direction of the cemetery authority.

(b) If within 30 days after notice of nonreceipt by the Cemetery Board or other agency with regulatory authority over cemetery authorities, the cemetery authority fails to file the report required by Section 9650 of the Business and Professions Code, or if the report is materially not in compliance with law or the endowment care fund is materially not in compliance with law, the cemetery authority may be required to appoint as sole trustee of its endowment care fund under Section 8733.5, any bank or trust company qualified under the provisions of the Banking Law (Division 1 (commencing with Section 99) of the Financial Code) to engage in the trust business. That requirement may be imposed by the Cemetery Board or other agency with regulatory authority over cemetery authorities, provided that the cemetery authority has received written notice of the alleged violation and has been given the opportunity to correct the alleged violation, and there has been a finding of a material violation in an administrative hearing.

SEC. 2. Section 8733.5 of the Health and Safety Code is amended to read:

8733.5. In lieu of the appointment of a board of trustees of its endowment care fund, any cemetery authority may appoint as sole trustee of its endowment care fund any bank or trust company qualified under the provisions of the Banking Law (Division 1

(commencing with Section 99) of the Financial Code) to engage in the trust business.

CHAPTER 371

An act to add Section 8113.7 to the Health and Safety Code, relating to dead bodies.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 8113.7 is added to the Health and Safety Code, to read:

8113.7. Notwithstanding any other provision of law, the statute of limitations for any individual's criminal violation of Section 8113.5 shall begin to run at the time the violation is discovered.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 372

An act to add Section 24045.14 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 24045.14 is added to the Business and Professions Code, to read:

24045.14. (a) Notwithstanding any other provision of this division, the department may issue an on-sale general license to any

maritime museum association that has been organized as a nonprofit corporation more than 40 years before the date of application, that owns in its museum inventory not less than three vessels, each of which is 100 feet or more in length, and that is exempt from the payment of income taxes under Section 501(c)(3) of the Internal Revenue Code of 1954.

(b) A maritime museum association holding a license under this section may sell and serve alcoholic beverages only to persons attending prearranged events held onboard its vessels while those vessels are underway or while moored at their home port dock.

(c) A duplicate license shall be required for each vessel in excess of one if alcoholic beverages are sold on the vessel more than 24 times each year.

(d) The applicant shall accompany the application with an original fee of five hundred dollars ($500) and shall pay an annual renewal fee and a renewal fee for each duplicate as provided for in subdivision (34) of Section 23320.

(e) Original licenses may be issued pursuant to this section until January 1, 1998.

CHAPTER 373

An act to amend Sections 6516 and 11007.7 of the Government Code, relating to joint exercise of powers.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 6516 of the Government Code is amended to read:

6516. Public agencies conducting agricultural, livestock, industrial, cultural, or other types of fairs or exhibitions may enter into a joint powers agreement to form an insurance pooling arrangement for the payment of workers' compensation, unemployment compensation, tort liability, public liability, or other losses incurred by those agencies. An insurance and risk pooling arrangement formed in accordance with a joint powers agreement pursuant to this section is not subject to Section 11007.7 of the Government Code. The Department of Food and Agriculture may enter into such a joint powers agreement for the California Exposition and State Fair, district agricultural associations, or citrus fruit fairs, and the department shall have authority to contract with the California Exposition and State Fair, district agricultural associations, or citrus fruit fairs with respect to such a joint powers agreement entered into on behalf of the California Exposition and

State Fair, district agricultural association, or citrus fruit fair. Any county contracting with a nonprofit corporation to conduct a fair pursuant to Sections 25905 and 25906 of the Government Code may enter into such a joint powers agreement for a fair conducted by the nonprofit corporation, and shall have authority to contract with a nonprofit corporation with respect to such a joint powers agreement entered into on behalf of the fair of the nonprofit corporation.

Any county contracting with a nonprofit corporation to conduct a fair shall assume all workers' compensation and liability obligations accrued prior to the dissolution or nonrenewal of the nonprofit corporation's contract with the county.

Any public entity entering into a joint powers agreement under this section shall establish or maintain a reserve fund to be used to pay losses incurred under the agreement. The reserve fund shall contain sufficient moneys to maintain the fund on an actuarially sound basis.

SEC. 2. Section 11007.7 of the Government Code is amended to read:

11007.7. (a) The procurement of insurance or official bonds by any state agency shall be subject to approval of the Department of General Services. Any procurement of this type, upon request of the state agency concerned, may be made by the Department of General Services on behalf of the agency.

(b) Whenever the procurement of insurance or official bonds for, or on behalf of, the state is authorized by law and no state agency is specifically authorized to purchase the insurance or official bonds, the Department of General Services may procure the insurance or official bonds.

(c) This section shall not apply to any of the following:

(1) Insurance procured by the Department of Transportation or the California Transportation Commission under Sections 100.7 and 30450 to 30453, inclusive, of the Streets and Highways Code.

(2) Workers' compensation insurance procured under Section 11870 of the Insurance Code.

(3) Insurance procured by the California State University.

(4) An insurance and risk pooling arrangement formed pursuant to a joint powers agreement as specified in Section 6516.

CHAPTER 374

An act to amend Sections 69769 and 69769.3 of, and to add Section 69766.1 to, the Education Code, relating to postsecondary education, and making an appropriation therefor.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 69766.1 is added to the Education Code, to read:

69766.1. (a) Notwithstanding Section 13340 of the Government Code, in addition to the purposes for which funds are appropriated pursuant to Section 69766, there is hereby continuously appropriated from the State Guaranteed Loan Reserve Fund to the commission, the amount of funds necessary to make payments for the purchase of defaulted loans.

(b) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated from the Federal Trust Fund for transfer to the State Guaranteed Loan Fund, all federal reinsurance payments received on defaulted student loans and deposited in the Federal Trust Fund.

(c) The appropriation authorized by this section shall be operative only if the annual Budget Act for the fiscal year is not chaptered on or before July 15, and shall not exceed the amount deemed by the commission to be required by federal law or regulation. The commission shall notify the Joint Legislative Budget Committee of the amount of any payments issued pursuant to this section.

SEC. 2. Section 69769 of the Education Code is amended to read:

69769. The commission shall establish a Loan Study Council. The Loan Study Council shall be composed of 17 members, appointed by the commission, composed of representatives of students, postsecondary educational institutions, eligible lenders, and participating secondary markets.

SEC. 3. Section 69769.3 of the Education Code is amended to read:

69769.3. (a) The Loan Study Council established pursuant to Section 69769 shall be composed of members appointed from the following groups:

(1) Four representatives of the lending community participating in the Federal Family Education Loan Program.

(2) One representative each from the University of California, the California State University, the California Community Colleges, a private nonprofit postsecondary education institution, and a private for-profit postsecondary education institution.

(3) One representative from the California Association of Student Financial Aid Administrators.

(4) Five student representatives from the same postsecondary segments listed in paragraph (2). In no event shall a student representative be appointed to serve simultaneously as the representative of more than one of these five postsecondary groups.

(5) One representative from a secondary market participating in the Federal Family Education Loan Program.

(6) One representative from the California Lenders for Education Association.

(b) The representatives appointed by the commission pursuant to subdivision (a) shall be selected by the commission from lists provided to its chair by each group described in that subdivision.

CHAPTER 375

An act to add Section 13731 to the Penal Code, relating to domestic violence.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

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

(a) There were 28,000 incidents of domestic violence, or three per hour, in San Diego County during 1995.

(b) There were 2,000 temporary restraining orders issued each month of 1995 in San Diego County.

(c) There is a dearth of data regarding fundamental descriptive characteristics of the client populations served by law enforcement, domestic violence shelters, clinical services, legal services, medical services, and education.

(d) There is a need to collect the data described in subdivision (c) in order to develop a victim profile to assist community medical professionals, religious organizations, local and state governmental organizations, and schools identifying possible crime victims.

SEC. 2. Section 13731 is added to the Penal Code, to read:

13731. (a) The San Diego Association of Governments may serve as the regional clearinghouse for criminal justice data involving domestic violence. The association may obtain monthly crime statistics from all law enforcement agencies in San Diego County. These law enforcement agencies may include their domestic violence supplements in the monthly crime reports that are supplied to the association. The association may obtain client-based data regarding clients or victims of domestic violence who seek protection in San Diego County shelters.

(b) Contingent upon the appropriation of funds therefor, the association shall do all of the following:

(1) Create a standardized, uniform intake form, to be referred to as a Compilation of Research and Evaluation Intake Instrument, also known as C.O.R.E., for use in San Diego County's domestic violence shelters. This form shall be completed and ready to use in the field for data collection purposes not later than March 31, 1997. The

C.O.R.E. intake form shall be standardized to compile the same information from all clients for all shelters.

(2) Collect and analyze the standardized, uniform intake form in order to compile information including, but not limited to, victim sociodemographic characteristics, descriptions of domestic violence incidents pertaining to each victim and services needed by domestic violence shelter clients within San Diego County.

(3) Use the collected client-based data to describe the nature and scope of violence from the perspective of domestic violence shelter clients and to determine the service needs of clients and what gaps in service delivery exist, so that resources can be appropriately targeted and allocated. All data supplied to the association shall be stripped of any information regarding the personal identity of an individual to protect the privacy of domestic violence shelter clients.

(4) Establish an advisory committee in order to facilitate the research effort and to assess the value of the research project. The advisory committee shall consist of representation from the shelters, as well as members of the San Diego County Domestic Violence Council, local justice administrators, and the principal investigator. The advisory committee shall meet at least four times before April 30, 1999, to review the progress of the research, including research methodology, data collection instruments, preliminary analyses, and work product as they are drafted. Advisory committee members shall evaluate the final research product in terms of applicability and utility of findings and recommendations.

(5) Analyze the data and prepare a report to be submitted to the Legislature not later than April 30, 1999.

CHAPTER 376

An act to add Section 18712 to the Business and Professions Code, relating to boxing.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 18712 is added to the Business and Professions Code, to read:

18712. (a) Notwithstanding any other provision of law, any person applying for a license or the renewal of a license as a professional boxer or a professional martial arts fighter shall present documentary evidence satisfactory to the commission that the applicant has been administered a test, by a laboratory in the United States that possesses a certificate under the Clinical Laboratory Improvement Act (42 U.S.C. Sec. 263a), to detect the presence of

antibodies to the human immunodificiency virus (HIV) and to detect the presence of the antigen of virus hepatitis type B (HBV) within 30 days prior to the date of the application and that the results of both tests are negative.

(b) Information received under this section and any other medical information about an applicant or licensee shall be confidential and not subject to discovery or subpoena. If the commission denies a license or the renewal of a license or suspends or revokes a license because of a licensee's HIV antibody status or HBV antigen status, it shall state only that the action was taken for medical reasons. An applicant or licensee may appeal the commission's denial, suspension, or revocation of a license under this section. The commission shall notify each person in writing of his or her right to a closed hearing for that appeal . An applicant or licensee must make a request for a hearing to the commission within 30 days of receiving notification from the commission of the applicant's or licensee's right to a hearing.

CHAPTER 377

An act to amend Sections 18684, 18711, 18800, 18881, and 18882 of, to repeal Sections 18883 and 18888 of, and to repeal and add Section 18887 of, the Business and Professions Code, relating to boxing.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 18684 of the Business and Professions Code is amended to read:

18684. The bonds required under this article shall guarantee, in order of priority, the payment of all taxes and fines due and payable to the state, the payment of contributions for medical insurance and to the pension fund, the payment of assessments for neurological examinations, as specified in subdivision (c) of Section 18711, the payment of the purses to the competitors, the repayment to consumers of purchased tickets, the payment of fees to the referees, judges, timekeepers, and physicians, and in the event of the cancellation of a contest or match approved by the commission without good cause, an amount determined by the commission which does not exceed the commission's actual cost in connection with the approval of the contest or match. The circumstances and allocation of bond payment shall be determined by the commission.

SEC. 2. Section 18711 of the Business and Professions Code is amended to read:

18711. (a) The commission shall require, as a condition of licensure and as a part of the application process, the examination by a licensed physician and surgeon who specializes in neurology and neurosurgery of each applicant for a license as a professional boxer or, if for the renewal of a license, this examination every year, in addition to any other medical examinations. The physician may recommend any additional tests he or she deems necessary. On the basis of that examination and any additional tests that are conducted, the physician may recommend to the commission whether the applicant may be permitted to be licensed in California or not. The executive officer shall review these recommendations and report any denials of licensure. If, as a result of these recommendations, the executive officer refuses to grant the applicant a license or to renew a license, the applicant shall not box in California until the denial has been overruled by the commission as provided in this chapter.

(b) In the event that an applicant for licensure as a professional boxer undergoes a neurological examination for purposes of licensure within the 120-day period immediately preceding the normal expiration of that license the applicant shall not be required to undergo an additional neurological examination within the following calendar year unless the commission, for cause, orders that the examination be taken. The commission shall notify all commission approved physicians and referees that the commission has the authority to order any professional boxer to undergo a neurological examination.

(c) The cost of the examinations required by this section shall be paid from assessments on any one or more of the following: promoters of professional boxing matches, managers, and professional boxers in California. The rate and manner of assessment shall be set by the commission, without the requirement of adoption of regulations, and shall cover all costs associated with the requirements of this section. This assessment shall be imposed on all professional boxing matches which occur on and after January 1, 1986. As of July 1, 1994, all moneys received by the commission pursuant to this section shall be deposited in and credited to the Boxers' Neurological Examination Account which is hereby created in the General Fund.

SEC. 3. Section 18800 of the Business and Professions Code is amended to read:

18800. (a) As of July 1, 1994, all moneys received by the commission under the provisions of this chapter shall be accounted for and reported by detailed statements furnished by the commission to the Controller at least once a month, and at the same time, such moneys shall be remitted to the Treasurer and shall be deposited in the General Fund.

(b) All moneys deposited in the General Fund pursuant to Section 18800 which have been received by the commission pursuant to Section 18882, are hereby continuously appropriated for purposes of the pension plan established under Section 18881.

SEC. 4. Section 18881 of the Business and Professions Code is amended to read:

18881. (a) The commission shall, consistent with the purposes of this article, establish a pension plan for professional boxers who engage in boxing contests in this state.

(b) The commission shall, consistent with the purposes of this article, establish the method by which the pension plan will be financed, including those who shall contribute to the financing of the pension plan. The method of financing the pension plan may include, but is not limited to, assessments on tickets and contributions by boxers, managers, promoters, or any one or more of these persons, in an amount sufficient to finance the pension plan. For purposes of this section, the term "sufficient" means that the annual contributions shall be calculated to achieve no less than the average level of annual aggregate pension plan contributions from all sources for the period from July 1, 1981, through December 31, 1994, and adjusted thereafter to reflect changes in the Consumer Price Index for California as set forth by the Bureau of Labor Statistics.

(c) Any pension plan established by the commission shall be actuarially sound.

SEC. 5. Section 18882 of the Business and Professions Code is amended to read:

18882. (a) At the time of payment of the fee required by Section 18824, a promoter shall pay to the commission all amounts scheduled for contribution to the pension plan. If the commission, in its discretion, requires pursuant to Section 18881, that contributions to the pension plan be made by the boxer and his or her manager, those contributions shall be made at the time and in the manner prescribed by the commission.

(b) All contributions to finance the pension plan shall be deposited in and credited to the Boxers' Pension Account, which is hereby created in the General Fund. The money in the Boxers' Pension Account shall be used exclusively for the purposes and administration of the pension plan.

(c) Except as otherwise provided in this subdivision, the commission or its designee shall invest the money contained in the Boxers' Pension Account according to the same standard of care as provided in Section 16040 of the Probate Code. The commission or its designee may also invest money from this account in group annuity contracts.

SEC. 6. Section 18883 of the Business and Professions Code is repealed.

SEC. 7. Section 18887 of the Business and Professions Code is repealed.

SEC. 8. Section 18887 is added to the Business and Professions Code, to read:

18887. In addition to any other form in which retirement benefits may be distributed under the pension plan, the commission may, in

its discretion, award to a covered boxer a medical early retirement benefit in the amount contained in the covered boxers' pension plan account at the time the commission makes this award and in the manner provided in the regulations governing the boxers' pension plan. This benefit shall be in lieu of a pension.

SEC. 9. Section 18888 of the Business and Professions Code is repealed.

CHAPTER 378

An act to amend Section 20322 of the Government Code, relating to public employees.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 20322 of the Government Code is amended to read:

20322. (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 elect at any time, and has the option of making contributions to this system in the amount that the officer would have contributed had the officer not been 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 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, 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 20125 the board shall be the sole judge of which elected or appointed positions qualify the incumbent as an "elective officer" in this system under this section.

(f) Notwithstanding any other provision of law, with respect to elective officers of contracting agencies, payment by a contracting agency of employer contributions and any other amounts for employer paid benefits under this system shall not be construed as receipt of salary or compensation by the elective officer for purposes of any statutory salary or compensation limitation.

CHAPTER 379

An act to add and repeal Section 79.1 of the Military and Veterans Code, relating to veterans.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 79.1 is added to the Military and Veterans Code, to read:

79.1. (a) In addition to the Undersecretary of Veterans Affairs, there shall be within the department, and the secretary shall appoint, a Deputy Secretary of Women Veterans Affairs who shall have responsibility over administration of women veterans affairs.

(b) This section is repealed on January 1, 2001, unless a later enacted statute which becomes operative on or before that date, deletes or extends that date.

CHAPTER 380

An act to amend Section 44036.2 of the Health and Safety Code, relating to air pollution.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 44036.2 of the Health and Safety Code is amended to read:

44036.2. (a) To ensure uniform and consistent inspection, tests, and repairs by all qualified smog check technicians and licensed smog check stations, and to ensure consumer protection, manufacturers of motor vehicles shall provide, or cause to be provided, all emission control system service information that is necessary to properly inspect, test and repair those vehicles. Unless otherwise provided, that information shall be required for all 1980 and newer model-year vehicles and shall consist of all of the following:

(1) General specifications showing the make, model, and classification of the vehicle.

(2) The identification, location, and description of all emission control equipment on the vehicle.

(3) The manufacturer's recommended visual and functional inspection procedures for each emissions-related component.

(4) Air injection and evaporative emission purge strategies.

(5) All vehicle manufacturer-specific data stream information, excluding bidirectional control information and reprogramming information unless required by state or federal statute or regulation.

(b) Beginning with the 1998 model year, all emissions-related information required by this section, including diagnostic, service, and training information supplied by vehicle manufacturers to any franchised dealer, shall be provided in an electronic format that is readily accessible, or that can be made readily accessible, to private diagnostic assistance service information vendors or intermediaries, if that information is provided or made available in this format by manufacturers to dealers. In determining the allowable format, the state board shall ensure compatibility with any service information format requirements specified by the Environmental Protection Agency.

(c) (1) The state board shall require motor vehicle manufacturers to provide the service information necessary to comply with this section as a condition of certification.

(2) Should the manufacturer fail to provide the service information necessary to comply with subdivision (a) for any vehicle within an engine family within one year of its retail introduction, the state board may withhold certification for all engine families for

subsequent model years, until such time as the manufacturer provides the necessary service information.

(3) The department shall periodically conduct surveys to determine whether the service information and tool requirements imposed by federal and state law are being fulfilled by actual field availability of the information and tools.

(d) The manufacturer shall make accessible, through the vehicle's standard data link, the version number or part number of the vehicle's current computer memory program to allow smog check technicians to determine if the manufacturer's most up-to-date program is installed in the vehicle's computer. This requirement shall apply to all vehicles with reprogrammable computer memory in the vehicle's computer beginning with the 1999 model year. Until the manufacturer provides an electronic computer program identifier system, the manufacturer shall use a mechanical identification system to identify the computer's current program.

(e) (1) Those manufacturers that do not use reprogrammable technology for the vehicle's computer shall use either a mechanical or electronic identification system to identify the current program of the vehicle's computer.

(2) The manufacturer shall also provide or cause to be provided an engine family reprogramming cross-reference to aid smog check technicians in determining the proper computer memory program for that engine. The cross-reference shall either be published by the manufacturer or made available to private diagnostic service information vendors or intermediaries for compilation and distribution.

(f) (1) The information required to be provided under this section shall be limited to only that information which is made available by manufacturers to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines needed to make use of the emissions control diagnostic system prescribed under Section 207 of the Federal Clean Air Act Amendments of 1990 and such other information including instructions for making emission-related diagnosis and repairs. If any of the emissions-related service information required by this section is provided to the manufacturer's franchised dealers in advance of the specific requirements of this section, that information shall also be made available by manufacturers, directly or indirectly, to smog check stations and repair technicians. Manufacturers shall only be required to provide information to vendors or intermediaries in the same manner and format as provided to franchised dealers.

(2) The service information shall be made compatible with computer systems commonly used in the aftermarket repair industry. In addition, the vendor or intermediary may offer the information by other common distribution means when electronic means are unavailable. No information or format will be required in

the service information beyond that which is provided by new car manufacturers to franchise dealers.

(g) The provisions of this section that apply with respect to 1994 and newer model-year vehicles shall become inoperative if the state board determines that the Environmental Protection Agency has adopted rules relative to the provision of emissions-related service information for 1994 and newer model-year vehicles.

CHAPTER 381

An act to amend Section 598b of the Penal Code, relating to animals.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 598b of the Penal Code is amended to read:

598b. (a) Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, sells, buys, gives away, or accepts any carcass or part of any carcass of any animal traditionally or commonly kept as a pet or companion with the intent of using or having another person use any part of that carcass for food.

(b) Every person is guilty of a misdemeanor who possesses, imports into, or exports from, this state, sells, buys, gives away, or accepts any animal traditionally or commonly kept as a pet or companion with the intent of killing or having another person kill that animal for the purpose of using or having another person use any part of the animal for food.

(c) This section shall not be construed to interfere with the production, marketing, or disposal of any livestock, poultry, fish, shellfish, or any other agricultural commodity produced in this state. Nor shall this section be construed to interfere with the lawful killing of wildlife, or the lawful killing of any other animal under the laws of this state pertaining to game animals.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative

on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 382

An act to amend Section 2191 of the Business and Professions Code, relating to medicine.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. 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 of a nature 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.

(i) In determining its continuing education requirements, the division shall consider including a course in the special care needs of individuals and their families facing end-of-life issues, including, not limited to all of the following:

(1) Pain and symptom management.

(2) The psycho-social and spiritual dynamics of death.

(3) Dying and bereavement.

(4) Hospice care.

CHAPTER 383

An act to amend Section 22135 of, and to repeal and add Sections 22508 and 22509 of, the Education Code, relating to school employees.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 22135 of the Education Code is amended to read:

22135. (a) Notwithstanding subdivisions (a) and (b) of Section 22134, "final compensation" means the highest annual compensation earnable by an active member who is a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, during any period of 12 consecutive months during his or her membership in the plan. The last 12 consecutive months of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) Section 22134, except subdivision (a) of that section, shall apply to classroom teachers who retire after June 30, 1990, and any statutory reference to Section 22134 or "final compensation" with respect to a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, shall be deemed to be a reference to this section.

(c) As used in this section, "classroom teacher" means any of the following:

(1) All teachers and substitute teachers in positions requiring certification qualifications who spend, during the last 10 years of their employment with the same employer which immediately precedes their retirement, 60 percent or more of their contract time each year providing direct instruction. For the purpose of determining

continuity of employment within the meaning of this subdivision, an authorized leave of absence for sabbatical or illness, or other collectively bargained or employer-approved leaves shall not constitute a break in employment.

(2) Other certificated personnel who spend, during the last 10 years of their employment with the same employer that immediately precedes their retirement, 60 percent or more of their contract time each year providing direct services to pupils, including, but not limited to, librarians, counselors, nurses, speech therapists, resource specialists, audiologists, audiometrists, hygienists, optometrists, psychologists, driver safety instructors, and personnel on special assignment to perform school attendance and adjustment services.

(d) As used in this section, "classroom teacher" does not include any of the following:

(1) Certificated employees whose job descriptions require an administrative credential.

(2) Certificated employees whose job descriptions include responsibility for supervision of certificated staff.

(3) Certificated employees who serve as advisers, coordinators, consultants, or developers or planners of curricula, instructional materials, or programs, who spend, during the last 10 years of their employment with the same employer that immediately precedes their retirement, less than 60 percent of their contract time in direct instruction.

(4) Certificated employees whose job descriptions require provision of direct instruction or services, but who are functioning in nonteaching assignments.

(5) Classified employees.

(e) This section shall apply only to teachers employed by an employer that has, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, entered into a written agreement with an exclusive representative, that makes this section applicable to all of its classroom teachers, as defined in subdivision (c).

(f) The written agreement shall include a mechanism to pay for all increases in allowances provided for by this section through employer contributions or employee contributions or both, which shall be collected and retained by the employer in a trust fund to be used solely and exclusively to pay the system for all increases in allowances provided by this section and related administrative costs, a mechanism for disposition of the employee's contributions if employment is terminated before retirement, and for the establishment of a trust fund board. The trust fund board shall administer the trust fund and shall be composed of an equal number of members representing classroom teachers chosen by the bargaining agent and the employer. If the employer agrees to pay the total cost of increases in allowances, the establishment of a trust fund and a trust fund board shall be optional to the employer. The

employer, within 30 days of receiving an invoice from the system, shall reimburse the retirement fund the amount determined by the Teachers' Retirement Board to be the actuarial equivalent of the difference between the allowance the member or beneficiary receives pursuant to this section and the allowance the member or beneficiary would have received if the member's final compensation had been computed under Section 22134 and the proportionate share of the cost to the plan, as determined by the Teachers' Retirement Board, of administering this section. The payment shall include the cost of all increases in allowances provided for by this section for all years of service credited to the member as of the benefit effective date. Interest shall be charged at the regular interest rate for any payment not received within 30 days of receipt of the invoice. Payments not received within 30 days after receipt of the invoice may be collected pursuant to Section 23007.

(g) Upon the execution of the agreement, the employer shall notify all certificated employees of the agreement and any certificated employee of the employer, who is a member of the Public Employees' Retirement System pursuant to Section 22508, that he or she may, within 60 days following the date of notification, elect to terminate his or her membership in the Public Employees' Retirement System and become a member of this plan. However, only service credited under this plan subsequent to the date of that election shall be subject to this section.

(h) An employer that agrees to become subject to this section, shall, on a form and within the timeframes prescribed by the system, certify the applicability of this section to a member pursuant to the criteria set forth in this section when a retirement, disability, or family allowance becomes payable.

(i) For a nonmember spouse, final compensation shall be determined pursuant to paragraph (2) of subdivision (c) of Section 22664. The employer, within 30 days of receiving an invoice from the system, shall reimburse the retirement fund pursuant to subdivision (f). Interest shall be charged at the regular interest rate for payment not received within the prescribed timeframe. Payments not received within 30 days of invoicing may be collected pursuant to Section 23007.

SEC. 2. Section 22508 of the Education Code is repealed.

SEC. 3. Section 22508 is added to the Education Code, to read:

22508. (a) A member who becomes employed by a school district, community college district, or a county superintendent to perform duties that require membership in a different public retirement system, shall be excluded from membership in this plan, unless the member elects in writing within 60 days from the date of hire in the position requiring membership in a different public retirement system to continue as a member of this plan. If that election is made, the subsequent service performed up to the

full-time equivalent for the position shall be considered creditable service for purposes of this part.

(b) A member of the Public Employees' Retirement System employed by a school district, community college district, or a county superintendent who is subsequently employed to perform creditable service subject to coverage by this plan shall become a member of this plan unless the person elects within 60 days from the date of hire to continue as a member of the Public Employees' Retirement System.

SEC. 4. Section 22509 of the Education Code is repealed.

SEC. 5. Section 22509 is added to the Education Code, to read:

22509. (a) Within 10 working days of the date of hire, the employer shall inform the employee of the right to make an election pursuant to Section 22508 and shall make available to the employee written information provided by the retirement systems to assist the employee in making an election.

(b) The election shall be made on a form prescribed by the retirement systems.

(c) Any election made pursuant to Section 22508 shall be filed with the office of the State Teachers' Retirement System and the other public retirement system. Once received and accepted by the system, the election shall become effective as of the first day of employment in the position that qualified the member to make an election.

CHAPTER 384

An act to add Section 18934.8 to the Health and Safety Code, relating to building standards.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 18934.8 is added to the Health and Safety Code, to read:

18934.8. (a) Pursuant to subdivision (b), the commission may adopt amendments to the California Building Standards Code provided that they are substantially the same as model code amendments which were adopted on an emergency basis by the code publishers, if the sections being amended are not under the authority of a state agency.

(b) The commission may consider adoption of emergency amendments made to the model codes in an expedited rulemaking process outside the annual code adoption cycle set forth in Section 18929.1. If a model code organization adopts emergency amendments, the commission may adopt those amendments 120 days

after the organization's adoption of those amendments. This rulemaking process shall be completed within 180 days from the date the amendments were adopted by the model code organization. The commission shall ensure that the rulemaking process includes all of the following:

(1) Adequate public participation in the development of building standards prior to submittal to the commission for adoption and approval.

(2) Adequate written notice to the public of the compiled building standards and the written justification therefor.

(3) Adequate technical review of proposed building standards and accompanying justification by advisory bodies appointed by the commission.

(4) Adequate time for review of recommendations by advisory bodies prior to action by the commission.

(c) Amendments to the California Building Standards Code adopted pursuant to this section shall take effect 60 days from the date on which they are adopted by the commission.

(d) Nothing in this section shall be construed to permit amendments to the California Building Standards Code that decrease the level of disabled access provided.

CHAPTER 385

An act to amend Sections 89529, 89529.15, 89601, 89602, 89611, and 89623 of the Education Code, relating to public employee retirement.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 89529 of the Education Code is amended to read:

89529. (a) This article applies to employees of the trustees who are members of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after July 1, 1974.

(b) This article also applies to a participant in the optional retirement program pursuant to Chapter 5.5 (commencing with Section 89600), provided that he or she would otherwise be eligible to participate in the Public Employees' Retirement System except for the election to participate in the optional retirement program.

(c) This article does not apply to employees of the trustees who are included in the provisions of Article 6 (commencing with Section 4800) of Chapter 2 of Part 2 of Division 4 of the Labor Code.

SEC. 2. Section 89529.15 of the Education Code is amended to read:

89529.15. As used in this article:

(a) "Employee" means any of the following:

(1) A permanent or probationary full-time employee of the trustees, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after October 1, 1976.

(2) A permanent or probationary part-time or intermittent employee of the trustees with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after January 1, 1979.

(3) In addition to those eligible under paragraph (1), an employee of the trustees appointed half-time or more for one year of service or one academic year, as defined by the trustees, or more, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after January 1, 1979.

(4) A permanent or probationary full-time employee of the trustees, regardless of period of service, who is a participant in the optional retirement program pursuant to Chapter 5.5 (commencing with Section 89600), provided that he or she would otherwise be eligible to participate in the Public Employees' Retirement System except for the election to participate in the optional retirement program.

(b) "Full pay" means the gross base salary earnable by the employee and subject to retirement contribution on the date of the commencement of his or her disability.

(c) "Disability" or "disabled" includes mental or physical illness and mental or physical injury including any illness or injury resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her regular or customary work.

(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purpose of this article, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Appeals board" means the California Unemployment Insurance Appeals Board.

SEC. 3. Section 89601 of the Education Code is amended to read:

89601. In order to encourage qualified teachers to enter and remain in service with the California State University, an optional retirement program is authorized by this chapter. The optional retirement program may be established on or after July 1, 1991, by a provision adopting this chapter in a memorandum of understanding which is entered into by the trustees pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code. However, no other provision of this chapter is subject to the control of any memorandum of understanding. The optional retirement program shall become operative on the July 1 which immediately follows the receipt by the Public Employees' Retirement System of a notice of the adoption of this chapter and a copy of the memorandum of understanding.

SEC. 4. Section 89602 of the Education Code is amended to read:

89602. Under this optional retirement program, the trustees shall offer eligible employees contracts, certificates, or investment funds providing retirement and death benefits, funded through annuities or investment fund options. The state and eligible employees electing this optional retirement program shall contribute to the optional retirement program to the extent authorized or required by this chapter. Benefits under the contracts, certificates, or investment funds are owned by the participants.

SEC. 5. Section 89611 of the Education Code is amended to read:

89611. "Benefit" means any monthly or lump-sum payment due a retirant, or other beneficiary, and includes lump-sum payments due on account of death.

SEC. 6. Section 89623 of the Education Code is amended to read:

89623. No retirement, death, or other benefit shall be paid by the state or the trustees for services credited under the optional retirement program. The benefits are payable to participants or their beneficiaries only by the designated company or companies in accordance with the terms of the contracts, certificates, or investment funds.

CHAPTER 386

An act to amend Section 10335 of the Public Contract Code, relating to state legal services.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 10335 of the Public Contract Code is amended to read:

10335. (a) This article shall apply to all contracts entered into by any state agency for services to be rendered to the state, whether or not the services involve the furnishing or use of equipment, materials, or supplies or are performed by an independent contractor. Except as provided in Section 10351, all contracts subject to this article are of no effect unless and until approved by the department. Each contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of approval. This article shall apply to any state agency that by general or specific statute is expressly or impliedly authorized to enter into the transactions referred to in this section. This article shall not apply to contracts covered under Article 5 (commencing with Section 10355), contracts for the construction, alteration, improvement, repair, or maintenance of real or personal property, contracts for architectural and engineering services subject to Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, to contracts that are expressly excepted from Section 10295, contracts of less than one thousand dollars ($1,000) in amount, or to contracts of less than five thousand dollars ($5,000) where only per diem or travel expenses, or a combination thereof, are to be paid.

(b) In exercising its authority under this article with respect to contracts for the services of legal counsel, other than the Attorney General, entered into by any state agency that is subject to Section 11042 or Section 11043 of the Government Code, the department, as a condition of approval of the contract, shall require the state agency to demonstrate that the consent of the Attorney General to the employment of the other counsel has been granted pursuant to Section 11040 of the Government Code. This consent shall not be construed in a manner that would authorize the Attorney General to establish a separate program for reviewing and approving contracts in the place of, or in addition to, the program administered by the department pursuant to this article.

(c) Until January 1, 2001, the department shall maintain a list of contracts approved pursuant to subdivision (b). This list shall be filed quarterly with the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget. The list shall be limited to contracts with a consideration in excess of twenty thousand dollars ($20,000) during the life of the contract and shall include sufficient information to identify the provider of legal services, the length of each contract, applicable hourly rates, and the need for the services. The department shall add a contract that meets these conditions to the list within 10 days after approval. A copy of the list shall be made available to any requester. The department may charge a fee to cover

the cost of supplying the list as provided in Section 6257 of the Government Code.

CHAPTER 387

An act to add Chapter 13 (commencing with Section 3200) to Part 2 of Division 8 of the Family Code, relating to family law.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Chapter 13 (commencing with Section 3200) is added to Part 2 of Division 8 of the Family Code, to read:

CHAPTER 13. SUPERVISED VISITATION

3200. The Judicial Council shall develop standards for supervised visitation providers in accordance with the guidelines set forth in this section. On or before April 1, 1997, the Judicial Council shall report the standards developed and present an implementation plan to the Legislature. For the purposes of the development of these standards, the term "provider" shall include any individual who functions as a visitation monitor, as well as supervised visitation centers. Provisions shall be made within the standards to allow for the diversity of supervised visitation providers.

(a) When developing standards, the Judicial Council shall consider all of the following issues:

(1) The provider's qualifications, experience, and education.

(2) Safety and security procedures, including ratios of children per supervisor.

(3) Any conflict of interest.

(4) Maintenance and disclosure of records, including confidentiality policies.

(5) Procedures for screening, delineation of terms and conditions, and termination of supervised visitation services.

(6) Procedures for emergency or extenuating situations.

(7) Orientation to and guildelines for cases in which there are allegations of domestic violence, child abuse, substance abuse, or special circumstances.

(8) The legal obligations and responsibilities of supervisors.

(b) The Judicial Council shall consult with visitation centers, mothers' groups, fathers' groups, judges, the State Bar of California, children's advocacy groups, domestic violence prevention groups, Family Court Services, and other groups it regards as necessary in connection with these standards.

(c) It is the intent of the Legislature that the safety of children, adults, and visitation supervisors be a precondition to providing visitation services. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided.

CHAPTER 388

An act to amend Sections 61 and 62 of, and to add Section 1603.5 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 61 of the Revenue and Taxation Code is amended to read:

61. Except as otherwise provided in Section 62, change in ownership, as defined in Section 60, includes, but is not limited to:

(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals regardless of the period during which the right may be exercised. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section.

(b) The creation, renewal, extension, or assignment of a taxable possessory interest in tax exempt real property for any term. For purposes of this subdivision:

(1) "Renewal" and "extension" do not include the granting of an option to renew or extend an existing agreement pursuant to which the term of possession of the existing agreement would, upon exercise of the option, be lengthened, whether the option is granted in the original agreement or subsequent thereto.

(2) Any "renewal" or "extension" of a possessory interest during the reasonably anticipated term of possession used by the assessor to value that interest does not cause a change in ownership until the end of the reasonably anticipated term of possession used by the assessor to value that interest. At the end of the reasonably anticipated term of possession used by the assessor, a new base year value, based on a new reasonably anticipated term of possession, shall be established for the possessory interest.

(3) "Assignment" of a possessory interest means the transfer of all rights held by a transferor in a possessory interest.

(c) (1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options),

and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.

Only that portion of a property subject to that lease or transfer shall be considered to have undergone a change in ownership.

For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than manufactured homes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), that are on leased land have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(d) (1) (A) A sublease of a taxable possessory interest in tax-exempt real property for a term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

(B) The termination of a sublease of a taxable possessory interest in tax-exempt property with an original term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

(C) Any transfer of a sublessee's interest with a remaining term, including renewal options, that exceeds half of the remaining term of the leasehold.

(2) Any transfer of a possessory interest in tax-exempt real property subject to a sublease with a remaining term, including renewal options, that does not exceed half the remaining term of the leasehold, including renewal options.

(e) The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62, and in Section 63 and Section 65.

(f) The creation, transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62 and in Section 63.

(g) Any vesting of the right to possession or enjoyment of a remainder or reversionary interest that occurs upon the termination of a life estate or other similar precedent property interest, except as provided in subdivision (d) of Section 62 and in Section 63.

(h) Any interests in real property that vest in persons other than the trustor (or, pursuant to Section 63, his or her spouse) when a revocable trust becomes irrevocable.

(i) The transfer of stock of a cooperative housing corporation, vested with legal title to real property that conveys to the transferee the exclusive right to occupancy and possession of that property, or a portion thereof. A "cooperative housing corporation" is a real estate development in which membership in the corporation, by stock

ownership, is coupled with the exclusive right to possess a portion of the real property.

(j) The transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person.

SEC. 2. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) (1) Any transfer between coowners which results in a change in the method of holding title to the real property transferred without changing the proportional interests of the coowners in that real property, such as a partition of a tenancy in common.

(2) Any transfer between an individual or individuals and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, or a trust to a cotenancy, which results solely in a change in the method of holding title to the real property and in which proportional ownership interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, in each and every piece of real property transferred, remain the same after the transfer. The provisions of this paragraph shall not apply to transfers also excluded from change in ownership under the provisions of subdivision (b) of Section 64.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer by the trustor, or by the trustor's spouse, or by both, into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after the creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979–80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on

leased land and have a renewal option of at least 35 years on the lease of that land, whether or not in fact that renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage, provided that mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or that housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of that person or family shall constitute a change of ownership.

(j) Any transfer during the period March 1, 1975 to March 1, 1981, between coowners in any property which was held by them as coowners for all or part of that period, and which was eligible for a homeowner's exemption during the period of the coownership, notwithstanding any other provision of this chapter. Any transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of that revaluation with respect to the 1980–81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before March 26, 1982. No refunds shall be made under this subdivision for any assessment year prior to the 1980–81 fiscal year.

(k) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h holding title for the benefit of any of the aforementioned corporations, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the transferee and transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(*l*) Any transfer, which would otherwise be a transfer subject to reappraisal under this chapter, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties, provided that the original relationship between the grantor and grantee is not changed.

(m) Any intrafamily transfer of an eligible dwelling unit from a parent or parents or legal guardian or guardians to a minor child or children or between or among minor siblings as a result of a court order or judicial decree due to the death of the parent or parents. As used in this subdivision, "eligible dwelling unit" means the dwelling unit which was the principal place of residence of the minor child or children prior to the transfer and remains the principal place of residence of the minor child or children after the transfer.

(n) Any transfer of an eligible dwelling unit, whether by will, devise, or inheritance, from a parent or parents to a child or children, or from a guardian or guardians to a ward or wards, if the child, children, ward, or wards have been disabled, as provided in subdivision (e) of Section 12304 of the Welfare and Institutions Code, for at least five years preceding the transfer and if the child, children, ward, or wards have adjusted gross income which, when combined with the adjusted gross income of a spouse or spouses, parent or parents, and child or children, does not exceed twenty thousand dollars ($20,000) in the year in which the transfer occurs. As used in this subdivision, "child" or "ward" includes a minor or an adult. As used in this subdivision, "eligible dwelling unit" means the dwelling unit which was the principal place of residence of the child or children, or ward or wards for at least five years preceding the transfer and remains the principal place of residence of the child or children, or ward or wards after the transfer. Any transferee whose property was reassessed in contravention of the provisions of this subdivision for the 1984–85 assessment year shall obtain a reversal of that reassessment upon application to the county assessor of the county in which the property is located. Application by the transferee shall be made to the assessor no later than 30 days after the later of either the transferee's receipt of notice of reassessment pursuant to Section 75.31 or the end of the 1984–85 fiscal year.

(o) Any transfer of a possesory interest in tax-exempt real property subject to a sublease with a remaining term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

SEC. 3. Section 1603.5 is added to the Revenue and Taxation Code, to read:

1603.5. (a) In the event a duplicate application for reduction in assessment is filed with the county board, the clerk may accept only the first application for reduction filed by or on behalf of the taxpayer, and may reject any duplicate application for reduction.

(b) For purposes of this section, "duplicate application for reduction" means an application for reduction filed by an applicant, or by his or her agent or attorney on his or her behalf, subsequent to an application for reduction previously filed by or on behalf of the same applicant, that seeks the same relief with respect to the same property for the same year in issue. A subsequent application for reduction that seeks to amend a previously filed application for

reduction shall not be considered a duplicate application for reduction for purposes of this section.

CHAPTER 389

An act to add Section 987.5 to the Penal Code, and to add Section 903.15 to the Welfare and Institutions Code, relating to court-appointed counsel, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 987.5 is added to the Penal Code, to read:

987.5. (a) Every defendant shall be assessed a registration fee not to exceed twenty-five dollars ($25) when represented by appointed counsel. Notwithstanding this subdivision, no fee shall be required of any defendant financially unable to pay the fee.

(b) At the time of appointment of counsel by the court, or upon commencement of representation by the public defender, if prior to court appointment, the defendant shall be asked if he or she is financially able to pay the registration fee or any portion thereof. If the defendant indicates that he or she is able to pay the fee or a portion thereof, the court or public defender shall make an assessment in accordance with ability to pay. No fee shall be assessed against any defendant who asserts that he or she is unable to pay the fee or any portion thereof. No other inquiry concerning the defendant's ability to pay shall be made until proceedings are held pursuant to Section 987.8.

(c) No defendant shall be denied the assistance of appointed counsel due solely to a failure to pay the registration fee. An order to pay the registration fee may be enforced in the manner provided for enforcement of civil judgments generally, but may not be enforced by contempt.

(d) The fact that a defendant has or has not been assessed a fee pursuant to this section shall have no effect in any later proceedings held pursuant to Section 987.8, except that the defendant shall be given credit for any amounts paid as a registration fee toward any lien or assessment imposed pursuant to Section 987.8.

(e) This section shall be operative in a county only upon the adoption of a resolution or ordinance by the board of supervisors electing to establish the registration fee and setting forth the manner in which the funds shall be collected and distributed. Collection procedures, accounting measures, and the distribution of the funds

received pursuant to this section shall be within the discretion of the board of supervisors.

SEC. 2. Section 903.15 is added to the Welfare and Institutions Code, to read:

903.15. (a) The parent of any minor, or other person who is liable for the support of the minor, on whose behalf a petition is filed pursuant to Section 601 or 602, when the minor is represented by appointed counsel, shall be assessed a registration fee not to exceed twenty-five dollars ($25) at the time the legal services are provided. Notwithstanding this subdivision, no fee shall be required of any parent or other person who is financially unable to pay the fee.

(b) At the time of appointment of counsel by the court, or upon commencement of representation by the public defender, if prior to court appointment, the parent or other person who is liable for the support of the minor shall be asked if he or she is financially able to pay the registration fee or any portion thereof. If the parent or other person indicates that he or she is able to pay the fee or a portion thereof, the court or public defender shall make an assessment in accordance with ability to pay. No fee shall be assessed against any parent or other person who asserts that he or she is unable to pay the fee or any portion thereof. No other inquiry concerning the parent's or other person's ability to pay shall be made until proceedings are held pursuant to Section 903.45.

(c) No minor shall be denied the assistance of appointed counsel due solely to the failure of the parent or other person to pay the registration fee. The registration fee shall be a joint and several liability of the parent or other person who is liable for the support of the minor. An order to pay the registration fee may be enforced in the manner provided for enforcement of civil judgments generally, but may not be enforced by contempt.

(d) The fact that a parent or other person who is liable for the support of the minor has or has not been assessed a fee pursuant to this section shall have no effect in any later proceedings held pursuant to Section 903.1 or 903.45, except that the parent or other person shall be given credit for any amounts paid as a registration fee toward any assessment imposed pursuant to Section 903.1 or 903.45 for legal services.

(e) This section shall be operative in a county only upon the adoption of a resolution or ordinance by the board of supervisors electing to establish the registration fee and setting forth the manner in which the funds shall be collected and distributed. Collection procedures, accounting measures, and the distribution of the funds received pursuant to this section shall be within the discretion of the board of supervisors.

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 for this act to be in effect when the Budget Act of 1996 takes effect, it is necessary that this act take effect immediately.

CHAPTER 390

An act to amend Sections 8670.13.1, 11019.6, 11400.20, 11415.60, 11425.60, and 11435.15 of, to add Section 8670.13.2 to, to add and repeal Section 11400.21 of, and to repeal Section 11346.14 of, the Government Code, and to amend Section 1861.08 of the Insurance Code, relating to administrative procedure, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 8670.13.1 of the Government Code is amended to read:

8670.13.1. (a) The administrator shall license all oil spill cleanup agents, and shall adopt regulations governing the expedited testing, licensing, and use of oil spill cleanup agents. The administrator shall utilize toxicity and efficacy tests and other information from government and private agencies developed for each specific category of chemical countermeasure in determining the acceptability of an oil spill cleanup agent for license and use.

(b) Sorbents and other cleanup devices that do not employ the use of active chemical cleanup agents, or otherwise determined by the administrator not to cause aquatic toxicity for purposes of oil spill response, are not subject to subdivision (a).

(c) The administrator may charge applicants a fee for the costs of processing an application for a license for an oil spill cleanup agent, not to exceed one thousand dollars ($1,000). The administrator may require renewal of a license every five years, and may charge a fee for the cost of processing the renewal of the license for an oil spill cleanup agent, not to exceed one hundred dollars ($100). Only one license per cleanup agent shall be required statewide.

SEC. 2. Section 8670.13.2 is added to the Government Code, to read:

8670.13.2. Prior to January 1, 1997, the administrator shall prepare regulations regarding licensing of oil spill cleanup agents that are substantially the same as regulations adopted by the State Water Resources Control Board that were in effect on December 31, 1995, as set forth in Chapter 10 (commencing with Section 2300) of Title 23 of the California Code of Regulations. The authority of the administrator shall be substituted for the authority of the board and cross references shall be corrected. The administrator shall submit

these regulations to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations. These regulations are exempt from the Administrative Procedure Act. The regulations shall become effective upon filing. The regulations shall remain in effect until a date of two years from the date of filing with the Secretary of State or until the date new regulations adopted by the administrator in accordance with Section 8679.13.1 are filed with the Secretary of State, whichever date occurs earlier.

SEC. 3. Section 11019.6 of the Government Code is amended to read:

11019.6. (a) Notwithstanding any other provision of state law, and to the extent not in conflict with federal law, if a principal agency is not designated by statute, a principal state agency shall be designated by the Governor for the coordination of procedures, forms, and deadlines in every area of regulatory activity under the state's jurisdiction, as determined by the Governor. All other state agencies shall defer to the principal agency in the performance of their duties in a particular regulatory area, or upon a particular project, with respect to procedures, forms, and deadlines, but not with respect to any other area of authority.

(b) This section shall not apply to the processing of any permit pursuant to Division 34 (commencing with Section 71000) of the Public Resources Code.

(c) No part of this section shall be construed to limit the authority of any agency to hold public hearings on any matter within the jurisdiction of that agency.

(d) No part of this section shall be construed to authorize any state agency to adopt or implement procedures, forms, or deadlines in conflict with those explicitly specified in statute or in conflict with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500)).

(e) Nothing in this section shall be construed to confer upon any state agency decisionmaking authority over substantive matters within another agency's jurisdiction, including any informational and public hearing requirements needed to make regulatory and permitting decisions.

(f) As used in this section, "agency" and "principal agency" shall not mean a court or any office of the judicial branch of government.

SEC. 4. Section 11346.14 of the Government Code is repealed.

SEC. 5. Section 11400.20 of the Government Code is amended to read:

11400.20. (a) Before, on, or after July 1, 1997, an agency may adopt interim or permanent regulations to govern an adjudicative proceeding under this chapter or Chapter 5 (commencing with Section 11500). Nothing in this section authorizes an agency to adopt

regulations to govern an adjudicative proceeding required to be conducted by an administrative law judge employed by the Office of Administrative Hearings, except to the extent the regulations are otherwise authorized by statute.

(b) Except as provided in Section 11351:

(1) Interim regulations need not comply with Article 5 (commencing with Section 11346) or Article 6 (commencing with Section 11349) of Chapter 3.5, but are governed by Chapter 3.5 (commencing with Section 11340) in all other respects.

(2) Interim regulations expire on December 31, 1998, unless earlier terminated or replaced by or readopted as permanent regulations under paragraph (3). If on December 31, 1998, an agency has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not yet been filed with the Secretary of State, the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier.

(3) Permanent regulations are subject to all the provisions of Chapter 3.5 (commencing with Section 11340), except that if by December 31, 1998, an agency has submitted the regulations for review by the Office of Administrative Law, the regulations are not subject to review for necessity under Section 11349.1 or 11350.

SEC. 6. Section 11400.21 is added to the Government Code, to read:

11400.21. (a) Before, on, or after July 1, 1997, an agency may adopt interim or permanent regulations to govern an adjudicative proceeding under this chapter or Chapter 5 (commencing with Section 11500). Nothing in this section authorizes an agency to adopt regulations to govern an adjudicative proceeding required to be conducted by an administrative law judge employed by the Office of Administrative Hearings, except to the extent the regulations are otherwise authorized by statute.

(b) Except as provided in Section 11351:

(1) Interim regulations need not comply with Article 5 (commencing with Section 11346) or Article 6 (commencing with Section 11349) of Chapter 3.5, but are governed by Chapter 3.5 (commencing with Section 11340) in all other respects.

(2) Interim regulations expire on December 31, 1998, unless earlier terminated or replaced by or readopted as permanent regulations under paragraph (3). If on December 31, 1998, an agency has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not yet been filed with the Secretary of State, the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier.

(3) Permanent regulations are subject to all the provisions of Chapter 3.5 (commencing with Section 11340), except that if by December 31, 1998, an agency has submitted the regulations for review by the Office of Administrative Law, the regulations are not subject to review for necessity under Section 11349.1 or 11350.

(c) This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, that becomes operative on January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 11415.60 of the Government Code is amended to read:

11415.60. (a) An agency may formulate and issue a decision by settlement, pursuant to an agreement of the parties, without conducting an adjudicative proceeding. Subject to subdivision (c), the settlement may be on any terms the parties determine are appropriate. Notwithstanding any other provision of law, no evidence of an offer of compromise or settlement made in settlement negotiations is admissible in an adjudicative proceeding or civil action, whether as affirmative evidence, by way of impeachment, or for any other purpose, and no evidence of conduct or statements made in settlement negotiations is admissible to prove liability for any loss or damage except to the extent provided in Section 1152 of the Evidence Code. Nothing in this subdivision makes inadmissible any public document created by a public agency.

(b) A settlement may be made before or after issuance of an agency pleading, except that in an adjudicative proceeding to determine whether an occupational license should be revoked, suspended, limited, or conditioned, a settlement may not be made before issuance of the agency pleading. A settlement may be made before, during, or after the hearing.

(c) A settlement is subject to any necessary agency approval. An agency head may delegate the power to approve a settlement. The terms of a settlement may not be contrary to statute or regulation, except that the settlement may include sanctions the agency would otherwise lack power to impose.

SEC. 8. Section 11425.60 of the Government Code is amended to read:

11425.60. (a) A decision may not be expressly relied on as precedent unless it is designated as a precedent decision by the agency.

(b) An agency may designate as a precedent decision a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur. Designation of a decision or part of a decision as a precedent decision is not rulemaking and need not be done under Chapter 3.5 (commencing with Section 11340). An agency's designation of a decision or part of a decision, or failure to designate a decision or part of a decision, as a precedent decision is not subject to judicial review.

(c) An agency shall maintain an index of significant legal and policy determinations made in precedent decisions. The index shall be updated not less frequently than annually, unless no precedent decision has been designated since the last preceding update. The index shall be made available to the public by subscription, and its availability shall be publicized annually in the California Regulatory Notice Register.

(d) This section applies to decisions issued on or after July 1, 1997. Nothing in this section precludes an agency from designating and indexing as a precedent decision a decision issued before July 1, 1997.

SEC. 9. Section 11435.15 of the Government Code is amended to read:

11435.15. (a) The following state agencies shall provide language assistance in adjudicative proceedings to the extent provided in this article:

Agricultural Labor Relations Board
Department of Alcohol and Drug Abuse
State Athletic Commission
California Unemployment Insurance Appeals Board
Board of Prison Terms
State Board of Barbering and Cosmetology
State Department of Developmental Services
Public Employment Relations Board
Franchise Tax Board
State Department of Health Services
Department of Housing and Community Development
Department of Industrial Relations
State Department of Mental Health
Department of Motor Vehicles
Notary Public Section, Office of the Secretary of State
Public Utilities Commission
Office of Statewide Health Planning and Development
State Department of Social Services
Workers' Compensation Appeals Board
Department of the Youth Authority
Youthful Offender Parole Board
Department of Insurance
State Personnel Board
California Board of Podiatric Medicine
Board of Psychology

(b) Nothing in this section prevents an agency other than an agency listed in subdivision (a) from electing to adopt any of the procedures in this article, provided that any selection of an interpreter is subject to Section 11435.30.

(c) Nothing in this section prohibits an agency from providing an interpreter during a proceeding to which this chapter does not apply, including an informal factfinding or informal investigatory hearing.

(d) This article applies to an agency listed in subdivision (a) notwithstanding a general provision that this chapter does not apply to some or all of an agency's adjudicative proceedings.

SEC. 10. Section 1861.08 of the Insurance Code is amended to read:

1861.08. Hearings shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that:

(a) Hearings shall be conducted by administrative law judges for purposes of Sections 11512 and 11517, chosen under Section 11502 or appointed by the commissioner.

(b) Hearings are commenced by a filing of a notice in lieu of Sections 11503 and 11504.

(c) The commissioner shall adopt, amend, or reject a decision only under Section 11518.5 and subdivisions (b), (c), and (e) of Section 11517 and solely on the basis of the record as provided in Section 11425.50 of the Government Code.

(d) Notwithstanding Section 11501, Section 11430.30 and subdivision (b) of Section 11430.70 shall not apply in these hearings.

(e) Discovery shall be liberally construed and disputes determined by the administrative law judge as provided in Section 11507.7 of the Government Code.

SEC. 11. (a) Except as provided in subdivision (b), this act shall be operative on July 1, 1997.

(b) Sections 1, 2, 4, and 6 of this act shall be operative immediately.

SEC. 12. The Legislature finds and declares that the amendments made by this act to Section 1861.08 of the Insurance Code, which would clarify those provisions by making technical, nonsubstantive changes, would further the purposes of Proposition 103.

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:

In order to continue existing oil spill cleanup agent regulations in effect until the administrator for oil spill response has an opportunity to review these regulations pursuant to Chapter 265 of the Statutes of 1995, and to allow sufficient time for state agencies to adopt regulations implementing Chapter 938 of the Statutes of 1995 as well as other regulations relating to administrative adjudication before the July 1, 1997, operative date of Chapter 938, it is necessary that this act take effect immediately.

CHAPTER 391

An act to amend Section 10971 of the Insurance Code, relating to insurance.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 10971 of the Insurance Code is amended to read:

10971. This chapter shall not, except as provided by Sections 10972 and 10974, affect:

(a) A lodge operating under the lodge system, which provides in its bylaws or rules or regulations for the payment of death benefits not exceeding one thousand dollars ($1,000) on the death of a member or for the payment of disability benefits not exceeding one thousand dollars ($1,000) to a member during any period of 12 consecutive calendar months, or both of those types of benefits.

(b) The subordinate branch of a lodge, as a lodge is defined in Section 10972, or any association formed by the members of a lodge, which association confines its membership to the members of such lodge, which subordinate branch or association (1) is organized without capital stock, (2) is organized and operated solely for the benefit of its members or their beneficiaries and not for profit, and (3) provides in its bylaws or rules or regulations for the payment of either or both of the following benefits: (i) a benefit of not exceeding one thousand dollars ($1,000) on the death of a member from any cause; (ii) a benefit of not exceeding one thousand dollars ($1,000) on the accidental death of a member or benefits not exceeding one thousand dollars ($1,000) during any period of 12 consecutive calendar months to a member for his or her disability.

(c) A lodge operating under the lodge system or any subordinate branch thereof or any association formed by the members thereof which association confines its membership to the members of such lodge, which subordinate branch or association (1) is organized without capital stock, (2) is organized and operated solely for the benefit of its members or their beneficiaries and not for profit, and (3) provides in its bylaws or rules or regulations for the payment of death benefits not exceeding five thousand dollars ($5,000) on the death of a member or for the payment of disability benefits not exceeding one thousand dollars ($1,000) to a member during any period of 12 consecutive calendar months, or both of those types of benefits.

(d) An organization authorized to operate pursuant to a superior court judgment issued between January and April of 1940 whether or not the amount of benefits offered by that organization conforms to that judgment.

(e) Contracts of reinsurance on a plan under subdivisions (a), (b), (c), or (d).

CHAPTER 392

An act to add Section 798.21 to the Civil Code, relating to mobilehomes.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 798.21 is added to the Civil Code, to read:

798.21. (a) Notwithstanding Section 798.17, if a mobilehome space within a mobilehome park is not the principal residence of the homeowner and the homeowner has not rented the mobilehome to another party, it shall be exempt from any ordinance, rule, regulation, or initiative measure adopted by any city, county, or city and county, which establishes a maximum amount that the landlord may charge a tenant for rent.

(b) Nothing in this section is intended to require any homeowner to disclose information concerning his or her personal finances. Nothing in this section shall be construed to authorize management to gain access to any records which would otherwise be confidential or privileged.

(c) For purposes of this section, a mobilehome shall be deemed to be the principal residence of the homeowner, unless a review of state or county records demonstrates that the homeowner is receiving a homeowner's exemption for another property or mobilehome in this state.

(d) Before modifying the rent or other terms of tenancy as a result of a review of state or county records, as described in subdivision (c), the management shall notify the homeowner, in writing, of the proposed changes and provide the homeowner with a copy of the documents upon which management relied.

(e) The homeowner shall have 90 days from the date the notice described in subdivision (d) is mailed to review and respond to the notice. Management shall not modify the rent or other terms of tenancy prior to the expiration of the 90-day period or prior to responding, in writing, to information provided by the homeowner. Management shall not modify the rent or other terms of tenancy if the homeowner provides documentation reasonably establishing that the information provided by management is incorrect or that the homeowner is not the same person identified in the documents. However, nothing in this subdivision shall be construed to authorize the homeowner to change the homeowner's exemption status of the other property or mobilehome owned by the homeowner.

(f) This section shall not apply under any of the following conditions:

(1) The homeowner is unable to rent or lease the mobilehome because the owner or management of the mobilehome park in which the mobilehome is located does not permit, or the rental agreement limits or prohibits, the assignment of the mobilehome or the subletting of the park space.

(2) The mobilehome is being actively held available for sale by the homeowner, or pursuant to a listing agreement with a real estate broker licensed pursuant to Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, or a mobilehome dealer, as defined in Section 18002.6 of the Health and Safety Code.

(3) The legal owner has taken possession or ownership, or both, of the mobilehome from a registered owner through either a surrender of ownership interest by the registered owner or a foreclosure proceeding.

CHAPTER 393

An act to amend Sections 19568, 19602, 19605.7, 19605.71, 19608.9, 19611.5, 19614.2, 19616, 19617, and 19617.2 of, and to add Sections 19614.4 and 19617.3 to, the Business and Professions Code, relating to horseracing.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 19568 of the Business and Professions Code is amended to read:

19568. (a) Every licensee conducting a horse racing meeting shall each racing day provide for the running of at least one race limited to California-bred horses, to be known as the "California-bred race." If, however, sufficient competition cannot be had among horses of that class on any day, the race may, with the consent of the board, be eliminated for that day and a substitute race provided.

(b) With respect to the amounts distributed by thoroughbred racing associations for California-bred restricted stakes races, including overnight stakes races, it is the intent of the Legislature that the associations set and strive to achieve a goal of distributing at least 10 percent of the total stakes purses for the racing meeting as purses for California-restricted stakes races.

(c) It is further the intent of the Legislature that the thoroughbred racing associations in this state, in conjunction with the official registering agency, and owners and trainers organizations meet and report to the board on the establishment of a coordinated California-bred restricted schedule of stakes races designed to

showcase California-bred restricted stakes races and qualify registered California-bred horses for the California Cup and the California Cup Day races. It is also the intent of the Legislature that the report be submitted to the board by March 1, 1997, and annually thereafter at least 60 days prior to the start of the racing year.

SEC. 2. Section 19602 of the Business and Professions Code is amended to read:

19602. (a) Notwithstanding any other provision of law, any racing association in this state may authorize betting systems located outside of this state to accept wagers on a race or races conducted or disseminated by that association and may transmit live audiovisual signals of the race or races and their results to those betting systems, except that any authorization is subject to the consent of the host association and applicable federal laws, including, but not limited to, Chapter 57 (commencing with Section 3001) of Title 15 of the United States Code.

(b) (1) Except as provided in paragraph (2), any racing association described in subdivision (a), when it authorizes betting systems located outside of this state to accept wagers on a race, shall pay a license fee to the state in an amount equal to 8 percent of the total amount received by the association from the out-of-state betting system. In addition, with respect to thoroughbred racing only, 3 percent of the amount remaining after the payment of the license fee shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2, and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2. The remaining amount received by the association shall be distributed to the association that conducts the racing meeting and to horsemen participating in that racing meeting as follows: 50 percent to the association as commissions, and 50 percent to the horsemen as purses. All rents, costs, and fees shall be deducted pursuant to a contract between the association that conducts the racing meeting and the horsemen participating in the racing meeting. Notwithstanding any other provision of law, racing associations may form a partnership, joint venture, or any other affiliation in order to negotiate terms and conditions of agreements with out-of-state betting systems.

(2) A thoroughbred association that hosts the series of races known as the "Breeder's Cup" shall not be required to pay to the state the license fees required pursuant to paragraph (1). Amounts received by the association from out-of-state betting systems as wagers on Breeder's Cup races shall be distributed as follows: 50 percent as commissions to the association that conducts the racing meeting, and 50 percent as purses to the horsemen participating in the meeting.

(c) With the permission of the board, wagers accepted by betting systems located outside of this state may be, but are not required to be, included in the parimutuel pool of the association that conducts

the racing meeting in this state. If the wagers accepted by betting systems located outside of this state are included in the parimutuel pool of the association that conducts the racing meeting in this state, the betting system located outside of this state shall, if permissible under applicable law, deduct from the total amount handled in each conventional and exotic parimutuel pool the same total percentages deducted pursuant to Article 9.5 (commencing with Section 19610) by the association that conducts the racing meeting in this state. If the laws of the jurisdiction in which the betting system is located do not permit the betting system to deduct the same percentages as are deducted by the association that conducts the racing, the board may, nonetheless, permit the inclusion of those out-of-state wagers in the association's parimutuel pool if the board determines it to be in the public interest of this state to do so.

(d) If wagers accepted by an association conducting racing within the state and wagers accepted by a betting system located outside of the state are combined in one parimutuel pool and the association and the betting system both deduct the same total percentages as set forth in subdivision (c), the breakage shall be allocated between the association and the betting system on the basis of a calculation for distribution approved by the board.

(e) If wagers accepted by an association conducting racing within the state are combined in one parimutuel pool with wagers accepted by a betting system located outside the state and the association and the betting system deduct different percentages from the amount handled in the parimutuel pool, the precise calculation and distribution of payments on winning tickets and breakage between the association and the betting system shall be on the basis of a calculation for distribution approved by the board.

(f) The board shall report to the Department of Finance whenever it approves a calculation for distribution pursuant to subdivision (d) or (e) and the projected impact of that calculation, if any, on state revenues.

(g) Breakage allocated pursuant to this section to an association conducting racing within this state shall be distributed in the same manner as would be breakage arising from wagers at the association in the absence of a combined parimutuel pool. This section does not apply to the disposition of breakage allocated to the betting system located outside of the state.

(h) If wagers accepted by a betting system located outside of this state are included in the parimutuel pool of an association conducting racing in this state, funds in the parimutuel pool attributable to unclaimed tickets relating to wagers accepted by the association conducting racing within the state shall be distributed in the same manner as unclaimed tickets relating to wagers accepted by that association in the absence of a combined parimutuel pool. Funds in the parimutuel pool attributable to unclaimed tickets related to wagers accepted by the betting system located outside of this state

shall be allocated to that betting system, and this section does not otherwise apply to the disposition of those funds at that location outside of the state.

SEC. 3. Section 19605.7 of the Business and Professions Code, as amended by Chapter 53 of the Statutes of 1996, is amended to read:

19605.7. The total percentage deducted from wagers at satellite wagering facilities in the northern zone shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission for the right to do business, as a franchise, and such commission is not for the use of any real property, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b), (c) and (d) of Section 19617.2, and thirty-three hundredths of one-tenth of 1 percent distributed to the California Center for Equine Health and Performance and sixty-seven hundredths of one-tenth of 1 percent distributed to the California Veterinary Diagnostic Laboratory System, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the thirty-three hundredths of one-tenth of 1 percent of funds distributed to the California Center for Equine Health and Performance shall supplement, and not supplant, other funding sources.

(b) For harness, quarter horse, Appaloosa, Arabian, or mixed breed meetings, 1 percent of the amount handled by the satellite wagering facility on conventional wagers and 1 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, for fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission for the right to do business, as a franchise, and such commission is not for the use of any real property, and 6 percent of the amount handled by the satellite wagering facility or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7 and shall thereafter be distributed in accordance with

subdivisions (c), (d), and (e) of Section 19617.7; in the case of Appaloosas, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.9 and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.9; in the case of Arabians, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of Arabians; in the case of standardbreds, four-tenths of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2; and thirty-three hundredths of one-tenth of 1 percent shall be distributed to the California Center for Equine Health and Performance and sixty-seven hundredths of one-tenth of 1 percent distributed to the California Veterinary Diagnostic Laboratory System, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the thirty-three hundredths of one-tenth of 1 percent of funds distributed to the California Center for Equine Health and Performance shall supplement, and not supplant, other funding sources.

(c) In addition to the distributions specified in subdivision (a) and (b), for thoroughbred and fair meetings only, six-tenths of 1 percent of the total amount handled by each satellite wagering facility authorized pursuant to Section 19605.1 and one-half of 1 percent of the total amount handled at each other satellite wagering facility shall be allocated to the facility for promotion of that meeting's program. For mixed breed meetings, 1 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities. For quarter horse meetings and harness meetings, one-half of 1 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for the promotion of the program at satellite wagering facilities, and one-half of 1 percent of the total amount handled by each satellite wagering facility shall be distributed according to a written agreement for each race meeting between the licensed racing association and the organization representing the horsemen participating in the meeting.

(d) In addition to the distributions specified in subdivisions (a), (b), and (c), for thoroughbred meetings, four-tenths of 1 percent of the total amount handled at each satellite wagering facility authorized pursuant to Section 19605.1 and one-half of 1 percent of the total amount handled at each other satellite wagering facility shall be allocated to the association conducting the racing program to reimburse it for any costs of offsite stabling and vanning that are required pursuant to Section 19535. The amount of the

reimbursement payable to an association for offsite stabling shall not exceed the actual cost to the association of maintaining stalls at its racetrack plus the actual costs incurred by the association to provide vanning and transportation of racehorses from offsite stabling facilities to its racetrack.

(e) In addition to the distributions specified in subdivisions (a), (b), and (c), for fair meetings, four-tenths of 1 percent of the total amount handled at each satellite wagering facility authorized pursuant to Section 19605.1 and one-half of 1 percent of the total amount handled at each other satellite wagering facility shall be allocated to the organization representing racing fairs to reimburse fairs for the actual cost of providing offsite stabling and vanning required by the board pursuant to Section 19535. If fairs contract with associations to provide offsite stabling during fair meetings, the cost incurred by fairs shall not exceed the actual cost to the association of maintaining the stalls or the amount of reimbursement funds made available pursuant to this subdivision, whichever is less. In the event of a disagreement between an association and the organization representing racing fairs or the organization representing the majority of horsemen participating at the meeting with respect to the actual cost of maintaining stalls, the board, at the request of the association or the organization representing racing fairs or the organization representing the majority of horsemen participating at the meeting, shall determine within 60 days the amount of actual costs incurred. For purposes of this subdivision, ''actual cost'' does not include fixed overhead or administrative expenses that would be incurred by the association in the absence of an agreement to provide offsite stabling during fair meetings.

(f) Any of the promotional funds distributed pursuant to subdivision (c) that are not expended in the year in which they are collected may be expended in the following year. If promotion funds expended in any year exceed the amount collected for that year, the funds expended in the following year shall be reduced by the excess amount.

(g) Any of the stabling and vanning reimbursement funds distributed pursuant to subdivision (d) that are not expended during the meeting at which they are collected shall be allocated to the organization representing racing fairs for additional payments to the racing association to offset its costs of maintaining the stalls contracted for by fairs pursuant to subdivision (e).

(h) Additionally, for thoroughbred, harness, quarter horse, mixed breed, and fair meetings, thirty-three hundredths of 1 percent of the total amount handled by each satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(i) Notwithstanding any other provision of law, a racing association is responsible for the payment of the state license fee as required by this section.

SEC. 4. Section 19605.71 of the Business and Professions Code is amended to read:

19605.71. The total percentage deducted from wagers at satellite wagering facilities in the central and southern zone shall be the same as the percentage deducted from wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted by a satellite wagering facility under this section shall be distributed as follows:

(a) For thoroughbred meetings, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission for the right to do business, as a franchise, and such commission is not for the use of any real property, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2, and four-tenths of 1 percent deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2, and thirty-three hundredths of one-tenth of 1 percent distributed to the California Center for Equine Health and Performance and sixty-seven hundredths of one-tenth of 1 percent distributed to the California Veterinary Diagnostic Laboratory System, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the thirty-three hundredths of one-tenth of 1 percent of funds distributed to the California Center for Equine Health and Performance shall supplement, and not supplant, other funding sources.

(b) For harness, quarter horse, Appaloosa, Arabian, or mixed breed meetings, 1 percent of the amount handled by the satellite wagering facility on conventional wagers and 1 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, for fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3 percent on exotic wagers shall be distributed to the racing association for payment to the state as a license fee, 2 percent retained by the satellite wagering facility as a commission for the right to do business, as a franchise, and such commission is not for the use of any real property, and 6 percent of the amount handled by the satellite wagering facility or the amount of actual operating expenses, as determined by the board, whichever is less, distributed to an organization described in Section 19608.2. In addition, in the case of quarter horses, four-tenths of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6; in the case of Appaloosas, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.9 and shall thereafter be distributed in

accordance with subdivisions (c), (d), and (e) of Section 19617.9; in the case of Arabians, four-tenths of 1 percent shall be held by the association to be deposited with the official registering agency, pursuant to Section 19617.8, and thereafter shall be distributed in accordance with Section 19617.8; in the case of standardbreds, four-tenths of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619; in the case of thoroughbreds, four-tenths of 1 percent shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2; and thirty-three hundredths of one-tenth of 1 percent shall be distributed to the California Center for Equine Health and Performance and sixty-seven hundredths of one-tenth of 1 percent distributed to the California Veterinary Diagnostic Laboratory System, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that the thirty-three hundredths of one-tenth of 1 percent of funds distributed to the California Center for Equine Health and Performance shall supplement, and not supplant, other funding sources.

(c) In addition, for thoroughbred meetings and harness, Appaloosa, mixed breed, or fair meetings, 1 percent shall be distributed to an organization described in Section 19608.2 for promotion of the program at satellite wagering facilities. Notwithstanding any other provision of law, on wagers made in the Counties of Orange and Los Angeles on thoroughbred races conducted in the County of Orange or Los Angeles, or both, excluding the 50th District Agricultural Association, the amount deducted for promotion of the satellite wagering program at satellite wagering facilities shall be one-half of 1 percent. Any of the promotion funds that are not distributed in the year in which they are collected may be distributed in the following year. If promotion funds distributed in any year exceed the amount collected for that year, the funds distributed in the following year shall be reduced by the excess amount. For quarter horse meetings, one-half of 1 percent of the total amount handled by each satellite wagering facility shall be distributed to an organization described in Section 19608.2 for the promotion of the program at satellite wagering facilities, and one-half of 1 percent of the total amount handled by each satellite wagering facility shall be distributed according to a written agreement for each race meeting between the licensed racing association and the organization representing the horsemen participating in the meeting. To the extent that funds representing a percentage greater than one-half of 1 percent of funds wagered on thoroughbred races conducted in the Counties of Orange and Los Angeles have been distributed, prior to July 27, 1992, to an organization described in Section 19608.2 for promotion activities, but remain unused, those funds shall be redistributed, 50 percent as commissions to the

association that conducts the racing meeting, and 50 percent as purses to the horsemen participating in the racing meeting. Additionally, thirty-three hundredths of 1 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(d) Notwithstanding any other provision of law, a racing association is responsible for the payment of the state license fee as required by this section.

SEC. 5. Section 19608.9 of the Business and Professions Code is amended to read:

19608.9. (a) Notwithstanding subdivisions (a) and (b) of Section 19605.7, subdivisions (a) and (b) of Section 19605.71, or any other provision of law, of the amounts deducted from wagers at satellite wagering facilities pursuant to Sections 19605.7 and 19605.71 for thoroughbred meetings or thoroughbred races at mixed breed or fair meetings, four-tenths of 1 percent shall be deposited with the official registering agency for distribution pursuant to subdivision (a) of Section 19617.2, and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2.

(b) Notwithstanding Section 19605.8 or 19606 on thoroughbred meetings or thoroughbred races at mixed breed or fair meetings, the funds remaining after distribution of the amounts set forth in Sections 19605.7 and 19605.71 shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent as purses to the horsemen participating in the racing meeting, but from the purses an amount in the same relative percentage as that set aside pursuant to subdivision (b) of Section 19611.5 and subdivision (c) of Section 19614.2, shall be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2 and shall, thereafter, be distributed pursuant to subdivisions (b), (c), and (d) of Section 19617.2.

SEC. 6. Section 19611.5 of the Business and Professions Code is amended to read:

19611.5. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association other than the California Exposition and State Fair or a district or county fair that conducts a thoroughbred race meeting may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed 50 percent as commissions and 50 percent as purses.

(b) From the amount deducted for thoroughbred purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2, and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2.

(c) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board, the amount of the deduction shall not be changed during the course of the meeting.

SEC. 7. Section 19614.2 of the Business and Professions Code is amended to read:

19614.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, the California Exposition and State Fair, or a district or county fair, or an association conducting its meeting pursuant to Section 19549.1, may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the current year of the fair meet. Of the amount deducted, if any, 52 percent shall be distributed as additional purses and 48 percent shall be distributed as additional commissions. For racing meetings conducted pursuant to Section 19549.3, of the amounts deducted, if any, 50 percent shall be distributed as purses and 50 percent shall be distributed as commissions.

(b) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board, the amount of the deduction shall not be changed during the course of the meeting.

(c) From the amount deducted for thoroughbred purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2, and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2.

(d) From the amount deducted for quarter horse purses under subdivision (a), a sum equal to 25 percent thereof shall be paid as breeder premiums and owners' and stallion awards as provided in Section 19617.7, shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7, and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7.

(e) From the amount deducted for Arabian horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be deposited with the official registering agency, pursuant to Section 19617.8, and thereafter shall be distributed in accordance with Section 19617.8. The board shall designate the officially recognized organization representing Arabian horsemen to administer this subdivision and to distribute premiums. The organization may, with the approval of the board, make a deduction for expenses of up to, but not to exceed, 10 percent of the total awards fund.

(f) From the amount deducted for Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be paid as breeder premiums and owners' and stallion awards as provided in Section 19617.9, and shall be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.9, and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.9.

(g) Amounts distributed pursuant to this section are derived from owners' purses.

SEC. 8. Section 19614.4 is added to the Business and Professions Code, to read:

19614.4. (a) Notwithstanding any other provision of law and in addition to any amounts provided for purses by any other provision of this chapter, from the amount deducted pursuant to Section 19617.2, an amount equal to 20 percent of the total advertised purse for any open race, excluding purses for stakes races, shall be distributed as an owner premium to the owner of a registered California-bred thoroughbred horse conceived by a registered eligible thoroughbred stallion, as provided in subdivision (d) of Section 19617, which finishes first in the race.

(b) An amount equal to 10 percent of the total advertised purse for any open race, excluding purses paid for stakes races, shall be distributed as an owner premium to the owner of a registered California-bred thoroughbred horse that finishes first in the race and that was not conceived by a registered eligible thoroughbred stallion as provided in subdivision (d) of Section 19617, which finishes first in the race.

SEC. 9. Section 19616 of the Business and Professions Code is amended to read:

19616. (a) Notwithstanding any other provision of law, wagers accepted on out-of-state feature races pursuant to Section 19596, but not included in the parimutuel pool or pools of the entity conducting the out-of-state racing, shall be placed in a separate parimutuel pool or pools and shall be distributed as provided by this section.

(b) Each association accepting wagers on an out-of-state feature race shall deduct a percentage of the amount handled in its conventional and exotic parimutuel pools that is equal to the percentage deducted from the amount handled by the association in its parimutuel pools at its racing meeting.

(c) Each association shall pay a state license fee at the rate or rates applicable to the races of the association's racing program for the day on which the out-of-state feature race is offered. If the association does not conduct a regular racing program on that day of the meeting, the state license fee shall be paid at the rate or rates applicable to the most immediate prior day of the racing program.

(d) Breakage and unclaimed tickets on out-of-state feature races shall be distributed 50 percent as commissions and 50 percent as purses.

(e) The amount remaining from the deduction under subdivision (b), after payment of the state license fee and the contractual payment to the out-of-state host racing association, shall be distributed 50 percent as commissions and 50 percent as purses.

(f) From the amount distributed under subdivision (e) for Appaloosa purses, a sum equal to 13.33 percent thereof shall be held by the association to be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.9, and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.9.

(g) From the amount distributed for thoroughbred purses under subdivision (e), a sum equal to 13.33 percent thereof shall be held by the association to be deposited with the official registering agency pursuant to subdivision (a) of Section 19617.2, and shall thereafter be distributed in accordance with subdivisions (b), (c), and (d) of Section 19617.2.

(h) From the amount distributed under subdivision (e) for quarter horse purses, a sum equal to 13.33 percent thereof shall be held by the association to be deposited with the official registering agency pursuant to subdivision (b) of Section 19617.7, and shall thereafter be distributed in accordance with subdivisions (c), (d), and (e) of Section 19617.7.

(i) From the amount distributed under subdivision (e) for Arabian purses, a sum equal to 13.33 percent thereof shall be held by the association to be deposited with the official registering agency, pursuant to Section 19617.8, and shall thereafter be distributed in accordance with Section 19617.8.

SEC. 10. Section 19617 of the Business and Professions Code is amended to read:

19617. The following definitions shall govern the construction of this chapter:

(a) "Breeder" means a person who is registered as a breeder of a California-bred thoroughbred with the official registering agency and is named on the applicable Certificate of Registration issued by the Jockey Club of New York.

(b) "Qualifying race" means the following:

(1) In the case of breeder awards, all races in this state, and all graded stakes races conducted within the United States.

(2) No owner premiums shall be paid on California-bred restricted races pursuant to Section 19568.

(3) In the case of stallion awards, all nonclaiming races and certain claiming races, if the nonclaiming races and the certain claiming races are conducted in this state during racing meetings where more than one-half of the races on every racing program are for thoroughbreds, and all graded stakes races conducted within the United States.

(4) "Certain claiming races" means those claiming races in the central and southern zone in which the total purse exceeds the daily

average purse in races, excluding stakes, distributed at that meeting during the prior year, or a claiming race in the northern zone in which the total purse exceeds 125 percent of the daily average purse in races, excluding stakes, distributed at that meeting during the prior year.

(5) No owner premium or stallion award shall be paid on races with purses of less than fifteen thousand dollars ($15,000). In determining whether a race complies with the definition in paragraph (4), the official registering agency shall base its determination on the actual amount of the purse at the time the race was conducted and shall not take into consideration any postrace adjustments to that purse.

(c) "Eligible earnings" means the following:

(1) In the case of breeder awards, the annual amount earned by a California-bred thoroughbred for finishing first, second, or third in qualifying races.

(2) In the case of owner premiums, the annual amount earned by a California-bred thoroughbred for winning qualifying races.

(3) In order for earnings from a qualifying race to be considered as eligible earnings, a California-bred thoroughbred shall be registered as such with the official registering agency before the date entries were taken by the association for the qualifying race in which that horse earned purse money.

(4) In the case of stallion awards, the annual amount earned by California-conceived or California-bred foals of an eligible thoroughbred stallion in winning qualifying races plus the amount earned by those foals for finishing second or third in a stakes race in this state and for finishing first, second, or third in a graded stakes race within the United States.

(5) For purposes of this paragraph, the maximum purse considered earned in any qualifying race within this state shall be three hundred thirty thousand dollars ($330,000) for a win, one hundred twenty thousand dollars ($120,000) for a second, and ninety thousand dollars ($90,000) for a third place finish and the maximum purse considered earned in any qualifying race outside of this state shall be one hundred sixty-five thousand dollars ($165,000) for a win, sixty thousand dollars ($60,000) for a second, and forty-five thousand dollars ($45,000) for a third place finish.

(6) In determining the purse earned in any qualifying race that is a stakes race, the amount earned shall be based solely on the added money, with no consideration to be given to other sources of the purse, such as nomination, entry, or starting fees, bonuses, and sponsor contributions, or any combination thereof.

(7) On or before February 1 of any year, it is the ultimate responsibility of the stallion owner to advise the official registering agency of any and all purses earned during the preceding year that shall be considered in determining the amount of the stallion award to which the owner is entitled.

(8) On or before February 1 of any year, it is the ultimate responsibility of the breeder to advise the official registering agency of any and all purses earned during the preceding year in graded stakes races outside of this state by horses bred by breeder.

(d) "Eligible thoroughbred stallion" means a thoroughbred stallion that was continuously present in this state from February 1 to June 15, inclusive, of the calendar year in which the qualifying race was conducted, and if the sire left this state after June 15 of the calendar year in which the qualifying race was conducted, the sire returned to and was present in this state by February 1 of the following calendar year and thereafter remained until June 15 of that year. If a sire dies in this state and stood his last season at stud in this state, he shall thereafter continue to be considered an eligible thoroughbred stallion.

(1) Notwithstanding any provision to the contrary, a thoroughbred stallion shall be considered an eligible thoroughbred stallion only if its owner has filed a claim for stallion award on or before February 1 of the calendar year immediately following the calendar year for which the awards are being distributed and is registered with the official registering agency.

(2) The official registering agency shall establish procedures for the registration of stallions and may charge a fee for that registration.

(e) "Official registering agency" means the California Thoroughbred Breeders Association.

(f) "Owner" means the person who is registered with the paymaster of purses on the date the qualifying race was conducted as the owner of the California-bred thoroughbred earning purse money in that race.

(g) "Quotient," for any fund, means the amount allocated to that fund pursuant to subdivision (b) of Section 19617.2 divided by the aggregate eligible earnings of the horses applicable to that fund. In calculating the quotient for each of the funds, any retroactive purse payments with respect to a race shall not be considered after the disbursement of the fund.

(h) "Stallion owner" means the person who is the owner of the eligible thoroughbred stallion as of December 31 of the calendar year in which that sire's foals had eligible earnings or the person who owned the eligible thoroughbred sire on the date that the stallion died.

SEC. 11. Section 19617.2 of the Business and Professions Code is amended to read:

19617.2. (a) Any association conducting a race meeting that includes thoroughbred racing shall deposit with the official registering agency 0.34 percent of the total amount handled on-track, and 0.40 percent of the total amount handled off-track, in daily conventional and exotic parimutuel pools resulting from thoroughbred racing. These deposits shall be made at the following intervals:

(1) For any meeting of 20 racing days or less, the requisite deposit shall be made not later than seven days immediately following the last day of that meeting.

(2) For any meeting of more than 20 racing days, the initial deposit shall be made not later than 27 racing days after the commencement of that meeting and every 20 racing days thereafter, with a final deposit made not later than seven days following the last day of that meeting. The initial deposit for that meeting shall be based upon the applicable amount handled during the first 20 racing days of the meeting and deposits thereafter shall be based upon the applicable amount handled during the ensuing periods of 20 racing days with the last deposit being based upon the applicable amount handled from the end of the last 20-racing-day period for which a deposit has been made to the end of the meeting.

(b) After deducting a sum equal to 5 percent of the total deposits made pursuant to subdivision (a) and the total deposits made pursuant to other provisions of this chapter, including Sections 19602, 19605.7, 19605.71, 19608.9, 19611.5, 19614.2, and 19616, the amount to compensate the official registering agency for its administrative cost and for expenses it incurs for educational, promotional, and research programs, the official registering agency shall for computational purposes distribute annually the balance of the deposits in the following manner:

(1) To the California-bred race fund, 10 percent to be used for the promotion of California-bred races and from which purses are to be provided or supplemented for California Cup Day and other California-bred races, which fund shall be administered by the official registering agency. It is the intent of the Legislature that all funds used for purses shall supplement and not supplant existing purses for California-breds.

(2) To the owner fund for the purpose of owner premiums pursuant to Section 19614.4.

(c) The funds remaining after the distributions made pursuant to subdivision (b) shall be distributed as follows:

(1) To the breeder fund 75 percent, from which breeder awards are to be paid.

(2) To the stallion fund 25 percent, from which stallion awards are to be paid.

(d) The official registering agency shall make the following payments to the owner, breeder, and stallion owner so as to encourage agriculture and the breeding of higher quality horses in this state:

(1) The owner shall be paid an owner premium pursuant to Section 19614.4.

(2) The breeder shall be paid a breeder award equal to the quotient for the breeder fund multiplied by the eligible earnings of the horse bred by the breeder.

(3) The stallion owner shall be paid a stallion award equal to the quotient for the stallion fund multiplied by the eligible earnings of the stallion owner's eligible thoroughbred sire.

(4) Owner premiums for California-bred horses shall be listed in the racing program along side the advertised purse, and shall be distributed to the owner pursuant to Section 19614.4 at the same time as the purse.

(5) The breeder award and stallion awards shall be paid not later than March 31 of the calendar year immediately following the calendar year for which the awards or premiums were earned.

SEC. 12. Section 19617.3 is added to the Business and Professions Code, to read:

19617.3. Notwithstanding any other provision of law, if there is a reduction in the amount of the license fee that a thoroughbred racing associations pays, an amount equal to 5 percent of any savings in license fees resulting from the reduction shall be paid to the official registering agency for thoroughbreds to be distributed pursuant to Section 19617.2.

CHAPTER 394

An act to amend Sections 18035, 18054, 18054.7, 18055, 18060, and 18061.5 of, and to repeal Sections 18013.5 and 18063.8 of, the Health and Safety Code, relating to mobilehomes and manufactured housing.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 18035 of the Health and Safety Code is amended to read:

18035. (a) (1) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with, or prior to, the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. Checks, money orders, or similar payments toward the purchase shall be made payable only to the escrow agent.

(2) The downpayment, or whole or partial payment, shall include an amount designated as a deposit, which may be less than, or equal to, the total amount placed in escrow, and shall be subject to subdivision (f). The parties shall provide for escrow instructions that identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within five working days of receipt, one of which shall be the day of receipt.

(3) For purposes of this section, "cash equivalent" means any property, other than cash. If an item of cash equivalent is, due to its size, incapable of physical delivery to the escrow holder, the property may be held by the dealer for the purchaser until close of escrow and, if the property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrowholder.

(b) For every transaction by or through a dealer to sell or lease with the option to buy a new manufactured home or mobilehome subject to registration under this part, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) (A) That, in the alternative, either of the following shall occur:

(i) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(ii) The inventory creditor shall consent in writing to other than full payment.

(B) For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome, as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every transaction by or through a dealer to sell or lease with the option to buy a used manufactured home or mobilehome subject to registration under this part, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative, either of the following shall occur:

(A) (i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement approved by the registered owner covering the unpaid balance of the purchase price.

(B) (i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current certificate of title shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall do either of the following:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every transaction by or through a dealer to sell or lease with the option to buy a used manufactured home or mobilehome subject to registration under this part:

(1) The dealer shall present the buyer's offer to purchase the manufactured home or mobilehome to the seller in written form signed by the buyer. The seller, upon accepting the offer to purchase, shall sign and date the form. Copies of the fully executed form shall be presented to both the buyer and seller, with the original copy retained by the dealer. Any portion of the form that reflects the commission charged by the dealer to the seller need not be disclosed to the buyer.

(2) The escrow agent, upon receipt of notification from the dealer that the seller has accepted the buyer's offer to purchase and receipt of mutually endorsed escrow instructions, shall, within three working days, prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is canceled for any reason before

closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(3) (A) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report, as contemplated by Section 18035.5, and a written demand for either an executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, both of the following:

(i) A statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien.

(ii) The creditor's release or transfer of the lien in the manufactured home or mobilehome contingent upon the satisfaction of those conditions.

(B) The statement of anticipated formal assumption shall include, among other things, both of the following:

(i) A statement of the creditor's belief that the buyer will formally assume the indebtedness secured by its lien pursuant to terms and conditions which are acceptable to the creditor at or before the close of escrow.

(ii) The creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(4) Within five days of the receipt of the written demand and documents required by paragraph (3), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or, if the creditor has elected to consent to a formal assumption requested by a qualified buyer, the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first-class mail. If the creditor is the legal owner, the certificate of title in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of the current registration card in an unexecuted form shall accompany the documents.

(5) If either of the following events occur, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative, and the escrow agent shall thereupon return the form and the certificate of title or the copy of the current registration card, as appropriate, to the creditor by first-class mail:

(A) The conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or,

if applicable, before the end of any extended escrow period as permitted by subdivision (g).

(B) The registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly.

(6) If a creditor willfully fails to comply with the requirements of paragraph (4) within 21 days of the receipt of the written demand and documents required by paragraph (3), the creditor shall forfeit to the escrow agent three hundred dollars ($300), except where the creditor has reasonable cause for noncompliance. The three hundred dollars ($300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome, the escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed. If mutually agreed upon between buyer and dealer, the escrow instructions may specify that funds be disbursed to a government agency for the payment of fees and permits required as a precondition for an installation acceptance or certificate of occupancy, and the information that may be acceptable to the escrow agent.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) In the event any dispute arises between the parties to the escrow and upon notification in writing to the escrow agent, unless otherwise specified in the escrow instructions, all funds denoted as deposit shall be held in escrow until a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate.

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any escrow account in an escrow company in which the dealer or seller has more than a 5 percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of the taxes or fees, or both, and any applicable penalties.

(j) For every transaction by or through a dealer to sell or lease with the option to buy a new or used manufactured home or mobilehome that is subject to inspection pursuant to Section 18613, and for which it is stated, on the face of the document certifying or approving occupancy or installation, that the issuance of the document is conditioned upon the payment of a fee, charge, dedication, or other requirement levied pursuant to Section 53080 of the Government Code, the escrow instructions shall provide that the payment of that fee, charge, dedication, or other requirement be made to the appropriate school district upon the close of escrow.

(k) No agreement shall contain any provision by which the buyer waives his or her rights under this section, and any waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(*l*) If a portion of the amount in the escrow is for accessories, then that portion of the amount shall not be released until the accessories are actually installed.

(m) Upon opening escrow on a used manufactured home or mobilehome which is subject to local property taxation, and subject to registration under this part, the escrow officer may forward to the tax collector of the county in which the used manufactured home or mobilehome is located, a written demand for a tax clearance certificate, if no liability exists, or a conditional tax clearance certificate if a tax liability exists, to be provided on a form prescribed by the office of the Controller. The conditional tax clearance certificate shall state the amount of the tax liability due, if any, and the final date that amount may be paid out of the proceeds of escrow before a further tax liability may be incurred.

(1) Within five working days of receipt of the written demand for a conditional tax clearance certificate or a tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or a tax clearance certificate showing no tax liability exists to the requesting escrow officer. In the event the tax clearance certificate's or conditional tax clearance certificate's final due date expires within 30 days of date of issuance, an additional conditional

tax clearance certificate or a tax clearance certificate shall be completed which has a final due date of at least 30 days beyond the date of issuance.

(2) If the tax collector on which the written demand for a tax clearance certificate or a conditional tax clearance certificate was made fails to comply with that demand within 30 days from the date the demand was mailed, the escrow officer may close the escrow and submit a statement of facts certifying that the written demand was made on the tax collector and the tax collector failed to comply with that written demand within 30 days. This statement of facts may be accepted by the department in lieu of a conditional tax clearance certificate or a tax clearance certificate, as prescribed by subdivision (a) of Section 18092.7, and the transfer of ownership may be completed.

(3) The escrow officer may satisfy the terms of the conditional tax clearance certificate by paying the amount of tax liability shown on the form by the tax collector out of the proceeds of escrow on or before the date indicated on the form and by certifying in the space provided on the form that all terms and conditions of the conditional tax clearance certificate have been complied with.

(n) This section creates a civil cause of action against a buyer or dealer or other seller who violates this section, and upon prevailing, the plaintiff in the action shall be awarded actual damages, plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in the action.

SEC. 2. Section 18013.5 of the Health and Safety Code is repealed.

SEC. 3. Section 18054 of the Health and Safety Code is amended to read:

18054. (a) The department, upon granting a license, shall issue to the applicant a license with a size and format established by the department containing at least the applicant's name and address, the general distinguishing number assigned to the applicant and expiration date. For salespersons, the license shall also state the name and address of the employing dealer. The department may issue other forms of identification to licensees.

(b) The department shall also furnish books and forms as it may determine necessary. All books, forms, and licenses shall remain the property of the department and may be taken up at any time for inspection.

(c) A licensee shall promptly obtain a replacement license when the original is either lost or mutilated, and, in the case of a salesperson, when changing his or her name, employment, or residence address.

(d) Whenever the department cancels, suspends, or revokes a license, the licensee or person in possession shall immediately return the license, documents, transportation decals, report of sales books, certificates, and other evidence of licensure to the department.

SEC. 4. Section 18054.7 of the Health and Safety Code is amended to read:

18054.7. (a) Every occupational license issued to a manufacturer, distributor, dealer, or salesperson shall expire on the last day of the 24th month following the date of issuance of the temporary permit, pursuant to Section 18052.

(b) Every occupational license renewed by a manufacturer, distributor, dealer, or salesperson shall be for a term of 24 months.

(c) Applications to renew an occupational license held by a manufacturer, distributor, dealer, or salesperson shall be received by the department or postmarked during the month of expiration. An expired occupational license may be reinstated upon application for reinstatement to the department within 60 days of expiration. The application for reinstatement shall be accompanied with the payment of all renewal fees and a reinstatement fee equal to 50 percent of the renewal fee.

(d) Holders of an expired occupational license shall discontinue all activities of a licensee until a new license or temporary permit is obtained from the department, except that an applicant for renewal may continue to operate with an expired occupational license, provided all other requirements of rules, regulations, and laws governing their activities are met, until the application for renewal is approved or denied.

SEC. 5. Section 18055 of the Health and Safety Code is amended to read:

18055. (a) The department may require that fees shall be paid to the department for the issuance or renewal of a license to do business as a licensee. The fees shall reimburse the department for costs incurred in administration and enforcement of this chapter. The department may refuse to renew a license if a licensee has failed to pay any fees or penalties due the department pursuant to this part.

(b) Any person required to be licensed under this chapter who fails to make application for a license when required shall, in addition to the fees required pursuant to subdivision (a), pay a penalty of 50 percent of the license fee.

SEC. 6. Section 18060 of the Health and Safety Code is amended to read:

18060. With respect to business operations, it is unlawful to do any of the following:

(a) Make, or knowingly or negligently permit, any illegal use of any special permits, or report of sales books issued to or in favor of a licensee.

(b) Submit a check, draft, or money order to the department for any obligation or fee due the department which is thereafter dishonored or refused payment upon presentation.

(c) Fail to notify the department, within 10 days, of any change in the ownership or corporate structure of the licensee, or of the

employment or termination of a mobilehome or commercial coach salesperson.

SEC. 7. Section 18061.5 of the Health and Safety Code is amended to read:

18061.5. It is unlawful to do any of the following:

(a) Willfully violate any law, or any rule or regulation adopted by the department, relating to manufactured homes, mobilehomes, or commercial coaches or the sale of manufactured homes, mobilehomes, or commercial coaches.

(b) Fail to comply within a reasonable time with any written order of the department or any law enforcement agency.

(c) Fail to meet the terms and conditions of a compromise agreement effected under the provisions of Section 18064.5.

(d) Cause or allow the existence of any of the conditions specified in Section 18050.5 as a cause for refusal to issue a license.

(e) Lend a license to any other person or knowingly permit the use thereof by another.

(f) Display or represent any license not issued to the person as being his or her license.

(g) Fail or refuse to surrender to the department, upon its lawful demand, any license or report of sales books, which is suspended, revoked, or canceled.

(h) Permit any unlawful use of a license or report of sales books, issued to a licensee.

(i) Photograph, photostat, duplicate, or in any way reproduce any license or facsimile thereof in such a manner that it could be mistaken for a valid license, or display or possess any photograph, photostat, duplicate, reproduction, or facsimile unless authorized by the provisions of this part.

(j) Accept or encourage sales arranged or negotiated by unlicensed persons or salespersons while not employed by the dealer. For the purposes of this section, employment by a dealer shall mean employment reported to the department pursuant to Section 18060.

SEC. 8. Section 18063.8 of the Health and Safety Code is repealed.

CHAPTER 395

An act to amend Section 844 of the Government Code, relating to prisoners.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 844 of the Government Code is amended to read:

844. As used in this chapter, "prisoner" includes an inmate of a prison, jail, or penal or correctional facility. For the purposes of this chapter, a lawfully arrested person who is brought into a law enforcement facility for the purpose of being booked, as described in Section 7 of the Penal Code, becomes a prisoner, as a matter of law, upon his or her initial entry into a prison, jail, or penal or correctional facility, pursuant to penal processes.

CHAPTER 396

An act to amend Section 1365 of the Civil Code, relating to common interest developments.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 1365 of the Civil Code is amended to read:

1365. Unless the governing documents impose more stringent standards, the association shall prepare and distribute to all its members the following documents:

(a) A pro forma operating budget, which shall include all of the following:

(1) The estimated revenue and expenses on an accrual basis.

(2) A summary of the association's reserves based upon the most recent review or study conducted pursuant to Section 1365.5, which shall be printed in bold type and include all of the following:

(A) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component.

(B) As of the end of the fiscal year for which the study is prepared:

(i) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components.

(ii) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components.

(C) The percentage that the amount determined for purposes of clause (ii) of subparagraph (B) is of the amount determined for purposes of clause (i) of subparagraph (B).

(3) A statement as to whether the board of directors of the association has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves therefor.

(4) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the association is obligated to maintain.

The summary of the association's reserves disclosed pursuant to paragraph (2) shall not be admissible in evidence to show improper financial management of an association, provided that other relevant and competent evidence of the financial condition of the association is not made inadmissible by this provision.

A copy of the operating budget shall be annually distributed not less than 45 days nor more than 60 days prior to the beginning of the association's fiscal year.

(b) A review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars ($75,000). A copy of the review of the financial statement shall be distributed within 120 days after the close of each fiscal year.

(c) In lieu of the distribution of the pro forma operating budget required by subdivision (a), the board of directors may elect to distribute a summary of the pro forma operating budget to all its members with a written notice that the pro forma operating budget is available at the business office of the association or at another suitable location within the boundaries of the development and that copies will be provided upon request and at the expense of the association. If any member requests that a copy of the pro forma operating budget required by subdivision (a) be mailed to the member, the association shall provide the copy to the member by first-class United States mail at the expense of the association and delivered within five days. The written notice that is distributed to each of the association members shall be in at least 10-point boldface type on the front page of the summary of the budget.

(d) A statement describing the association's policies and practices in enforcing lien rights or other legal remedies for default in payment of its assessments against its members shall be annually delivered to the members during the 60-day period immediately preceding the beginning of the association's fiscal year.

(e) (1) A summary of the association's property, general liability, and earthquake and flood insurance policies, which shall be distributed within 60 days preceding the beginning of the association's fiscal year, that includes all of the following information about each policy:

(A) The name of the insurer.

(B) The type of insurance.

(C) The policy limits of the insurance.

(D) The amount of deductibles, if any.

(2) The association shall, as soon as reasonably practical, notify its members by first-class mail if any of the policies described in paragraph (1) have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the

deductible, for any of those policies. If the association receives any notice of nonrenewal of a policy described in paragraph (1), the association shall immediately notify its members if replacement coverage will not be in effect by the date the existing coverage will lapse.

(3) To the extent that any of the information required to be disclosed pursuant to paragraph (1) is specified in the insurance policy declaration page, the association may meet its obligation to disclose that information by making copies of th at page and distributing it to all of its members.

(4) The summary distributed pursuant to paragraph (1) shall contain, in at least 10-point boldface type, the following statement: "This summary of the association's policies of insurance provides only certain information, as required by subdivision (e) of Section 1365 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any association member may, upon request and provision of reasonable notice, review the association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the association maintains the policies of insurance specified in this summary, the association's policies of insurance may not cover your property, including personal property or, real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."

CHAPTER 397

An act to amend Section 1716 of the Civil Code, relating to solicitations.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 1716 of the Civil Code is amended to read:

1716. (a) It is unlawful for a person to solicit payment of money by another by means of a written statement or invoice, or any writing that reasonably could be considered a bill, invoice, or statement of account due, but is in fact a solicitation for an order, unless the solicitation conforms to subdivisions (b) to (f), inclusive.

(b) A solicitation described in subdivision (a) shall bear on its face either the disclaimer prescribed by subparagraph (A) of paragraph (2) of subsection (d) of Section 3001 of Title 39 of the United States Code or the following notice:

"THIS IS NOT A BILL. THIS IS A SOLICITATION. YOU ARE UNDER NO OBLIGATION TO PAY THE AMOUNT STATED ABOVE UNLESS YOU ACCEPT THIS OFFER."

The statutory disclaimer or the alternative notice shall be displayed in conspicuous boldface capital letters of a color prominently contrasting with the background against which they appear, including all other print on the face of the solicitation and shall be at least as large, bold, and conspicuous as any other print on the face of the solicitation but no smaller than 30-point type.

(c) The notice or disclaimer required by this section shall be displayed conspicuously apart from other print on the page and immediately below each portion of the solicitation that reasonably could be construed to specify a monetary amount due and payable by the recipient. The notice or disclaimer shall not be preceded, followed, or surrounded by words, symbols, or other matter that reduces its conspicuousness or that introduces, modifies, qualifies, or explains the required text, such as "legal notice required by law."

(d) The notice or disclaimer may not, by folding or any other device, be rendered unintelligible or less prominent than any other information on the face of the solicitation.

(e) If a solicitation consists of more than one page or if any page is designed to be separated into portions, such as by tearing along a perforated line, the notice or disclaimer shall be displayed in its entirety on the face of each page or portion of a page that reasonably might be considered a bill, invoice, or statement of account due as required by subdivisions (b) and (c).

(f) For the purposes of this section, "color" includes black and "color prominently contrasting" excludes any color, or any intensity of an otherwise included color, that does not permit legible reproduction by ordinary office photocopying equipment used under normal operating conditions, and that is not at least as vivid as any other color on the face of the solicitation.

(g) Any person damaged by noncompliance with this section, in addition to other remedies, is entitled to damages in an amount equal to three times the sum solicited.

(h) Any person who violates this section shall be liable for a civil penalty not to exceed ten thousand dollars ($10,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction. If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered and one-half to the State Treasurer. If brought by a district

attorney or county counsel, the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(i) A violation of this section is a misdemeanor punishable by imprisonment in a county jail not exceeding six months, by a fine not exceeding two thousand five hundred dollars ($2,500), or by both that fine and imprisonment.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 398

An act to amend Sections 8514, 8514.5, 8516, and 8519.5 of the Business and Professions Code, relating to consumer affairs.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 8514 of the Business and Professions Code is amended to read:

8514. No registered company shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the control of household pests, or wood destroying pests or organisms until an inspection has been made.

Notwithstanding any provision of this chapter, after an inspection has been made a registered company which holds a branch registration for the control of household pests, or wood destroying pests or organisms, but its branch registration restricts the method of eradication or control permitted, may recommend and enter into a contract for the eradication or control of pests within the scope of its branch registration, provided it subcontracts in writing the actual

performance of the work to a registered company which holds a branch registration authorizing the particular method to be used.

A registered company may in writing subcontract any pest control work for which it is registered in any branch or branches to a registered company holding a valid branch registration to do such work.

Nothing in this chapter shall be construed to prohibit a registered company or the consumer from subcontracting with a licensed contractor to do any work authorized under Section 8556.

A registered company shall not subcontract structural fumigation work, as permitted in this section, without the written consent of the consumer. The consumer must be informed in advance, in writing, of any proposed work which the registered company intends to subcontract and of the consumer's right to select another person or entity of the consumer's choosing to perform the work. The consumer may authorize the subcontracting of the work as proposed or may contract directly with another registered company licensed to perform the work. Nothing in this paragraph shall be construed to eliminate any otherwise applicable licensure requirements, nor permit a licensed contractor to perform any work beyond that authorized by Section 8556.

Nothing herein contained shall permit or authorize any registered company to perform, attempt to perform, advertise or hold out to the public or to any person that it is authorized, qualified or registered to perform, pest control work in any branch, or by any method, for which it is not registered.

Subcontracting of work, as permitted herein, shall not relieve the prime contractor or the subcontractor from responsibility for, or from disciplinary action because of, any act or omission on its part, which would otherwise be a ground for disciplinary action. However, the registered company making the initial proposal including proposed work that the registered company intends to subcontract shall not be subject to disciplinary action or otherwise responsible for any act or omission in the performance of the work that the consumer directly contracts with another registered company to perform, as permitted by this section.

SEC. 2. Section 8514.5 of the Business and Professions Code is amended to read:

8514.5. It is unlawful for any registered company under this chapter when billing for any subcontracted work authorized under Section 8514, to charge, bill, or otherwise solicit payment from the consumer for any structural fumigation work not actually rendered by the registered company or under its direct supervision unless the consumer, prior to authorizing the performance of the work, is provided in writing with the following statement:

"NOTICE: The charge for service that this company subcontracts to another registered company may include the company's charges for arranging and administering such services that are in addition to

the direct costs associated with paying the subcontractor. You may accept (company name's) bid or you may contract directly with another registered company licensed to perform the work.

If you choose to contract directly with another registered company, (company name) will not in any way be responsible for any act or omission in the performance of work that you directly contract with another to perform."

SEC. 3. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms, but do not apply to work conducted pursuant to Section 8516.1.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The registered company shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than 10 working days after the date the inspection is commenced, except an inspection report prepared for use by an attorney for litigation is not required to be filed with the board. The report shall be delivered to the person requesting the inspection, or to the person's designated agent, before work is commenced. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest.

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions which would ordinarily subject those parts to attack by wood destroying pests or organisms exist.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood

contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type:

"NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company to company. You have a right to seek a second opinion from another company."

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection that is evident.

(2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separated form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection and the difference between those conditions. In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and such corrections as have been agreed upon have been

completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (9), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms that could infest and infect the structure.

(B) The wood destroying pests and organisms covered by the control service agreement. Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report and agreement.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(3) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(4) A written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(5) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(6) For purposes of this section, "control service agreement" means any agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

SEC. 3.5. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms, but do not apply to work conducted pursuant to Section 8516.1.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The registered company shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than 10 working days after the date the inspection is commenced, except an inspection report prepared for use by an attorney for litigation is not required to be filed with the board. The report shall be delivered to the person requesting the inspection, or to the person's designated agent, before work is commenced. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest.

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions which would ordinarily subject those parts to attack by wood destroying pests or organisms exist.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth-wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

(13) The inspection report shall contain the following statement, printed in boldface type:

"NOTICE: Reports on this structure prepared by various registered companies should list the same findings (i.e. termite infestations, termite damage, fungus damage, etc.). However, recommendations to correct these findings may vary from company

to company. You have a right to seek a second opinion from another company."

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection that is evident.

(2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations

between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separated form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection and the difference between those conditions. In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and such corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (11), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms that could infest and infect the structure.

(B) The wood destroying pests and organisms covered by the control service agreement. Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any

exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report and agreement.

(F) The frequency of the inspections to be provided, the fee to be charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(3) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(4) A written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(5) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(6) For purposes of this section, "control service agreement" means any agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

SEC. 4. Section 8519.5 of the Business and Professions Code is amended to read:

8519.5. (a) After an inspection report has been prepared by a Branch 3 registered company pursuant to Section 8516, which discloses a wood destroying pest that can be eradicated by fumigation, and the fumigation has been duly performed by a Branch 1 registered company, the Branch 1 registered company, on company letterhead or a form that otherwise identifies the licensee performing the fumigation and the name and address of the registered company, shall issue the following certification: "This is to certify that the property located at _____ (address) was fumigated on _____ (date) for the extermination of _____ (target pest)." This certification shall be issued to the person ordering the fumigation and to the registered company that prepared the inspection report within five working days after completing the fumigation.

(1) Where a consumer has authorized a Branch 3 registered company to subcontract the fumigation to a Branch 1 registered company, a copy of the certification shall accompany any reinspection report, notice of work completed pursuant to Section 8518, or any certification issued by the Branch 3 company.

(2) Where the consumer has elected to contract directly with a Branch 1 registered company to perform a fumigation, the distribution of any documents pertinent to the fumigation shall be the responsibility of the Branch 1 registered company.

(b) In the event of a failed fumigation performed by a Branch 1 registered company that has contracted directly with the consumer, the Branch 1 registered company shall do all of the following:

(1) Verify the need for a refumigation.

(2) File with the board on company letterhead or a form all of the following:

(A) The name of the current owner of the structure fumigated, the address of the structure, and the date of the failed fumigation.

(B) An explanation of the need for refumigation.

(C) The proposed date for the refumigation.

(3) Within five working days after the completion of the refumigation, the Branch 1 registered company, on company letterhead or a form, shall file with the board, the current owner, and the Branch 3 registered company whose report was used for the original fumigation, information regarding the completion of the refumigation, a new certification, and any warranty or guarantee.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 8516 of the Business and Professions Code proposed by both this bill and AB 3473. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1997, (2) each bill amends Section 8516 of the Business and Professions Code, and (3)

this bill is enacted after AB 3473, in which case Section 3 of this bill shall not become operative.

CHAPTER 399

An act to amend Sections 4, 5, 21, 22, 23, 27, 29, 30, 41, 42, 51, 61, 66, 72, 80, 86, and 87 of, to add Section 30.5 to, and to repeal Section 26 of, the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), relating to the San Diego Unified Port District.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 4 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 4. (a) A port district for the acquisition, construction, maintenance, operation, development and regulation of harbor works and improvements, including rail, water, and air terminal facilities, for the development, operation, maintenance, control, regulation, and management of the harbor of San Diego upon the tidelands and lands lying under the inland navigable waters of San Diego Bay, and for the promotion of commerce, navigation, fisheries, and recreation thereon, may be established or organized and governed as provided in this act and it may exercise the powers expressly granted herein.

(b) Subject to Section 87 and any other provision of applicable law, the district may use the powers and authority granted pursuant to this section to protect, preserve, and enhance all of the following:

(1) The physical access to the bay.

(2) The natural resources of the bay, including plant and animal life.

(3) The quality of water in the bay.

(c) Notwithstanding any other provision of law, the powers and authority specified in this section are to be used only as necessary or incident to the development and operation of a port and shall not apply to public utilities operated under the jurisdiction of the Public Utilities Commission of the State of California.

SEC. 1.5. Section 5 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 168 of the Statutes of 1990, is amended to read:

Sec. 5. (a) The area within the district shall include all of the corporate area of each of the cities of San Diego, Chula Vista, Coronado, National City, and Imperial Beach which establish the

district as provided in this act, and any unincorporated territory in the County of San Diego contiguous thereto, which is economically linked to the development and operation of San Diego Bay, included in the district by the board of supervisors of the county as provided in this act. The regulatory, taxing, and police power jurisdiction of the district, as otherwise provided for in this act, shall apply to the above-described area.

(b) In addition to the powers and authority described in subdivision (a), the district shall exercise its land management authority and powers over the following areas:

(1) The tidelands and submerged lands granted to the district pursuant to this act or any other act of the Legislature.

(2) Any airport or airports now or hereafter owned and operated by any of the above-named cities that establish the district, or San Diego County, and that were conveyed to the district by such a city or cities or San Diego County.

(3) Any other lands conveyed to the district by any city or the County of San Diego.

(4) Any other lands or interest in lands acquired by the district in furtherance of the district's powers and purposes as provided in Section 87.

SEC. 2. Section 21 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 21. The board may pass all necessary ordinances and resolutions for the regulation of the district.

The enacting clause of all ordinances passed by the board shall be in substantially the following form:

"The Board of Port Commissioners of San Diego Unified Port District do ordain as follows:"

All ordinances and resolutions shall be signed by the chairperson of the board and attested by the clerk.

All ordinances and resolutions shall be entered in the minutes. All ordinances passed by the board shall be published, within 15 days from the passage thereof, with the names of the members voting for and against them at least once in a daily newspaper of general circulation printed and published in the district.

Ordinances passed by the board shall not go into effect until the expiration of 30 days from the date of their passage by the board, except ordinances ordering or otherwise relating to the following which shall take effect upon their publication:

(a) An election.

(b) The adoption of the annual budget.

(c) The bringing or conducting of suits or actions.

(d) The condemnation of private property for public use.

(e) The immediate preservation of the public peace, health, or safety, which ordinance shall contain a specific statement showing its urgency and be passed by a two-thirds vote of the board.

A grant, franchise, lease, right, or privilege shall never be construed to be an urgency measure.

All grants, franchises, leases, permits, rights, or privileges for five years or less may be made by the executive director in accordance with any regulations the board prescribes by resolution, and all grants, franchises, leases, permits, or privileges for more than five years shall be made by ordinance, except leases or installment sales to or from a joint powers authority or nonprofit corporation in connection with the issuance of bonds or certificates of participation which may be authorized by resolution. Irrevocable permits shall not be granted or issued to any person.

SEC. 3. Section 22 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 22. (a) The board may employ engineers, attorneys, and any other officers and employees necessary in the work of the district.

(b) The executive director shall appoint a treasurer whose duty it shall be to receive and safely keep all moneys of the district.

(1) The treasurer shall do all of the following:

(A) Comply with all provisions of law governing the deposit and securing of public funds.

(B) Pay out moneys only as authorized by the board, except that no authorization shall be necessary for the payment of principal and interest on bonds of the district, or payment of lease rentals or installment purchase payments used to pay the principal and interest on bonds or certificates of participation issued by, or on behalf of, or at the request of the district.

(C) At regular intervals, at least once each month, submit to the secretary of the district a written report and accounting of all receipts and disbursements and fund balances, a copy of which report he or she shall file with the board.

(2) The treasurer may appoint a deputy or deputies for whose acts the treasurer and the treasurer's bondsmen shall be responsible. The deputy or deputies shall hold office subject to the pleasure of the treasurer and shall receive compensation as may be provided by the board.

(3) The treasurer shall execute a bond covering the faithful performance by him or her of the duties of the treasurer's office and his or her duties with respect to all moneys coming into his or her hands as treasurer in an amount fixed by resolution of the board. The surety bond required by this paragraph shall be executed only by a surety company authorized to do business in the State of California and the premium therefor shall be paid by the district. The bond shall be approved by the board and filed with the secretary of the district.

(4) The treasurer, before entering upon the duties of his or her office, shall take and file with the secretary of the district the oath of office required by the California Constitution.

SEC. 4. Section 23 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 23. The district and the board may sue and be sued in all actions and proceedings in all courts and tribunals of competent jurisdiction.

The district also may bring an action to determine the validity of any of its taxes, revenues, rates, charges, bonds, warrants, contracts, obligations, or evidences of indebtedness pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 5. Section 26 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session) is repealed.

SEC. 6. Section 27 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 587 of the Statutes of 1975, is amended to read:

Sec. 27. The district may exercise the right of eminent domain within the boundaries of the district to take any property necessary or convenient to the exercise of its powers consistent with Section 4 and pursuant to Section 30.5.

SEC. 7. Section 29 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 168 of the Statutes of 1990, is amended to read:

Sec. 29. (a) (1) The district may issue bonds, borrow money, and incur indebtedness as authorized by law or as provided in this act.

(2) The district also may refund any indebtedness as provided in this act or in any other applicable law, may refund by the issuance of the same type of obligations as those refunded and following the same procedure as at that time may be applicable to the issuance of those obligations, and may retire any indebtedness or lien that may exist against the district or its property.

(3) For the exclusive purpose of securing financing or refinancing of any project or purpose permitted by this act, through the issuance of bonds or certificates of participation by a joint powers authority, and notwithstanding any other provision of law applicable to borrowing or the issuance of bonds, the district may borrow money or purchase or lease property from the authority. In this connection, the district may sell or lease property to the authority to the extent allowed by subdivision (b) of Section 87, in each case, in accordance with the interest rate or rates, maturity date or dates, installment payment or rental provisions, security, pledge of revenues and other assets, covenants to increase rates and charges, default, remedy, and any other terms or provisions as may be specified in the loan, loan purchase, installment sale, lease, or other agreement or agreements between the district and the authority.

(4) The district may enter into any liquidity or credit agreement it may deem necessary or appropriate in connection with any

financing or refinancing authorized by this section. This section provides a complete, additional, and alternative method of performing the acts authorized by this section, and the borrowing of money, incurring indebtedness, sale, purchase, or lease of property from or to a joint powers authority.

(b) The district may retire any indebtedness that is outstanding as of the effective date of the act amending this section enacted at the 1989–90 Regular Session of the Legislature, that has been incurred by the City of Imperial Beach for the construction or reconstruction of the Imperial Beach pier located upon tide and submerged lands granted to the district by the Legislature pursuant to that act.

SEC. 8. Section 30 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 30. (a) (1) The board may regulate and control the anchoring, mooring, towing, and docking of all vessels.

(2) The board may manage the business of the district and promote the maritime and commercial interests by proper advertisement of its advantages and by the solicitation of business within or outside the district, within other states or in foreign countries, through employees or agencies that are expedient.

(b) (1) The district may perform the functions of warehousemen, stevedores, lighterers, reconditioners, shippers, and reshippers of properties of all kinds.

(2) Within the boundaries of the district, consistent with the provisions of this act, the district may do all of the following:

(A) Acquire, purchase, take over, construct, maintain, operate, develop, and regulate grain elevators, bunkering facilities, belt or other railroads, floating plants, lighterage, towage facilities, and any and all other facilities, aids, equipment, or property necessary for or incident to the development and operation of a harbor or for the accommodation and promotion of commerce, navigation, fisheries, or recreation in the district.

(B) Acquire, purchase, develop, construct, maintain, repair, operate, and regulate highways, streets, roadways, bridges, railroads, trolleys, buses, and similar transportation facilities, parking facilities, power, communication facilities, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient to the development and operation of air terminal and rail facilities, and the other purposes for which the district was established.

SEC. 9. Section 30.5 is added to the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 30.5. (a) The district may undertake the activities authorized in Section 27 or listed in paragraph (2) of subdivision (b) of Section 30 outside of the lands listed in subdivision (b) of Section 5 if all of the following occur:

(1) The activities are adjacent to the lands listed in subdivision (b) of Section 5.

(2) The board finds that adequate areas for these activities do not presently exist within the lands listed in subdivision (b) of Section 5.

(3) The activities are necessary or incidental to carrying out the purposes described in Section 87.

(b) At least 60 days before making a capital expenditure in excess of one hundred thousand dollars ($100,000), but not more than one million dollars ($1,000,000), in or on the lands specified in subdivision (a), the district shall give written notice of that proposed expenditure to the State Lands Commission. The notice shall set forth the trust purposes, as set forth in this act, for which the proposed expenditure will be made.

(c) The district shall not make capital expenditures in excess of one million dollars ($1,000,000) in or on lands listed in subdivision (a) unless the State Lands Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code.

(d) At least 60 days before making a capital expenditure of not more than two hundred fifty thousand dollars ($250,000) in or on the lands that are not adjacent to lands specified in subdivision (b) of Section 5, the district shall give written notice of that proposed expenditure to the State Lands Commission. The notice shall set forth the trust purposes, as set forth in this act, for which the proposed expenditure will be made.

The district shall not make capital expenditures in excess of two hundred fifty thousand dollars ($250,000) in or on lands that are not adjacent to lands specified in subdivision (b) of Section 5 unless the State Lands Commission approves the expenditure pursuant to Chapter 2 (commencing with Section 6701) of Part 2 of Division 6 of the Public Resources Code.

(e) Any property acquired by the district shall become an asset of the public trust and be subject to Section 87.

SEC. 10. Section 41 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 41. Notwithstanding any other provision of this act, the board may borrow money by issuance of negotiable promissory notes, or execute conditional sales contracts to purchase personal property, in an amount or of a value not exceeding in the aggregate at any one time the sum of two hundred thousand dollars ($200,000), for the purposes of the acquisition, construction, completion, or repair of any or all improvements, works, property, or facilities authorized by this act or necessary or convenient for the carrying out of the powers of the district.

Negotiable promissory notes issued pursuant to this section shall mature five years from their respective dates of issuance and shall

bear interest at a rate or rates not exceeding 6 percent per annum payable annually or semiannually.

No conditional sales contract shall be for a term in excess of five years from the date of execution thereof.

The negotiable promissory notes and the conditional sales contracts shall contain any terms and provisions the board specifies in the ordinance providing for the issuance thereof. The negotiable promissory notes shall be signed in the same manner as general obligation bonds of the district and the conditional sales contracts shall be signed in the same manner as other contracts of the district.

As a condition precedent to the issuance of any negotiable promissory notes for the purposes of the acquisition, construction, completion, or repair of any or all improvements, works, property, or facilities authorized by this section or the execution of any conditional sales contract for those purposes, as provided in this section, in excess of twenty-five thousand dollars ($25,000), the board shall first unanimously approve by resolution and have on file a report approved by the executive director on the engineering and economic feasibility relating to the project contemplated for the expenditure of that borrowed money or conditional sales contract. The feasibility report shall be prepared and signed by an engineer or engineers licensed and registered under the laws of the State of California.

Taxes for the payment of all negotiable promissory notes or conditional sales contracts issued under this section shall be levied, collected, paid to the district, and used in the same manner as is hereinafter provided for general obligation bonds of the district.

SEC. 11. Section 42 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 42. (a) Whenever the board deems it necessary for the district to incur a general obligation bonded indebtedness for the acquisition or improvement of real property, authorized by this act or necessary or convenient for the carrying out of the powers of the district, it shall, by ordinance, adopted by two-thirds of all members of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of general obligation bonds of the district. The ordinance shall state all of the following:

(1) The purpose for which the proposed debt is to be incurred, which may include expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(2) The estimated cost of accomplishing the purpose.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 40 years from the date thereof or the date of each series thereof.

(5) The maximum rate of interest to be paid, which shall not exceed 12 percent per annum.

(6) The proposition to be submitted to the voters.

(7) The date of the election.

(8) The manner of holding the election and the procedure for voting for or against the measure.

(b) Notice of the holding of the election shall be given by publishing, pursuant to Section 6066 of the Government Code, the ordinance calling the election in at least one newspaper published in the district. No other notice of the election need be given. Except as otherwise provided in the ordinance, the election shall be conducted as other district elections.

(c) If any proposition is defeated by the electors, the board shall not call another election on a substantially similar proposition to be held within six months after the prior election. If a petition requesting submission of a proposition, signed by 15 percent of the district electors, as shown by the votes cast for all candidates for Governor at the last election, is filed with the board, it may call an election before the expiration of six months.

(d) If two-thirds of the electors voting on the proposition vote for it, then the board may, by resolution, at a time or times as it deems proper, issue bonds of the district for the whole or any part of the amount of the indebtedness so authorized and may, from time to time, in that resolution or resolutions, provide for the issuance of those amounts as the necessity thereof may appear, until the full amount of the bonds authorized have been issued. The full amount of bonds may be divided into two or more series and different dates and different dates of payment fixed for the bonds of each series. A bond need not mature on an anniversary of its date. The maximum term the bonds of any series shall run before maturity shall not exceed 40 years from the date of each series respectively. In the resolution or resolutions the board shall prescribe the form of the bonds and the form of any coupons to be attached thereto, the registration, conversion, and exchange privileges, if any, pertaining thereto, and fix the time when the whole or any part of the principal shall become due and payable.

(e) The bonds shall bear interest at a rate or rates not exceeding 12 percent per annum, payable semiannually, except that the first interest payable on the bonds or any series thereof may be for any period not exceeding one year as determined by the board. In the resolution or resolutions providing for the issuance of the bonds, the board also may provide for call and redemption of the bonds prior to maturity at those times and prices and upon other terms as it may specify, provided that no bond shall be subject to call or redemption prior to maturity unless it contains a recital to that effect or unless a statement to that effect is printed thereon. The denomination or denominations of the bonds shall be stated in the resolution providing for their issuance, but shall not be less than one thousand dollars

($1,000). The principal of and interest on the bonds shall be payable in lawful money of the United States at the office of the treasurer of the district or at any other place or places as may be designated, or at either place or places at the option of the holders of the bonds. The bonds shall be dated, numbered consecutively and signed by the chair and treasurer, countersigned by the clerk, and the official seal of the district attached. The interest coupons of the bonds shall be signed by the treasurer. All signatures, countersignatures, and seal may be printed, lithographed, or mechanically reproduced, except that one of the signatures or countersignatures on the bonds shall be manually affixed. If any officer whose signature or countersignature appears on bonds or coupons ceases to be that officer before the delivery of the bonds, his or her signature is as effective as if he or she had remained in office.

(f) The bonds may be sold, either above or below par, at a price the board determines by resolution. Before selling the bonds, or any part thereof, the board shall give notice inviting sealed bids in a manner that it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

(g) Delivery of any bonds may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

(h) All accrued interest received on the sale of bonds shall be placed in the fund to be used for the payment of principal of and interest on the bonds and the remainder of the proceeds of the bonds shall be placed in the treasury to the credit of the proper improvement fund and applied exclusively to the purpose for which the debt was incurred. However, when that purpose has been accomplished, any moneys remaining in the improvement fund (1) shall be transferred to the fund to be used for the payment of principal of and interest on the bonds, or (2) shall be placed in a fund to be used for the purchase of outstanding bonds of the district. The bonds may be purchased only after publishing, pursuant to Section 6066 of the Government Code, in the district a notice inviting sealed proposals for the sale of bonds to the district. The notice shall state the time and place when proposals will be opened and the amount of money available for the purchase of the bonds and the maximum price to be paid for the bonds so purchased. The notice may be published elsewhere in the United States in the discretion of the board. The board may reject any or all proposals and if it rejects all proposals, the board, within a period of 30 days thereafter, may purchase for cash any outstanding bonds of the district but in that event the purchase price shall not be more than the lowest purchase

price at which bonds were tendered to the district in the public bidding. Any bonds so purchased shall be canceled immediately.

(i) After the expiration of three years after a general obligation bond election, the board may determine, by ordinance adopted by two-thirds of all the members of the board, that any or all of the bonds authorized at the election remaining unsold shall not be issued or sold. When the ordinance takes effect, the authorization to issue the bonds shall become void.

(j) Whenever the board deems that the expenditure of money for the purpose for which the bonds were authorized by the voters is impractical or unwise, it may, by ordinance adopted by two-thirds of all members of the board, so declare and call an election to be held in the district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of the bonds for some other purpose. The procedure, so far as applicable, shall be the same as when a bond proposition is originally submitted.

(k) The board, by resolution and without the necessity of an election, may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the district upon the terms, at the times, and in the manner which it determines. Refunding bonds may be issued in a principal amount sufficient to pay all or any part of the principal of any outstanding bonds, the interest thereon, and the premiums, if any, due upon call redemption thereof prior to maturity and all expenses of that refunding. The provisions for this section for authorization, issuance, and sale of bonds shall apply to the authorization, issuance, and sale of those refunding bonds, except that when refunding bonds are to be exchanged for outstanding bonds, the method of exchange shall be as determined by the board.

(*l*) The district shall not incur a general obligation bonded indebtedness which in the aggregate exceeds 15 percent of the assessed value of all real and personal property in the district.

SEC. 12. Section 51 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 51. (a) Whenever the board deems it necessary for the district to incur a revenue bonded indebtedness for the acquisition, construction, completion, or repair of any or all improvements, works, property, or facilities authorized by this act or necessary or convenient for the carrying out of the powers of the district, the board shall issue those revenue bonds in accordance with 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).

Article 3 (commencing with Section 54380) of Chapter 6 of Part 1 of Division 2 of Title 5 of the Government Code and the limitations set forth in subdivision (b) of Section 54402 of the Government Code shall not apply to the issuance and sale of bonds pursuant to this

section. Instead, by ordinance adopted by two-thirds of all the members of the board and subject to referendum, the board may provide for the issuance of those bonds and, unless the ordinance is subject to referendum, no election shall be required to authorize the issuance of the bonds. To initiate a referendum, a petition protesting against the adoption of the ordinance shall be signed by voters of the district equal in number to at least 5 percent of the entire vote cast within that district for all candidates for Governor at the last gubernatorial election.

The ordinance shall specify all of the following:

(1) The purposes for which the bonds are to be issued, which may include any one or more purposes authorized by this section or this act.

(2) The maximum principal amount of the bonds.

(3) The maximum term for the bonds.

(4) The maximum rate of interest, fixed or variable, to be payable upon the bonds.

(5) The maximum discount or premium on the sale of bonds.

(b) For the purposes of issuing and selling revenue bonds pursuant to this section, the following definitions are applicable to 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):

(1) "Enterprise" means any purpose, operation, facility, system, improvement, or undertaking of the district from which revenues are derived or otherwise allocable, which revenues are or may, by resolution or ordinance, be required to be separately accounted for from other revenues of the district.

(2) "Fiscal agent" means any fiscal agent, trustee, paying agent, depository, or other fiduciary provided for in the ordinance authorizing the issuance of the bonds. The fiscal agent may be located within or without the state.

(3) "Ordinance" means, unless the context otherwise requires, the instrument providing the terms and conditions for the issuance of the revenue bonds, and may be an indenture, resolution, ordinance, lease, installment sale, agreement, or other instrument in writing.

(c) Each ordinance shall provide for the issuance of revenue bonds in the amounts as may be necessary, until the full amount of the bonds authorized has been issued. The full amount of bonds may be divided into two or more series with different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date. Any provision of 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) that is inconsistent with this section or this act shall not be applicable.

(d) The district may issue refunding revenue bonds to redeem or retire any revenue bonds issued by the district upon the terms, at the times, and in the manner which the board, by ordinance, determines.

Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the premiums, if any, due upon call and redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(1) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(2) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(e) This section provides a complete, additional, and alternative method of performing the acts authorized by this section, and the issuance of revenue bonds, including refunding revenue bonds, need not comply with any other law applicable to borrowing or the issuance of bonds.

SEC. 13. Section 61 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as added by Chapter 978 of the Statutes of 1991, is amended to read:

Sec. 61. (a) The district, in any year, may 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 Refunding Act of 1984 for 1915 Improvement Act Bonds (Division 11.5 (commencing with Section 9500) 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 54701) of the Government Code), the Integrated Financing District Act (Chapter 1.5 (commencing with Section 53175) of Part 1 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, if the advances are repaid, with interest as determined by the commissioners, from assessments, reassessments, special taxes, or fees charged by the district pursuant to this section.

(4) To acquire real property, easements, or rights-of-way for a navigation project or the maintenance of a navigation project.

(5) To acquire real property within the district for the disposal of dredged material.

(e) For the 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 the purposes of this section, the board may order the creation of a separate assessment roll to pay the allowable expenses of any single project or any group or system of projects.

(g) Notwithstanding any other provision of law, all assessments, reassessments, and taxes levied by the district may be collected together with, and not separately from, taxes for county purposes. Any county in which the district is located may collect, at the request of the district, all assessments, reassessments, and special taxes levied by the district and shall cause those revenues to be deposited into the county treasury to the credit of the district. Each county may deduct its reasonable collection and administrative costs.

(h) Notwithstanding any other provision of law, any assessment or reassessment levied pursuant to this section may be apportioned on the basis of land use category, tonnage shipped on the waterway, size and type of vessel using the waterway, front footage, acreage, capital improvements, or other reasonable basis, separately or in combination, as determined by the district commissioners.

(i) Notwithstanding any other provision of law, Division 4 (commencing with Section 2800) of the Streets and Highways Code shall not apply to any assessment levied by the district.

(j) Notwithstanding any other provision of law, no bond issued pursuant to this section shall be used to fund the routine maintenance dredging of channels.

SEC. 14. Section 66 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 66. Notwithstanding any other provisions of this act or any other law, the provisions of all ordinances, resolutions, and other proceedings in the issuance by the district of any general obligation bonds, general obligation bonds with a pledge of revenues, revenue bonds, negotiable promissory notes, or any and all evidences of indebtedness or liability shall constitute a contract between the district and the holders of those bonds, notes, or evidences of indebtedness or liability and the provisions thereof, and the provisions of this act shall be enforceable against the district, any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction. Nothing contained in this act or in any other law shall be held to relieve the district or the territory included within it from any bonded or other debt or liability contracted by the district. Upon dissolution of the district or upon withdrawal of territory therefrom, the property formerly included within the district or withdrawn therefrom shall continue to be liable for the payment of all bonded and other indebtedness or liabilities outstanding at the time of the dissolution or withdrawal the same as if the district had not been so dissolved or the territory withdrawn therefrom, and it shall be the duty of the successors or assigns to provide for the payment of that bonded and other indebtedness and liabilities. To the extent provided in the proceedings for the authorization, issuance, and sale of any revenue bonds or general obligation bonds secured by a pledge of revenues, revenues of any kind or nature derived from any revenue-producing improvements, works, facilities, or property owned, operated, or controlled by the district may be pledged, charged, assigned, and have a lien thereon for the payment of those bonds as long as the bonds are outstanding, regardless of any change in ownership, operation, or control of those revenue-producing improvements, works, facilities, or property, and it shall be the duty of the successors or assigns to continue to maintain and operate those revenue-producing improvements, works, facilities, or property as long as the bonds are outstanding.

SEC. 15. Section 72 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 349 of the Statutes of 1965, is amended to read:

Sec. 72. The officers of the district shall be as follows:

(a) An auditor.

(b) An executive director.

(c) An attorney.

(d) A clerk.

(e) A treasurer.

(f) A chief engineer.

The auditor, executive director, and attorney shall be appointed by the board. The auditor and attorney shall appoint deputies or assistants as authorized by the board. All other officers and employees shall be appointed by the executive director. All officers appointed by the executive director shall be confirmed by the board.

SEC. 16. Section 80 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 80. All money received or collected from or arising out of the use or operation of any harbor or port improvement, work, appliance, facility or utility, or vessel, owned, controlled or operated by the district; all tolls, charges and rentals collected by the board, and all compensation, or fees required to be paid for franchises or licenses, or otherwise by law or ordinance or order, to the district for the operation of any public service utility upon lands or waters under the control and management of the board, shall be deposited in the treasury of the district to the credit of the San Diego Unified Port District Revenue Fund. The money in or belonging to the fund shall not be appropriated or used for any purpose except those enumerated in this act and any enumeration shall not be deemed to create any priority of one use or purpose over another.

SEC. 17. Section 86 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 86. The executive director may make application in writing to the board for a transfer of amounts from one appropriated item to another in the budget allowance. On the approval of the board by a two-thirds vote, the auditor shall make the transfer, but a transfer shall not be made except as herein provided. Any transfer of bond or note proceeds or of bond or note service, reserve, or sinking funds shall be made only as provided in the proceedings authorizing the issuance of those bonds.

SEC. 18. Section 87 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 87. (a) The tide and submerged lands conveyed to the district by any city included in the district shall be held by the district and its successors in trust and may be used for purposes in which there is a general statewide purpose, as follows:

(1) For the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation.

(2) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities.

(3) For the establishment, improvement, and conduct of airport and heliport or aviation facilities, including, but not limited to, approach, takeoff, and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance, and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of air commerce and air navigation.

(4) For the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(5) For the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, parks, playgrounds, bathhouses and bathing facilities, recreation and fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any such uses.

(6) For the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of those uses, including, but not limited to, snack bars, cafes, restaurants, motels, launching ramps, and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways, and landscaped areas.

(7) For the establishment and maintenance of those lands for open space, ecological preservation, and habitat restoration.

(b) The district or its successors shall not, at any time, grant, convey, give, or alienate those lands, or any part thereof, to any individual, firm, or corporation for any purposes whatever. However, the district, or its successors, may grant franchises thereon for limited periods, not exceeding 66 years, for wharves and other public uses and purposes, and may lease those lands, or any part thereof, for limited periods, not exceeding 66 years, for purposes consistent with

the trusts upon which those lands are held by the State of California, and with the requirements of commerce and navigation, and collect and retain rents and other revenues from those leases, franchises, and privileges. Those lease or leases, franchises, and privileges may be for any and all purposes which shall not interfere with commerce and navigation.

(c) Those lands shall be improved without expense to the state. However, nothing in this section shall preclude expenditures for the development of those lands for any public purpose not inconsistent with commerce, navigation, and fishery, by the state, or any board, agency, or commission thereof, when authorized or approved by the district, or preclude expenditures by the district of any funds received for that purpose from the state or any board, agency, or commission thereof.

(d) In the management, conduct, operation, and control of those lands or any improvements, betterments, or structures thereon, the district or its successors shall make no discrimination in rates, tolls, or charges for any use or service in connection therewith.

(e) The State of California shall have the right to use without charge any transportation, landing or storage improvements, betterments, or structures constructed upon those lands for any vessel or other watercraft, aircraft, or railroad owned or operated by the State of California.

(f) There is hereby reserved to the people of the State of California the right to fish in the waters on those lands with the right of convenient access to that water over those lands for that purpose.

(g) There is hereby excepted and reserved in the State of California all deposits of minerals, including oil and gas, in those lands, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove deposits from said lands.

(h) Those lands shall be held subject to the express reservation and condition that the state may at any time in the future use those lands or any portion for highway purposes without compensation to the district, its successors or assigns, or any person, firm, or public or private corporation claiming under it, except that in the event improvements, betterments, or structures have been placed upon the property taken by the state for those purposes, compensation shall be made to the district, its successors, or assigns, or any person, firm, or public or private corporation entitled thereto for the value of his or her or its interest in the improvements, betterments, or structures taken or the damages to that interest.

(i) The State lands Commission, at the cost of the district, shall survey and monument those lands and record a description and plat thereof in the office of the County Recorder of San Diego County.

(j) As to any tide and submerged lands conveyed to the district by a city that are subject to a condition contained in a grant of those lands to the city by the state that those lands shall be substantially improved

within a designated period or else they shall revert to the state, that condition shall remain in effect as to those lands and shall be applicable to the district.

As to any tide and submerged lands conveyed to the district by a city that are not subject to such a condition contained in a grant by the state and that have not heretofore been substantially improved, those lands, within 10 years from July 12, 1962, shall be substantially improved by the district without expense to the state. If the State Lands Commission determines that the district has failed to improve the lands as herein required, all right, title, and interest of the district in and to those lands shall cease and the lands shall revert and rest in the state.

CHAPTER 400

An act to amend Section 23101 of, and to amend and renumber Section 12467 of, the Government Code, to amend Section 11011 of the Streets and Highways Code, and to amend Sections 32551 and 50707 of the Water Code, relating to local agencies.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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 1996.

SEC. 2. (a) The Legislature finds and declares that Californians desire their governments to 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.

(b) 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. 3. Section 12467 of the Government Code is amended and renumbered to read:

12468. The Controller shall regularly audit the apportionment and allocation by counties of property tax revenue pursuant to this chapter, in accordance with the following schedule:

(a) For counties with a population in excess of 5,000,000 the audit shall be performed annually.

(b) For counties with a population greater than 200,000 and less than 5,000,000, the audit shall be performed on a three-year cycle.

(c) For counties with a population of 200,000 or less, the audit shall be performed on a five-year cycle.

(d) The Controller may, at his or her discretion, perform audits more frequently than provided in subdivisions (b) and (c).

(e) The Controller shall annually submit a report to the Legislature containing a description of the audit findings for each county that was audited during the prior year. The report shall contain recommendations to the Legislature for legislation to correct any errors in the apportionment and allocation of property tax revenues that were determined as a result of these audits.

SEC. 4. 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 intersection thereof with the generally most southern line of Parcel 1(R/W) of exhibit "B" of the FINAL ORDER OF CONDEMNATION to Contra Costa County Water District, an agency of the State of California, as recorded December 3, 1993, under Series No. 93425262 Official Records Alameda County, California; said intersection point being northeasterly 12,512 feet, more or less, from County Boundary Monument 89-1, as shown on "Joint Boundary Retracement Survey Alameda and Contra Costa Counties Monument Map, Exhibit 3," dated February 1962 and filed under Alameda County file no. 64-A-29-1; thence southerly, westerly, and northwesterly along said most southern line to the reintersection with the aforementioned boundary line between Alameda and Contra Costa, said reintersection point being northeasterly 10,353 feet, more or less, from County Boundary Monument 89-1; thence westerly along said boundary line between Alameda and Contra Costa 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 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 of 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; thence continuing westerly along said boundary line between Alameda and Contra Costa 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 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. 5. Section 11011 of the Streets and Highways Code is amended to read:

11011. "Vehicle Parking District Law of 1943" means the Vehicle Parking District Law of 1943, Part 1 (commencing with Section 31500) of Division 18 of the Streets and Highways Code, as that statute existed on December 31, 1973.

SEC. 6. Section 32551 of the Water Code is amended to read:

32551. The procedure for such annexation shall be the same as the procedure for annexing land to a district set forth in Chapter 2 (commencing with Section 57075) of Part 4 of Division 3 of Title 5 of the Government Code, without the preliminary proceedings provided in Chapter 5 (commencing with Section 56825) of Part 3 of Division 3 of Title 5.

SEC. 7. Section 50707 of the Water Code is amended to read:

50707. (a) Notwithstanding any other provision of law and regardless of the number of eligible voters within its boundaries, a district may, by resolution of its governing board, conduct any

election by all-mailed ballots pursuant to Division 4 (commencing with Section 4000) of the Elections Code.

(b) An election conducted pursuant to this section shall be held on a date prescribed in Section 1501 of the Elections Code or on any other date other than an established election date.

SEC. 8. (a) In addition to the authority granted in Section 54953 of the Government Code, the Board of Supervisors of Santa Barbara County and a standing committee composed of members of the Board of Supervisors of Santa Barbara County that is a legislative body within the meaning of subdivision (b) of Section 54952 of the Government Code may use teleconferencing for the benefit of the public or the legislative body in connection with any meeting or proceeding authorized by law. The use of teleconferencing by the board under this section shall be limited to receipt of testimony by staff and members of the public and to deliberations of the legislative body. If the legislative body elects to use teleconferencing, it shall post agendas at all teleconference locations, which shall be open to the public. The legislative body shall adopt reasonable regulations to adequately protect the statutory or constitutional rights of the parties or the public appearing before the legislative body.

(b) The term "teleconference" as used in this section means a system that provides for audio participation between all members of the legislative body and the public attending a meeting or hearing.

(c) The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of Santa Barbara County that require extensive travel by county supervisors and staff to attend regular meetings.

CHAPTER 401

An act to amend Section 50052.5 of the Government Code, and to amend Section 7663 of the Probate Code, relating to unclaimed property.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 50052.5 of the Government Code is amended to read:

50052.5. (a) Notwithstanding Section 50052, the treasurer may release to the depositor of the unclaimed money, their heir, beneficiary, or duly appointed representative, unclaimed money if claimed prior to the date the money becomes the property of the

local agency upon submitting proof satisfactory to the treasurer, unless the unclaimed money is deposited pursuant to Section 7663 of the Probate Code.

(b) Notwithstanding Section 50052, the treasurer may release unclaimed money deposited with the county treasurer pursuant to Section 7663 of the Probate Code, to any blood relative of either the decedent or the decedent's predeceased spouse.

The claim shall be presented to the county treasurer in affidavit form and signed under penalty of perjury. Notwithstanding Section 13101 of the Probate Code, the claimant, to be entitled to the entire escheated estate, needs only to establish with documentary proof the existence of a blood relationship to either the decedent or of the predeceased spouse, if any, and the documentary proof, if regular on its fact, need not be certified. Notwithstanding Section 13101 of the Probate Code, the claimant shall not be required to declare that no other person has an equal or superior claim to the escheated estate.

The county treasurer may rely in good faith on the sworn statements made in the claim and shall have no duty to inquire into the truth or credibility of evidence submitted.

In paying out the escheated estate, the county treasurer shall be held harmless to all. Payment shall act as total acquittance and shall completely discharge the county treasurer from any liability.

If the county treasurer rejects any claim made hereunder, the claimant may take his or her grievance to the Superior Court of the county holding the escheated estate.

Any claim paid hereunder shall be paid without interest.

SEC. 2. Section 7663 of the Probate Code is amended to read:

7663. (a) After payment of debts pursuant to Section 7662, but in no case before four months after court authorization of the public administrator to act under this article or after the public administrator takes possession or control of the estate, the public administrator shall distribute to the decedent's beneficiaries any money or other property of the decedent remaining in the possession of the public administrator.

(b) If there are no beneficiaries, the public administrator shall deposit the balance with the county treasurer for use in the general fund of the county, subject to Article 3 (commencing with Section 50050) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code. If the amount deposited exceeds five thousand dollars ($5,000), the public administrator shall at the time of the deposit give the Controller written notice of the information specified in Section 1311 of the Code of Civil Procedure.

CHAPTER 402

An act to amend Section 798.29 of the Civil Code, and to add Section 18253.5 to the Health and Safety Code, relating to mobilehome parks.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 798.29 of the Civil Code is amended to read:

798.29. The management shall post a mobilehome ombudsman sign provided by the Department of Housing and Community Development, as required by Section 18253.5 of the Health and Safety Code.

SEC. 2. Section 18253.5 is added to the Health and Safety Code, to read:

18253.5. (a) The department shall provide to each mobilehome park licensed to operate under this part a sign in large boldface print, with the name, address, and telephone number of the mobilehome ombudsman designated under Chapter 9 (commencing with Section 18150) of Part 2. The sign shall be posted by the management in the mobilehome park clubhouse or in another conspicuous public place within the mobilehome park.

(b) (1) The enforcement of the posting of the ombudsman sign required by subdivision (a) may be accomplished by telephonic or written communication, or by site inspection in response to a specific complaint concerning the posting of the sign, by site inspection in response to a combination of complaints concerning the posting of the sign and other alleged code violations, or pursuant to the mobilehome park inspection program set forth in Section 18400.1.

(2) This section does not require that enforcement of its provisions be accomplished by site inspection of every mobilehome park, or reissuance of a new ombudsman sign to every mobilehome park in the enforcement agency's jurisdiction to ensure that the ombudsman signs required by this section are posted.

(c) Notwithstanding any other provision of this part, a violation of this section is an infraction.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 403

An act to amend Section 4080 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 4080 of the Welfare and Institutions Code is amended to read:

4080. (a) Psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, shall only be licensed by the State Department of Mental Health subsequent to application by counties, county contract providers, or other organizations pursuant to this part.

(b) (1) For counties or county contract providers that choose to apply, the local mental health director shall first present to the local mental health advisory board for its review an explanation of the need for the facility and a description of the services to be provided. The local mental health director shall then submit to the governing body the explanation and description. The governing body, upon its approval, may submit the application to the State Department of Mental Health.

(2) Other organizations that will be applying for licensure and do not intend to use any Bronzan-McCorquodale funds pursuant to Section 5707 shall submit to the local mental health director and the governing body in the county in which the facility is to be located a written and dated proposal of the services to be provided. The local mental health director and governing body shall have 30 days during which to provide any advice and recommendations regarding licensure, as they deem appropriate. At any time after the 30-day period, the organizations may then submit their applications, along with the mental health director's and governing body's advice and recommendations, if any, to the State Department of Mental Health.

(c) The State Fire Marshal and other appropriate state agencies, to the extent required by law, shall cooperate fully with the State Department of Mental Health to ensure that the State Department of Mental Health approves or disapproves the licensure applications not later than 90 days after the application submission by a county, county contract provider, or other organization.

(d) Every psychiatric health facility and program for which a license has been issued shall be periodically inspected by a multidisciplinary team appointed or designated by the State Department of Mental Health. The inspection shall be conducted no less than once every two years and as often as necessary to ensure the quality of care provided. During the inspections the review team shall offer such advice and assistance to the psychiatric health facility as it deems appropriate.

(e) (1) The program aspects of a psychiatric health facility that shall be reviewed and may be approved by the State Department of Mental Health shall include, but not be limited to:

(A) Activities programs.
(B) Administrative policies and procedures.
(C) Admissions, including provisions for a mental evaluation.
(D) Discharge planning.
(E) Health records content.
(F) Health records services.
(G) Interdisciplinary treatment teams.
(H) Nursing services.
(I) Patient rights.
(J) Pharmaceutical services.
(K) Program space requirements.
(L) Psychiatrist and clinical psychological services.
(M) Rehabilitation services.
(N) Restraint and seclusion.
(O) Social work services.
(P) Space, supplies, and equipment.
(Q) Staffing standards.
(R) Unusual occurrences.
(S) Use of outside resources, including agreements with general acute care hospitals.
(T) Linguistic access and cultural competence.
(U) Structured outpatient services to be provided under special permit.

(2) The State Department of Mental Health has the sole authority to grant program flexibility.

(f) The State Department of Mental Health shall adopt regulations that shall include, but not be limited to, all of the following:

(1) Procedures by which the State Department of Mental Health shall review and may approve the program and facility requesting licensure as a psychiatric health facility as being in compliance with program standards established by the department.

(2) Procedures by which the Director of Mental Health shall approve, or deny approval of, the program and facility licensed as a psychiatric health facility pursuant to this section.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program and facility standards.

(4) Provisions for the State Department of Mental Health for any administrative proceeding regarding denial, suspension, or revocation of a psychiatric health facility license.

(5) Procedures for the appeal of an administrative finding or action pursuant to paragraph (4) of this subdivision and subdivision (j).

(g) Regulations shall be adopted by the State Department of Mental Health, which shall establish standards for pharmaceutical services in psychiatric health facilities. Licensed psychiatric health facilities shall be exempt from requirements to obtain a separate pharmacy license or permit.

(h) (1) It is the intent of the Legislature that the State Department of Mental Health shall license the facility in order to establish innovative and more competitive and specialized acute care services.

(2) The State Department of Mental Health shall review and may approve the program aspects of public or private facilities, with the exception of those facilities that are federally certified or accredited by a nationally recognized commission that accredits health care facilities, only if the average per diem charges or costs of service provided in the facility is approximately 60 percent of the average per diem charges or costs of similar psychiatric services provided in a general hospital.

(3) (A) When a private facility is accredited by a nationally recognized commission that accredits health care facilities, the department shall review and may approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(B) When a private facility serves county patients, the department shall review and may approve the program aspects only if the facility is federally certified by the Health Care Financing Administration and serves a population mix that includes a proportion of Medi-Cal patients sufficient to project an overall cost savings to the county, and the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(4) When a public facility is federally certified by the Health Care Financing Administration and serves a population mix that includes a proportion of Medi-Cal patients sufficient to project an overall program cost savings with certification, the department shall approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed

approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(5) (A) The State Department of Mental Health may set a lower rate for private or public facilities than that required by paragraph (3) or paragraph (4), respectively if so required by the federal Health Care Financing Administration as a condition for the receipt of federal matching funds.

(B) This section does not impose any obligation on any private facility to contract with a county for the provision of services to Medi-Cal beneficiaries, and any contract for that purpose is subject to the agreement of the participating facility.

(6) (A) In using the guidelines specified in this subdivision, the department shall take into account local conditions affecting the costs or charges.

(B) In those psychiatric health facilities authorized by special permit to offer structured outpatient services not exceeding 10 daytime hours, the following limits on per diem rates shall apply:

(i) The per diem charge for patients in both a morning and an afternoon program on the same day shall not exceed 60 percent of the facility's authorized per diem charge for inpatient services.

(ii) The per diem charge for patients in either a morning or afternoon program shall not exceed 30 percent of the facility's authorized per diem charge for inpatient services.

(i) The licensing fees charged for these facilities shall be credited to the State Department of Mental Health for its costs incurred in the review of psychiatric health facility programs, in connection with the licensing of these facilities.

(j) (1) The State Department of Mental Health shall establish a system for the imposition of prompt and effective civil sanctions against psychiatric health facilities in violation of the laws and regulations of this state pertaining to psychiatric health facilities. If the State Department of Mental Health determines that there is or has been a failure, in a substantial manner, on the part of a psychiatric health facility to comply with the laws and regulations, the director may impose the following sanctions:

(A) Cease and desist orders.

(B) Monetary sanctions, which may be imposed in addition to the penalties of suspension, revocation, or cease and desist orders. The amount of monetary sanctions permitted to be imposed pursuant to this subparagraph shall not be less than fifty dollars ($50) nor more than one hundred dollars ($100) multiplied by the licensed bed capacity, per day, for each violation. However, the monetary sanction shall not exceed three thousand dollars ($3,000) per day. A facility that is assessed a monetary sanction under this subparagraph, and that repeats the deficiency, may, in accordance with the regulations adopted pursuant to this subdivision, be subject to immediate suspension of its license until the deficiency is corrected.

(2) The department shall adopt regulations necessary to implement this subdivision and paragraph (5) of subdivision (f) 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). No later than January 1, 1998, the department shall adopt emergency regulations necessary to implement this subdivision and paragraph (5) of subdivision (f) 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). This initial adoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These emergency regulations shall remain in effect for no more than 180 days. The certificate of compliance, as provided for in subdivision (e) of Section 11346.1 of the Government Code, for the emergency regulations adopted pursuant to this paragraph shall be submitted to the Office of Administrative Law no later than July 1, 1998.

(k) Proposed changes in the standards or regulations affecting health facilities that serve the mentally disordered shall be effected only with the review and coordination of the Health and Welfare Agency.

(*l*) In psychiatric health facilities where the clinical director is not a physician, a psychiatrist, or if one is temporarily not available, a physician shall be designated who shall direct those medical treatments and services that can only be provided by, or under the direction of, a physician.

CHAPTER 404

An act to amend Section 4905 of the Business and Professions Code, relating to veterinary medicine, and making an appropriation therefor.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 4905 of the Business and Professions Code is amended to read:

4905. The following fees shall be collected by the board and shall be credited to the Veterinary Medical Board Contingent Fund:

(a) (1) The fee for filing an application for examination shall be set by the board in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed three hundred twenty-five dollars ($325) for the

national examination, and not more than two hundred fifty dollars ($250) for the California state board examination.

(2) Notwithstanding paragraph (1), the fee for filing an application for examination shall be established at an amount not to exceed two hundred fifty dollars ($250) for the national examination, if the board becomes inoperative on July 1, 1998, pursuant to Section 4800.

(b) The initial license fee shall be set by the board at not more than two hundred fifty dollars ($250) except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be set by the board at not more than one hundred twenty-five dollars ($125). The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(c) The renewal fee shall be set by the board for each biennial renewal period in an amount it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed two hundred fifty dollars ($250).

(d) The delinquency fee shall not exceed twenty-five dollars ($25).

(e) The fee for issuance of a duplicate license is ten dollars ($10).

(f) The board may make a charge for records, transcripts, and other official documents pertaining to the affairs of the board.

(g) The fee for failure to report a change in the place of practice is fifteen dollars ($15).

(h) The initial and annual renewal fees for registration of veterinary premises shall be set by the board in an amount not to exceed one hundred dollars ($100) annually.

(i) If the money transferred from the Veterinary Medical Board Contingent Fund to the General Fund pursuant to the Budget Act of 1991 is redeposited into the Veterinary Medical Board Contingent Fund, the fees assessed by the board shall be reduced correspondingly. However, the reduction shall not be so great as to cause the Veterinary Medical Board Contingent Fund to have a reserve of less than three months of annual authorized board expenditures. The fees set by the board shall not result in a Veterinary Medical Board Contingent Fund reserve of more than 10 months of annual authorized board expenditures.

CHAPTER 405

An act to amend and renumber Section 10605 of the Health and Safety Code, and to amend Section 350 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 10605 of the Health and Safety Code, as amended by Chapter 880 of the Statutes of 1995, is amended and renumbered to read:

103625. (a) A fee of three dollars ($3) shall be paid by the applicant for a certified copy of a fetal death or death record.

(b) (1) A fee of three dollars ($3) shall be paid by a public agency or licensed private adoption agency applicant for a certified copy of a birth certificate that the agency is required to obtain in the ordinary course of business. A fee of seven dollars ($7) shall be paid by any other applicant for a certified copy of a birth certificate. Four dollars ($4) of any seven dollar ($7) fee is exempt from subdivision (e) and shall be paid either to a county children's trust fund or to the State Children's Trust Fund, in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(2) The board of supervisors of any county that has established a county children's trust fund may increase the fee for a certified copy of a birth certificate by up to three dollars ($3) for deposit in the county children's trust fund in conformity with Article 5 (commencing with Section 18965) of Chapter 11 of Part 6 of Division 9 of the Welfare and Institutions Code.

(3) The board of supervisors of any county may increase the fee for a certified copy of a birth certificate by up to three dollars ($3) through December 31, 1998, or upon such earlier date as the board of supervisors finds that the fee is no longer necessary for dependency mediation funding, the proceeds of which shall be used solely for the purpose of providing dependency mediation services in the juvenile court. Public agencies shall be exempt from paying this portion of the fee. However, if a county increases this fee, neither the revenue generated from the fee increase nor the increased expenditures made for these services shall be considered in determining the court's progress towards achieving its cost reduction goals pursuant to Section 68113 of the Government Code if the net effect of the revenue and expenditures is a cost increase. In each county that increases the fee pursuant to this paragraph, up to 5 percent of the revenue generated from the fee increase may be apportioned to the county recorder for the additional accounting costs of the program.

(c) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage record, that has been filed with the county recorder or county clerk, that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage

record that has been filed with the county recorder or county clerk. Three dollars ($3) of any six-dollar ($6) fee is exempt from subdivision (e) and shall be transmitted monthly by each local registrar, county recorder, and county clerk to the state for deposit into the General Fund as provided by Section 1852 of the Family Code.

(d) A fee of three dollars ($3) shall be paid by a public agency applicant for a certified copy of a marriage dissolution record obtained from the State Registrar that the agency is required to obtain in the ordinary course of business. A fee of six dollars ($6) shall be paid by any other applicant for a certified copy of a marriage dissolution record obtained from the State Registrar.

(e) Each local registrar, county recorder, or county clerk collecting a fee pursuant to this section shall transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

(f) The additional three dollars ($3) authorized to be charged to applicants other than public agency applicants for certified copies of marriage records by subdivision (c) may be increased pursuant to Section 114.

(g) In providing for the expiration of the surcharge on birth certificate fees on December 31, 1998, the Legislature intends that juvenile dependency mediation programs pursue ancillary funding sources after that date.

SEC. 2. Section 350 of the Welfare and Institutions Code is amended to read:

350. (a) (1) The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in an informal nonadversary atmosphere with a view to obtaining the maximum cooperation of the minor upon whose behalf the petition is brought and all persons interested in his or her welfare with any provisions that the court may make for the disposition and care of the minor.

(2) Each juvenile court is encouraged to develop a dependency mediation program to provide a problem-solving forum for all interested persons to develop a plan in the best interests of the child, emphasizing family preservation and strengthening. The Legislature finds that mediation of these matters assists the court in resolving conflict, and helps the court to intervene in a constructive manner in those cases where court intervention is necessary. Notwithstanding any other provision of law, no person, except the mediator, who is required to report suspected child abuse pursuant to the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of

the Penal Code), shall be exempted from those requirements under Section 1152.5 of the Evidence Code because he or she agreed to participate in a dependency mediation program established in the juvenile court.

If a dependency mediation program has been established in a juvenile court, and if mediation is requested by any person who the judge or referee deems to have a direct and legitimate interest in the particular case, or on the court's own motion, the matter may be set for confidential mediation to develop a plan in the best interests of the child, utilizing resources within the family first and within the community if required.

(b) The testimony of a minor may be taken in chambers and outside the presence of the minor's parent or parents, if the minor's parent or parents are represented by counsel, the counsel is present and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(c) At any hearing in which the probation department bears the burden of proof, after the presentation of evidence on behalf of the probation department and the minor has been closed, the court, on motion of the minor, parent, or guardian, or on its own motion, shall order whatever action the law requires of it if the court, upon weighing all of the evidence then before it, finds that the burden of proof has not been met. That action includes, but is not limited to, the dismissal of the petition and release of the minor at a jurisdictional hearing, the return of the minor at an out-of-home review held prior to the permanency planning hearing, or the termination of jurisdiction at an in-home review. If the motion is not granted, the parent or guardian may offer evidence without first having reserved that right.

CHAPTER 406

An act to add Section 201.7 to the Corporations Code, and to amend Sections 11535, 11536, 11537, 11538, 11539, 11540, 11541, 11542, and 11543 of, and to add Sections 11535.1, 11537.1, 11537.2, 11537.3, 11541.1,

11542.1, 11542.2, 11543.1, 11547, and 11548 to, the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 201.7 is added to the Corporations Code, to read:

201.7. Upon receipt of a certified copy of the commissioner's authorization issued pursuant to subdivision (a) of Section 11542 of the Insurance Code and subject to subdivision (a) of Section 110 of the Corporations Code, the Secretary of State shall accept for filing the certificate of amendment of the articles of incorporation of the domestic mutual insurer certified by the secretary thereof.

Upon receipt of a certified copy of the commissioner's authorization to file articles of incorporation of a mutual holding company and a stock holding company authorized pursuant to conversion proceedings pursuant to subdivision (a) of Section 11542 of the Insurance Code and subject to subdivision (a) of Section 110 of the Corporations Code, the Secretary of State shall accept for filing the articles of incorporation of the mutual holding company and stock holding company.

SEC. 2. Section 11535 of the Insurance Code is amended to read:

11535. (a) A domestic incorporated mutual life insurer, or life and disability insurer, issuing nonassessable policies on a reserve basis may be converted into an incorporated stock life or stock life and disability insurer issuing, on a reserve basis, nonassessable policies of life insurance or of both life and disability insurance. To that end it may provide and carry out a plan for the conversion by complying with the requirements of this chapter.

(b) A domestic incorporated mutual insurer not referred to in subdivision (a), which may be referred to in this chapter as a mutual property-casualty insurer, may be converted into an incorporated stock insurer. To that end it may provide and carry out a plan for the conversion by complying with the requirements of this chapter.

(c) A mutual holding company may be converted into a stock corporation. To that end, it may provide and carry out a plan for the conversion by complying with the requirements of this chapter.

(d) As part of the conversion authorized in this section, a domestic incorporated mutual insurer may merge with an incorporated stock insurer, if the merging insurers comply with the provisions of this code applicable to their participation in the merger, or may transfer its domicile to any other state, if the insurer complies with Section 709.5.

SEC. 3. Section 11535.1 is added to the Insurance Code, to read:

11535.1. The definitions in this section apply to the following terms when used in this chapter.

(a) "Adoption date" means the date the board of directors adopts the plan of conversion.

(b) "Converted company" means the converted insurer or converted mutual holding company, as the case may be.

(c) "Converted insurer" means the incorporated stock insurer into which a mutual insurer has been converted or merged or redomiciled in accordance with the provisions of this chapter.

(d) "Converted mutual holding company" means the stock corporation into which a mutual holding company has been converted in accordance with this chapter.

(e) "Converting mutual life company" means, for a plan of conversion under this chapter, the mutual life insurer or mutual holding company that is converting under such a plan.

(f) "Effective date" means, for the conversion of a mutual life insurer, the date upon which the conversion of the mutual life insurer is effective, as specified in the commissioner's amendment to the mutual life insurer's certificate of authority issued in accordance with Section 11542, as a result of conversion proceedings under this chapter. For the conversion of a mutual holding company, "effective date" means the date upon which the conversion of a mutual holding company is effective, as specified in the amended articles of incorporation of the mutual holding company filed with the Secretary of State in accordance with Section 11542, as a result of conversion proceedings under this chapter.

(g) "Eligible members" means, for the conversion of a mutual life insurer, the members of the mutual life insurer who are of record on the mutual life insurer's adoption date and on its effective date. For the conversion of a mutual holding company, "eligible members" means the members of the mutual holding company who are of record on the mutual holding company's adoption date and on its effective date.

(h) "Member" means a person who, by the records of the mutual company and by its articles of incorporation or bylaws, is deemed to be a holder of a membership interest in the mutual company. For a mutual life insurer, a plan of conversion may provide that the term "member" also includes a person who is the owner of a policy issued or assumed by an insurer, that, pursuant to court order, is to be merged into the converted company. On and after the effective date of a plan of conversion that creates a mutual holding company, the term "member" means a member of a mutual holding company, as provided in Section 11542.1.

(i) "Membership interests" means the interests of members arising under this code and the articles of incorporation and bylaws of the mutual company or otherwise by law. Membership interests include the right to vote for directors of the mutual company and the right to vote on any plan of merger, consolidation, reinsurance, or

transfer of assets and liabilities of the mutual company. Membership interests do not include members' rights in surplus, if any.

(j) "Mutual company" means, in the case of a plan of conversion, the mutual life insurer, mutual property-casualty insurer, or mutual holding company that is converting pursuant to such plan.

(k) "Mutual holding company" means a corporation organized under the laws of this state subject to the General Corporation Law as set forth in the Corporations Code. The articles of incorporation of a mutual holding company shall contain provisions stating the following:

(1) It is a mutual holding company organized under this chapter.

(2) One purpose of the mutual holding company is to hold not less than 51 percent of the voting stock of a stock holding company, which in turn holds all of the voting stock of a converted life insurer.

(3) It is not authorized to issue voting stock.

(4) Its members have the rights specified in Section 11542.1 and in its articles of incorporation and bylaws.

(5) Its assets and liabilities are subject to inclusion in the estate of the converted insurer in any proceedings successfully prosecuted against the converted insurer under Article 14 (commencing with Section 1010) or Article 14.3 (commencing with Section 1064.1) of Chapter 1 of Part 2 of Division 1.

(*l*) "Mutual insurer" means, in the case of a plan of conversion under this chapter, the mutual life insurer or mutual property-casualty insurer that is converting pursuant to such plan.

(m) "Mutual life insurer" means a domestic incorporated mutual life insurer, or domestic mutual life and disability insurer, that issues nonassessable policies on a reserve basis.

(n) "Person" means an individual, partnership, firm, association, corporation, joint-stock company, limited liability company, trust, government or governmental agency, state or political subdivision of a state, public or private corporation, board, association, estate, trustee, or fiduciary, or any similar entity.

(o) "Plan of conversion" or "plan" means a plan adopted by a mutual company in compliance with this chapter.

(p) "Policy" means an individual or group policy of insurance issued by a life insurer. If a policy of a mutual life insurer takes a form other than an individual form but holders of certificates or other interests under the policy are treated by the mutual life insurer as if they were holders of individual policies, the mutual life insurer may provide in its plan of conversion under this chapter that such a certificate or other interest is deemed to be a policy and deem the holder of the certificate or other interest to be an owner of a policy. Such a provision shall be for the sole purpose of determining the rights, if any, of policyholders of the mutual life insurer to vote upon and receive consideration under the plan of conversion and may not affect the other voting rights and qualifications of members of the mutual life insurer.

(q) "Policyholder" means the holder of a policy other than a reinsurance contract.

(r) "Rights in surplus," for a mutual life insurer, means rights of members of the insurer to a return of that portion of the surplus that has not been apportioned or declared by the board of directors for policyholder dividends. "Rights in surplus" includes rights of members of the insurer to a distribution of surplus in liquidation or conservation of the insurer under this code, or in a dissolution or winding up. "Rights in surplus," for a mutual holding company, means rights of members of the company to a return of any surplus that has not been apportioned or declared by its board of directors for member dividends. "Rights in surplus" includes rights of members of the mutual holding company to a distribution of surplus in liquidation or conservation of the insurer under this code, or in a dissolution or winding up. "Rights in surplus" does not include any right expressly conferred solely by the terms of an insurance policy.

(s) "Stock holding company" means a corporation authorized to issue one or more classes of capital stock, the corporate purposes of which include holding all of the voting stock in an insurer that has been converted from a mutual life insurer to a stock life insurer in proceedings under Section 11537.2 in which a mutual holding company is formed.

(t) "Voting stock" means securities of any class or any ownership interest having voting power for the election of directors, trustees, or management of a person, other than securities having voting power only because of the occurrence of a contingency. All references to a specified percentage of voting stock of any person mean securities having the specified percentage of the voting power in that person for the election of directors, trustees, or management of that person, other than securities having voting power only because of the occurrence of a contingency.

SEC. 4. Section 11536 of the Insurance Code is amended to read:

11536. The plan of conversion shall include appropriate proceedings for amending the mutual company's articles of incorporation to give effect to the conversion from a nonstock corporation into a stock corporation. The plan shall be:

(a) Approved by a resolution of the majority of the board of directors. The resolution shall specify the reasons for and the purposes of the proposed conversion of the mutual company and the manner in which the conversion is expected to benefit and serve the best interests of the policyholders, for a mutual insurer, or members, for a mutual holding company.

(b) Submitted to the commissioner for consent in writing, subject to the provisions of Section 11538, by an application executed by an authorized officer of the mutual company and accompanied by the following documents, or true and correct copies of the documents:

(1) The proposed plan of conversion.

(2) The proposed articles of incorporation of each corporation that is a constituent corporation of the conversion.

(3) The proposed bylaws of each corporation that is a constituent corporation of the conversion.

(4) A list of the officers and directors, together with their biographies in the form customarily required by the commissioner, of each corporation that is a constituent corporation of the conversion.

(5) The resolution of the board of directors of the mutual company, certified by the secretary of the board of directors, authorizing the conversion under this chapter.

(6) Financial statements, which may be prepared on a pro forma basis, in the form required by the commissioner.

(7) For a conversion of a mutual insurer, a plan of operations for the converted insurer.

(8) A summary of the plan of conversion and drafts of written materials to be mailed to members seeking their approval of the plan.

(9) Other relevant information that the commissioner may require.

(c) Approved by a majority vote of the members of the mutual company voting at a meeting of the members called for that purpose, subject to the provisions of Section 11539.

(d) Filed in the office of the commissioner after receipt of the commissioner's consent, and after having been approved as provided in Sections 11538 and 11539, respectively.

SEC. 5. Section 11537 of the Insurance Code is amended to read:

11537. For the conversion of a mutual property-casualty insurer, the plan for conversion shall include the following:

(a) A fair and reasonable formula, approved by the commissioner, for determining the equity of each eligible member in the insurer. The equity shall be based upon an appraisal of the fair value of the insurer by one or more qualified disinterested persons appointed by the insurer with the approval of the commissioner. Those persons shall consider the assets and liabilities of the insurer and any factors bearing on the value of the mutual insurer.

(b) Each eligible member of the mutual insurer shall be given a preemptive right to acquire his or her proportionate part of all of the proposed capital stock of the insurer, within a designated reasonable period, by applying upon the purchase of such part the amount of his or her equity as determined under the formula described in subdivision (a).

(c) The members entitled to participate in the purchase of stock or distribution of assets shall be limited to all current policyholder members whose policies have been of record for not less than one year prior to the date the board of directors adopted the plan of conversion.

(d) Each member not applying his or her equity upon the purchase price of stock shall elect to receive either a cash payment

or a certificate of contribution. The cash payment shall not be greater than 50 percent of his or her equity as determined by the formula in subdivision (a). The certificate of contribution shall be in an amount equal to 100 percent of his or her equity, as determined by the formula in subdivision (a), shall bear interest at the rate established in Section 10489.4 for minimum standard valuation of all life insurance policies of more than 20 years' duration issued in the year, and shall be repayable within 10 years or, if necessary under the terms of the plan, later, only on written approval of the commissioner and only out of surplus in excess of an amount established in the plan. Any member not electing to receive cash or purchase stock shall be deemed to have elected to receive a certificate of contribution. The stock purchased, cash payment, or certificate of contribution shall constitute full payment and discharge of the member's equity or property interest in the mutual insurer, and, notwithstanding any other provision of law, the member shall have no other rights with respect thereto.

(e) The number of shares to be authorized for the new stock insurer, their par value, and the method for determining the price at which the shares will be offered to eligible members, to the end that the plan, when completed, would provide for the converted insurer paid-in capital and surplus in an amount not less than the minimum paid-in capital and surplus required of a domestic stock insurer upon initial authorization to transact like kinds of insurance.

(f) Provision for the offering to others of shares not purchased by eligible members within the designated period referred to in subdivision (b) at a price not less than the offering price to members.

SEC. 6. Section 11537.1 is added to the Insurance Code, to read:

11537.1. For the conversion of a mutual life insurer, the plan of conversion shall provide for either a mutual holding company in compliance with Section 11537.2 or for consideration in compliance with Section 11537.3. For the conversion of a mutual holding company, the plan of conversion shall provide for consideration in compliance with Section 11537.3.

SEC. 7. Section 11537.2 is added to the Insurance Code, to read:

11537.2. A plan of conversion adopted by a mutual life insurer for the establishment of a mutual holding company shall provide that the mutual life insurer will become a stock life insurer, that the members of the mutual life insurer will become members of a mutual holding company, that the mutual holding company will acquire at least 51 percent of the voting stock of the stock holding company, and that the stock holding company will acquire all of the voting stock of the converted insurer.

SEC. 8. Section 11537.3 is added to the Insurance Code, to read:

11537.3. A plan of conversion adopted by a converting mutual life company shall include the following:

(a) (1) The plan provides that each member's membership interests and rights in surplus are extinguished and each eligible

member will receive, without payment, nontransferable subscription rights to purchase a portion of the capital stock of a corporation which will issue the subscription rights, or, in lieu thereof, shares of capital stock or other securities of the issuer, cash, premium credits, or credits to policy account values having an aggregate value equal to the aggregate exercise price of the subscription rights that otherwise would have been allocated to the member. The issuer is either (A) the converted insurer, (B) a corporation, the voting stock of which is owned by the mutual life insurer or the mutual holding company, as the case may be, or by any other persons, that will acquire in the conversion all the voting stock of the converted insurer, or (C) a corporation, all of the voting stock of which is owned by the mutual holding company into which both the mutual holding company and the stock holding company will be merged.

(2) The subscription rights are allocated in whole shares among the eligible members. The subscription rights, capital stock, cash, premium credits, and credits to policy account values are allocated among the eligible members using a fair and equitable formula. This formula will either (A) allocate a fixed component per capita among eligible members (specifying how joint owners will be treated for this purpose) and allocate a variable component among eligible members in proportion to the cash value of policies held by them, or (B) allocate the subscription rights, capital stock, cash, or credits in any other manner that the commissioner may approve.

(b) The plan specifies or authorizes the board of directors of the converting mutual life company to set the expiration date of the subscription rights, if any, allocated by the plan. The exercise price per share of the subscription rights is 50 percent of the price per share at which the capital stock of the issuer is first offered to the public in the offering referred to in subdivision (d), as fixed at the time of the offering by the boards of directors of the converting mutual life company and the issuer or committees of the boards.

(c) The plan provides that any eligible member not exercising the subscription rights, if any, allocated to the member will instead receive alternative forms of consideration having an aggregate value equal to the aggregate exercise price of the subscription rights allocated to the member. The alternative forms of consideration may include shares of capital stock of the issuer, cash, premium credits, or credits to policy account values. The choices available to the eligible member shall be specified in the plan. The choices available may take into account the type of policy, size of policy, tax status of the member, and other factors that the commissioner determines are appropriate.

(d) The plan provides that the issuer will make a public offering of its capital stock at a price determined by the boards of directors of the converting mutual life company and the issuer. The number of shares to be offered is determined according to the plan and may

include any shares issuable upon exercise of subscription rights that are not exercised. The plan may also provide for the issue and sale of securities of the issuer to other persons at the time of the public offering; provided, however that any plan provisions pertaining to the issue and sale of securities to the insurer's officers, directors, employees, agents, and employee benefit plans for their benefit shall be subject to Section 11540.

(e) The plan of a mutual life insurer may provide for the establishment, for policyholder dividend purposes only, of a closed block. The closed block will consist of all of the participating individual policies of life insurance of the mutual life insurer in force on the effective date of the plan for which the insurer had an experience-based dividend scale payable in the year in which the plan is adopted. Assets of the insurer shall be allocated to the closed block in an amount that produces cash-flows, together with anticipated revenues from the closed block business, expected to be sufficient (1) to support the closed block business, including payment of claims and those expenses and taxes specified in the plan and (2) to provide for continuation of dividend scales in effect on the adoption date if the experience underlying the scales continues, and for appropriate adjustments in the scales if the experience changes. The plan may provide for conditions under which the converted insurer may cease to maintain the closed block and its allocated assets. Regardless of such a cessation, the obligation under the policies constituting the closed block business remain the obligations of the converted insurer. Dividends on those policies shall be apportioned by the board of directors of the converted insurer in accordance with the terms of the policies.

SEC. 9. Section 11538 of the Insurance Code is amended to read:

11538. (a) The commissioner shall examine the plan submitted pursuant to subdivision (b) of Section 11536. As a part of the examination the commissioner may order a hearing on the plan after written notice of the hearing to the mutual company, and its members, all of whom shall have the right to appear at the hearing. The commissioner may require as a condition of consent that the mutual company make modifications of the proposed plan that the commissioner finds necessary for the protection of policyholders. The commissioner shall consent to the plan if he or she finds all of the following:

(1) For the conversion of a mutual insurer, the plan is fair and equitable to the insurer and its policyholders.

(2) For the conversion of a mutual holding company, the plan is fair and equitable to the company, its members, and the policyholders of the converted insurer.

(3) The plan does not violate the law.

(4) The converted insurer will, after the conversion, satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed.

(b) For the conversion of a mutual life insurer, the commissioner may appoint one or more actuarial, financial, or other consultants, including legal counsel, as the commissioner finds necessary to advise the commissioner in making the determination of whether the proposed plan of conversion meets the applicable requirements of this chapter. The mutual life insurer is responsible for the reasonable fees and expenses of any actuarial, financial, or other consultants, including legal counsel, appointed, and for the mailing and publication of notices to the mutual company and its members.

SEC. 10. Section 11539 of the Insurance Code is amended to read:

11539. The meeting of members prescribed by subdivision (c) of Section 11536 shall be called by the board of directors, the chairperson of the board, or the president of the mutual company. Notice of the meeting shall be given to eligible members by mail at least 30 days prior to the date set for the meeting to members of the mutual company of record on the date the plan of conversion was adopted by the board of directors. Voting shall be by ballot, in person or by proxy. A quorum shall consist of 5 percent of the members of the mutual company entitled to vote at the meeting.

SEC. 11. Section 11540 of the Insurance Code is amended to read:

11540. (a) Nothing in this chapter shall be deemed to prohibit the inclusion in the plan of conversion of provisions under which the insurer's officers, directors, employees, agents, and employee benefit plans for their benefit may be entitled, in accordance with reasonable classifications of those individuals and employee benefit plans as may be included in the plan, to purchase for cash, at the same price as offered to the public in the initial public offering, voting stock not purchased by members upon exercise of subscription rights. Nothing in this chapter shall be deemed to prohibit the establishment of stock option, incentive, and share ownership plans customary for publicly traded companies in the same and similar industries. The plan may not permit those persons to acquire more than 25 percent of the voting stock issued pursuant to the plan for a mutual life insurer having assets in excess of two hundred million dollars ($200,000,000) or 35 percent for a mutual life insurer having assets of two hundred million dollars ($200,000,000) or less.

(b) For the conversion of a mutual property-casualty insurer, subdivision (f) of Section 11537 does not prohibit the inclusion in the conversion plan of provisions under which the individuals comprising the insurer's management, employees and agents are entitled to purchase for cash, at the same price as offered to the insurer's members, shares of stock not taken by members on the preemptive offering to members, in accordance with such reasonable classifications of such individuals as may be included in the plan. The plan may not provide for such individuals to acquire in excess of 25 percent of the shares of stock issued pursuant to the plan for a mutual insurer having assets in excess of two hundred million

dollars ($200,000,000) or 35 percent for a mutual insurer having assets of two hundred million dollars ($200,000,000) or less.

SEC. 12. Section 11541 of the Insurance Code is amended to read:

11541. No director, officer, agent, or employee of the mutual company shall receive any fee, commission, or other valuable consideration whatsoever, other than regular salary and compensation, for in any manner aiding, promoting, or assisting in the conversion except as set forth in the plan approved by the commissioner. This provision shall not be deemed to prohibit the payment of reasonable fees and compensation to attorneys at law, accountants, and actuaries for services performed in the independent practice of their professions, even though they may also be directors of the mutual company.

SEC. 13. Section 11541.1 is added to the Insurance Code, to read:

11541.1. At any time before that plan of conversion becomes effective as provided in Section 11542, the mutual company may, by resolution of a majority of the board of directors, amend the plan of conversion or withdraw the plan of conversion. Any plan amendment shall require the written consent of the commissioner. For a plan amendment, all references in this chapter to the plan of conversion shall be deemed to refer to the plan as amended, but no amendment shall be deemed to change the adoption date of the plan of conversion. No amendment may change the plan of conversion in a manner that the commissioner determines is materially disadvantageous to policyholders of the mutual life insurer or members of the mutual holding company, unless a further public hearing is held on the plan as amended, if the amendment is made after the initial public hearing, or if the plan as amended is submitted for reconsideration by the members if the amendment is made after the plan has been approved by the members.

SEC. 14. Section 11542 of the Insurance Code is amended to read:

11542. (a) Upon consent by the commissioner to the plan of conversion of a mutual insurer and filing of the plan of conversion in accordance with the provisions of this chapter, the commissioner shall issue a new certificate of authority to the converted insurer. Upon issuance of the certificate of authority to a mutual insurer and subject to subdivision (a) of Section 110 of the Corporations Code, the Secretary of State shall accept for filing the articles of incorporation, certificate of amendment of articles of incorporation, or agreement of merger and officers' certificates of the converted insurer for the conversion of a mutual insurer. For a plan of conversion in accordance with Section 11537.2, the Secretary of State shall accept for filing the articles of incorporation of the mutual holding company and the stock holding company. Upon consent to the plan of conversion of a mutual holding company and filing of the plan of conversion in accordance with the provisions of this chapter, the Secretary of State shall accept for filing the articles of incorporation or certificate of amendment of articles of incorporation of the

converted mutual holding company. The plan is effective upon the filing of the articles of incorporation or certificate of amendment of articles of incorporation.

(b) Upon the effective date of the plan of conversion of a mutual property-casualty insurer, the mutual insurer shall immediately become a stock corporation. The converted insurer shall be a continuation of the original mutual insurer, and the conversion shall in no way annul, modify, or change any of the original mutual insurer's existing suits, rights, contracts, or liabilities except as provided in the approved conversion plan. The insurer, after conversion, shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon insurers writing the classes of insurance written by it, and shall retain the rights and contracts existing prior to conversion, subject to the effect of the plan.

(c) Upon the effective date of the plan of conversion of a mutual life insurer in accordance with Section 11537.3, the mutual life insurer immediately becomes a stock corporation, all membership interests and rights in surplus are extinguished, and members eligible to exercise subscription rights or receive other consideration under the plan of conversion are entitled to receive the consideration in exchange for their membership interests and liquidation of their rights in surplus. The converted insurer is a continuation of the original mutual life insurer, and the conversion in no way annuls, modifies, or changes any of the original mutual life insurer's existing suits, rights, contracts, or liabilities, except as provided in the plan of conversion. The insurer, after conversion, shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon insurers writing the classes of insurance written by it, and shall retain the rights and contracts existing prior to conversion, subject to the effect of the plan.

(d) Upon the effective date of the plan of conversion of a mutual holding company, all membership interests and rights in surplus are extinguished, members eligible to receive consideration under the plan of conversion are entitled to receive the consideration in exchange for their membership interests and liquidation of their rights in surplus, and the plan otherwise becomes effective in accordance with its terms. The conversion in no way annuls, modifies, or changes any of the converting mutual holding company's existing suits, rights, contracts, or liabilities, except as provided in the approved plan of conversion.

SEC. 15. Section 11542.1 is added to the Insurance Code, to read:

11542.1. (a) Upon the effective date of a plan of conversion in accordance with Section 11537.2, the mutual life insurer immediately becomes a stock corporation, the membership interests and rights in surplus of its members are extinguished, the members of the mutual life insurer immediately become members of the mutual holding company, all of the voting stock initially issued by the converted insurer is owned by the stock holding company, and all of the voting

stock initially issued by the stock holding company is owned by the mutual holding company. The stock holding company may thereafter, subject to compliance with Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1, issue securities to other persons. After the effective date, owners of policies that are issued by a stock insurer that has been converted from a mutual life insurer pursuant to proceedings under this chapter shall become members of the mutual holding company immediately upon issuance of the policies. Any person may be a member of a mutual holding company.

(b) From the effective date, the mutual holding company shall hold at least 51 percent of the issued and outstanding voting stock of the stock holding company and the stock holding company thereafter shall at all times hold all of the issued and outstanding voting stock of the converted insurer. The stock holding company may issue additional voting stock to the mutual holding company and, in addition, to other persons an amount of voting stock and securities convertible into voting stock, if in the aggregate, the issued and outstanding voting stock of the stock holding company not held by the mutual holding company does not exceed 49 percent of the issued and outstanding voting stock of the stock holding company. For purposes of the 49-percent limitation, any issued and outstanding securities of the stock holding company that are convertible into voting stock are considered issued and outstanding voting stock.

(c) The commissioner shall retain jurisdiction over the mutual holding company organized pursuant to this chapter. Except as provided in this code, a mutual holding company is subject to the provisions of the General Corporation Law in like manner with other corporations. However, provisions of that law referring to shareholders or members shall be applied as though those provisions referred to the members of a mutual holding company.

(d) With respect to the management, records, and affairs of a mutual holding company and except as otherwise provided in this chapter, a member of a mutual holding company has the same character of rights and relationship as a stockholder has toward a domestic stock life insurer subject to the provisions of this code.

(e) Each member of a mutual holding company is entitled to one vote on each matter coming to a vote at any meeting of members, regardless of the number of policies that the member holds.

(f) Notice of all meetings of members, whether annual or special, shall be given in writing to the members entitled to vote. The notice shall be given by the secretary, assistant secretary, or other persons charged with that duty. If there is no such officer, or if he or she neglects or refuses this duty, notice may be given by any director. At the option of the converted insurer, the notice may be imprinted on premium notices or receipts or on both. A notice may be given to any member either personally, or by mail, or other means of written communication, charges prepaid, addressed to the member at his or

her address appearing on the books of the insurer or given by the member to the converted insurer for the purpose of notice. If a member gives no address, and if there is no address on the books of the insurer, notice shall be deemed to have been given the member if sent by mail or other means of written communication addressed to the place where the principal office of the converted insurer is situated, or if published at least once in a newspaper of general circulation in the county in which the office is located and in the newspaper that has the largest daily circulation in this state. Notice of any meeting of members shall be sent to each member entitled to notice not less than 14 days before a meeting. Notice of any meeting of members shall specify the place, the day, and the hour of the meeting and the general nature of the business to be transacted. For any member who gives no address and has no address on the books of the insurer, notice of an annual meeting to be held at the time and place specified is deemed adequate if published at least once in each of four successive weeks in a newspaper of general circulation in the county in which the principal office of the converted insurer is located and in the newspaper that has the largest daily circulation in this state. If the notice is so published, no other notice of the meeting is required.

(g) The presence in person or by proxy of 5 percent of the members of a mutual holding company entitled to vote at any meeting constitutes a quorum for the transaction of all business of the mutual holding company, including, but not limited to, the amendment of the articles of incorporation or bylaws of the mutual holding company.

(h) Any required member approval shall be by the affirmative vote of a majority of the members who vote, or a higher percentage of the members as may be required by law or the articles of incorporation, a quorum being present.

(i) The articles of incorporation or the bylaws of the mutual holding company may provide that the directors may be divided into two or more classes whose terms of office shall expire at different times. No term shall continue longer than six years. In the absence of such provisions, each director shall be elected for a term of one year. All directors shall hold office for the term for which they are elected and until their successors are elected and qualified. A director may, but need not, be a member of the mutual holding company of which he or she is acting as director. Vacancies in the board of directors may be filled by a majority of the remaining directors, though less than a quorum. Each director so elected shall hold office until the next annual meeting.

(j) If any proceedings under Article 14 (commencing with Section 1010), Article 14.3 (commencing with Section 1064.1), Article 14.5 (commencing with Section 1065.1), or Article 15.5 (commencing with Section 1077), of Chapter 1 of Part 2 of Division 1, are brought naming as a party a stock insurer created as a result of proceedings

authorized by this chapter, the mutual holding company formed as part of the conversion automatically becomes a party to the proceedings. All of the assets of the mutual holding company, including, but not limited to, its interest in the stock holding company formed pursuant to this chapter, are deemed assets of the estate of the stock life insurer to the extent necessary to satisfy claims of persons against the stock life insurer who have claims falling within the priorities established in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1033. Claims of persons in their capacity as members of the mutual holding company shall be claims falling within the priority established in paragraph (6) of subdivision (a) of Section 1033. A mutual holding company may not dissolve, liquidate, or wind up and dissolve without the prior written approval of the commissioner or the court pursuant to proceedings brought pursuant to Article 15 (commencing with Section 1070) of Chapter 1 of Part 2 of Division 1.

(k) Membership interests in a mutual holding company are exempt from Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1. A description of the membership interests and related factual disclosure shall not be considered to be an inducement to buy insurance in violation of Section 10430. Any promise of returns, profits, or distributions, or representations with regard to the benefits of membership, made as an inducement in connection with the issuance and delivery of a policy is subject to Section 10430 and the remedy provided in Section 10433.

SEC. 16. Section 11542.2 is added to the Insurance Code, to read:

11542.2. Prior to, and for a period of five years following, the effective date of the plan of conversion, no person or group of persons acting in concert shall directly or indirectly offer to acquire or acquire in any manner the beneficial ownership of 5 percent or more of any class of voting securities of a converted insurer or of a person that controls, as defined by paragraph (b) of Section 1215, the converted insurer, without the prior consent of the commissioner. Any application for that approval shall contain information as the commissioner may require and shall be accompanied by a filing fee in an amount equal to the filing fee specified in Section 1215.2. In the event of any violation of this section, or of any action that, if consummated, would constitute a violation, all voting securities of the converted insurer or of the person acquired by any person in excess of the maximum amount permitted to be acquired by the person pursuant to this subdivision shall be deemed to be nonvoting securities of the converted insurer or of that person. The violation or action may be enforced or enjoined by appropriate proceeding commenced by the converted insurer, a person, the commissioner, any policyholder or stockholder of the converted insurer, or the person on behalf of the converted insurer or the person in the superior court in the judicial district in which the converted insurer has its home office or in any other court having jurisdiction. The court

may issue any order it finds necessary to cure the violation or to prevent the proposed action. In addition to the foregoing, whenever it appears to the commissioner that any person has committed a violation of this section, the commissioner may proceed as provided in Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 to take possession of the property of the converted insurer and to conduct the business thereof. For the purposes of this section, "beneficial ownership," with respect to voting securities, means the sole or shared power to vote, or direct the voting of, voting securities or the sole or shared power to dispose, or direct the disposition, of voting securities. "Voting security" includes voting stock as defined in Section 11535.1, any preorganization certificate or subscription, including subscription rights issued pursuant to a plan of conversion, or any security convertible, with or without consideration, into voting security, or carrying any warrant or right to subscribe for or purchase any voting security, or any such warrant or right. "Offer" includes an offer to buy or acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of a security or interest in a security for value.

SEC. 17. Section 11543 of the Insurance Code is amended to read:

11543. Unless otherwise provided in the plan of conversion, the directors and officers of the mutual company shall serve as directors and officers of the converted company until new directors and officers have been duly elected and qualified pursuant to the articles of incorporation and bylaws of the stock company.

SEC. 18. Section 11543.1 is added to the Insurance Code, to read:

11543.1. (a) Notwithstanding any other provision of law and except as otherwise provided in subdivision (b), actions concerning any plan of conversion, proposed plan of conversion, plan amendment, or proposed plan amendment under this chapter or any acts taken or proposed to be taken under this chapter shall be commenced within one year after the plan of conversion or plan amendment is filed in the office of the commissioner pursuant to subdivision (d) of Section 11536 or subdivision (a) of Section 11542, or six months from the effective date of the plan of conversion, whichever is later. If the plan of conversion is withdrawn, the actions or acts shall be commenced within six months from the date the board of directors approves a resolution to withdraw the plan. If an action concerns or arises out of a plan amendment or proposed plan amendment made under Section 11546, the applicable time period is measured from the filing, effective date, or approval of withdrawal of the plan amendment, whichever is later.

(b) Judicial review of any act of the commissioner or any other governmental body or officer concerning or arising out of any plan of conversion, proposed plan of conversion, plan amendment, or proposed plan amendment under this chapter may only be had by filing a petition for a writ of mandate within 30 days of the date of the act. However, any petition seeking judicial review shall be filed no

later than 30 days from the effective date of the plan of conversion or plan amendment, whichever is the subject of the petition.

SEC. 19. Section 11547 is added to the Insurance Code, to read:

11547. (a) The amended articles of incorporation of a converted company that have been adopted pursuant to a plan of conversion and filed with the Secretary of State in accordance with Section 11542 may be further amended after the effective date pursuant to applicable law. The plan of conversion may be amended in other respects after the effective date of the plan as specified in this section. Such an amendment shall take effect upon filing with the Secretary of State after compliance with the following:

(1) Approval by a resolution of the majority of the board of directors of the converted company. The resolution shall specify the reasons for and the purposes of the proposed amendment.

(2) Submission to the commissioner for consent in writing, subject to the provisions of Section 11538.

(3) For the conversion of a mutual insurer, approval by a majority of those current policyholders of the corporation who were members of the former mutual insurer and were entitled to vote on the original plan of conversion approved pursuant to subdivision (c) of Section 11536 and who vote at a meeting called for that purpose.

(4) For the conversion of a mutual holding company, approval by a majority of those current members of the corporation who were members of the former mutual holding company and were entitled to vote on the original plan of conversion approved pursuant to subdivision (c) of Section 11536 and who vote at a meeting called for that purpose.

(5) Filed in the office of the commissioner after having been consented to and approved as contemplated by paragraphs (2), (3) and (4).

(b) If an amendment proposed under subdivision (a) would adversely affect the rights of one or more classes of members , but not all such members, then only the members of each class whose rights would be adversely affected by the proposed amendment are entitled to vote on the proposed plan amendment.

(c) A policyholder or member meeting prescribed by paragraph (3) or (4) of subdivision (a) shall be called by the board of directors, the chairperson of the board, or the president of the converted company. Notice of the meeting shall be given to policyholders or members entitled to vote at the meeting by mail at least 30 days prior to the date set for the meeting. Voting shall be by ballot, in person or by proxy. A quorum consists of 5 percent of the policyholders or members of the converted company entitled to vote at the meeting.

(d) At any time before the plan amendment becomes effective, the converted company may, by resolution of a majority of the board of directors, amend the plan amendment or withdraw its plan amendment. For an amendment to a plan amendment, all references in this section to the plan amendment shall be deemed to refer to the

plan amendment as amended. Any amendment of the plan amendment shall require the written consent of the commissioner. No amendment shall be deemed to change the date of adoption of the plan amendment. No amendment made after approval by the policyholders or members as provided in paragraph (3) or (4) of subdivision (a) may change the plan amendment in a manner that the commissioner determines is materially disadvantageous to any of the affected policyholders or members unless the plan amendment as amended is submitted for reconsideration under the procedures prescribed for the original plan amendment policyholder or member approval.

SEC. 20. Section 11548 is added to the Insurance Code, to read:

11548. If the name of a mutual life insurer converting to a stock insurer pursuant to this chapter includes the word mutual, the new stock insurer may continue to use the word mutual in its name if the name includes a word or words that identify the new stock insurer as a stock insurer and the commissioner finds that the continued use of the word mutual in its name is not likely to mislead or deceive the public.

SEC. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that California-based mutual insurers are not at a competitive disadvantage with mutual insurers based in other states because California insurers cannot readily convert from mutual ownership to stock ownership, this act is to take effect immediately as a urgency statute.

CHAPTER 407

An act to amend Section 12640.09 of the Insurance Code, relating to insurance.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 12640.09 of the Insurance Code is amended to read:

12640.09. (a) A mortgage guaranty insurer shall limit its coverage for the class of insurance defined in paragraphs (1) and (3) of subdivision (a) of Section 12640.02 to no more than a net of 30 percent at risk of the entire indebtedness to the insured or, in lieu thereof, a mortgage guaranty insurer may elect to pay the entire

indebtedness to the insured and acquire title to the authorized real estate security.

(b) (1) A mortgage guaranty insurer shall limit its coverage for the class of insurance defined in paragraph (2) of subdivision (a) of Section 12640.02, to no more than a net of 30 percent of risk of the combined indebtedness of all existing mortgage loan amounts secured by all liens or charges on the real estate. In lieu thereof, a mortgage guaranty insurer may elect to pay the entire indebtedness to the insured and acquire title to the authorized real estate security.

(2) Notwithstanding paragraph (1), a mortgage guaranty insurer may elect to insure a portfolio of loans secured by instruments constituting junior liens on real estate, provided that the total amount at risk in any one portfolio shall not at any time exceed 20 percent of the original principal amount of mortgage loans secured by junior liens.

(3) If the borrower is required to pay the cost of insurance written under paragraphs (1) or (2), the lender shall disclose in writing to the borrower that the borrower is not a party to or a beneficiary of the mortgage guaranty insurance policy.

(4) Notwithstanding subdivision (a) and paragraph (1) of subdivision (b), if Freddie Mac or Fannie Mae increases the required amount of mortgage guaranty insurance, the commissioner may adopt regulations to increase the maximum coverage limitation of a mortgage guaranty insurer to an amount not to exceed a net of 35 percent of risk of the entire indebtedness.

(c) Notwithstanding subdivision (a) or (b), a mortgage guaranty insurer may extend its coverage for the class of insurance defined in paragraphs (1), (2), and (3) of subdivision (a) of Section 12640.02 beyond the limits established by subdivisions (a) and (b) of this section, provided the excess is insured by a contract of reinsurance.

(d) (1) Notwithstanding any provision of law to the contrary, mortgage guaranty insurance or reinsurance may be ceded by contract, provided that the assuming insurer is either of the following:

(A) A mortgage guaranty insurer, which may be under common control with the ceding mortgage guaranty insurer, but which does not own, and is not owned by, in whole or in part, directly or indirectly, the ceding mortgage guaranty insurer.

(B) An insurer or reinsurer, that may be under common control with the ceding mortgage guaranty insurer, but that is not owned by, in whole or in part, directly or indirectly, the ceding mortgage guaranty insurer or another mortgage guaranty insurer, that writes any type or types of insurance or reinsurance and that meets the following requirements:

(i) Has paid-in capital and paid-in surplus totaling at least thirty-five million dollars ($35,000,000).

(ii) Derives, on an annual basis, at least 50 percent of its premium income from reinsurance; or, alternatively, derives at least

twenty-five million dollars ($25,000,000) of premium income per year from reinsurance.

(iii) Establishes and maintains its share of the reserve liabilities required by Section 12640.16 if licensed in this state, or establishes, maintains, and funds in accordance with Section 922.4 or Section 922.5, its share of the reserve liabilities required by Section 12640.16 if not licensed in this state.

(iv) Establishes and maintains its share of an amount equal to the greater of either the reserve liabilities required by Section 12640.04 or the policyholders surplus required by Section 12640.05 in a segregated trust which meets the requirements of Section 12640.091.

(2) Nothing herein contained shall be deemed to permit the assuming insurer or reinsurer to directly write mortgage guaranty insurance.

(3) Any assuming insurer or reinsurer and the ceding mortgage guaranty insurer shall establish and maintain in the aggregate the reserves required by Sections 12640.04 and 12640.16.

(e) This section shall not apply to the California Housing Loan Insurance Fund or to any program it may develop in conjunction with any federal or federally sponsored mortgage lender or insurer.

CHAPTER 408

An act to amend Section 1011 of the Water Code, relating to water.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 1011 of the Water Code is amended to read:

1011. (a) When any person entitled to the use of water under an appropriative right fails to use all or any part of the water because of water conservation efforts, any cessation or reduction in the use of the appropriated water shall be deemed equivalent to a reasonable beneficial use of water to the extent of the cessation or reduction in use. No forfeiture of the appropriative right to the water conserved shall occur upon the lapse of the forfeiture period applicable to water appropriated pursuant to the Water Commission Act or this code or the forfeiture period applicable to water appropriated prior to December 19, 1914.

The board may require that any user of water who seeks the benefit of this section file periodic reports describing the extent and amount of the reduction in water use due to water conservation efforts. To the maximum extent possible, the reports shall be made a part of other reports required by the board relating to the use of water.

Failure to file the reports shall deprive the user of water of the benefits of this section.

For purposes of this section, the term "water conservation" shall mean the use of less water to accomplish the same purpose or purposes of use allowed under the existing appropriative right. Where water appropriated for irrigation purposes is not used by reason of land fallowing or crop rotation, the reduced usage shall be deemed water conservation for purposes of this section.

(b) Water, or the right to the use of water, the use of which has ceased or been reduced as the result of water conservation efforts as described in subdivision (a), may be sold, leased, exchanged, or otherwise transferred pursuant to any provision of law relating to the transfer of water or water rights, including, but not limited to, provisions of law governing any change in point of diversion, place of use, and purpose of use due to the transfer.

(c) Notwithstanding any other provision of law, upon the completion of the term of a water transfer agreement, or the right to the use of that water, that is available as a result of water conservation efforts described in subdivision (a), the right to the use of the water shall revert to the transferor as if the water transfer had not been undertaken.

CHAPTER 409

An act to amend Section 24205 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 24205 of the Business and Professions Code is amended to read:

24205. The license of any taxpayer shall be automatically suspended upon cancellation of his or her bond, or if the bond becomes void or unenforceable for any reason, or if the taxpayer fails to pay any taxes or penalties due under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code), or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code), when that tax liability arises in whole or in part from the exercise of the privilege of an alcoholic beverage license, or under the Alcoholic Beverage Tax Law (Part 14 (commencing with Section 32001) of Division 2 of the Revenue and

Taxation Code). The license shall be automatically reinstated if the taxpayer files a valid bond, or pays his or her delinquent taxes, as the case may be. A suspension under this section for a tax delinquency may only be imposed if the taxpayer is at least three months delinquent.

Upon the petition of any taxpayer whose license has been suspended under this section, a hearing shall be afforded him or her after five days' notice of the time and place of hearing.

CHAPTER 410

An act to amend Section 16081 of the Probate Code, relating to trusts.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 16081 of the Probate Code is amended to read:

16081. (a) Subject to the additional requirements of subdivisions (b), (c), and (d), if a trust instrument confers "absolute," "sole," or "uncontrolled" discretion on a trustee, the trustee shall act in accordance with fiduciary principles and shall not act in bad faith or in disregard of the purposes of the trust.

(b) Notwithstanding the use of terms like "absolute," "sole," or "uncontrolled" by a settlor or a testator, a person who is a beneficiary of a trust that permits the person, either individually or as trustee or cotrustee, to make discretionary distributions of income or principal to or for the benefit of himself or herself pursuant to a standard, shall exercise that power reasonably and in accordance with the standard.

(c) Unless a settlor or a testator clearly indicates that a broader power is intended by express reference to this subdivision, a person who is a beneficiary of a trust that permits the person, as trustee or cotrustee, to make discretionary distributions of income or principal to or for the benefit of himself or herself may exercise that power in his or her favor only for his or her health, education, support, or maintenance within the meaning of Sections 2041 and 2514 of the Internal Revenue Code. Notwithstanding the foregoing and the provisions of Section 15620, if a power to make discretionary distributions of income or principal is conferred upon two or more trustees, the power may be exercised by any trustee who is not a current permissible beneficiary of that power ; and provided further that if there is no trustee who is not a current permissible beneficiary of that power, any party in interest may apply to a court of competent jurisdiction to appoint a trustee who is not a current permissible

beneficiary of that power, and the power may be exercised by the trustee appointed by the court.

(d) Subdivision (c) does not apply to either of the following:

(1) Any power held by the settlor of a revocable or amendable trust.

(2) Any power held by a settlor's spouse or a testator's spouse who is the trustee of a trust for which a marital deduction, as defined in Section 21520, has been allowed.

(e) Subdivision (c) applies to any of the following:

(1) Any trust executed on or after January 1, 1997.

(2) Any testamentary trust created under a will executed on or after January 1, 1997.

(3) Any irrevocable trust created under a document executed before January 1, 1997, or any revocable trust executed before that date if the settlor was incapacitated as of that date, unless all parties in interest elect affirmatively not to be subject to the application of subdivision (c) through a written instrument delivered to the trustee. That election shall be made on or before the latest of January 1, 1998, three years after the date on which the trust became irrevocable, or, in the case of a revocable trust where the settlor was incapacitated, three years after the date on which the settlor became incapacitated.

(f) Notwithstanding the foregoing, the provisions of subdivision (c) neither create a new cause of action nor impair an existing cause of action that, in either case, relates to any power limited by subdivision (c) that was exercised before January 1, 1997.

(g) For purposes of this section, the term "party in interest" means any of the following persons:

(1) If the trust is revocable and the settlor is incapacitated, the settlor's legal representative under applicable law, or the settlor's attorney-in-fact under a durable power of attorney that is sufficient to grant the authority required under subdivision (c) or (e), as applicable.

(2) If the trust is irrevocable, each trustee, each beneficiary then entitled or authorized to receive income distributions from the trust, or each remainder beneficiary who would be entitled to receive notice of a trust proceeding under Section 15804. Any beneficiary who lacks legal capacity may be represented by the beneficiary's legal representative, attorney-in-fact under a durable power of attorney that is sufficient to grant the authority required under subdivision (c) or (e), as applicable, or in the absence of a legal representative or attorney-in-fact, a guardian ad litem appointed for that purpose.

CHAPTER 411

An act to amend Sections 129100 and 129173 of, and to add Sections 129174 and 129174.1 to, the Health and Safety Code, relating to health care facilities.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 129100 of the Health and Safety Code is amended to read:

129100. Every applicant for insurance shall be afforded an opportunity for a fair hearing before the council upon 10 days' written notice to the applicant. If the office, after affording reasonable opportunity for development and presentation of the application and after receiving the advice of the council, finds that an application complies with the requirements of this article and of Section 129020 and is otherwise in conformity with the state plan, it may approve the application for insurance. The office shall consider and approve applications in the order of relative need set forth in the state plan in accordance with Section 129020. Judicial review of a final decision made under this section may be had by filing a petition for writ of mandate. Any petition shall be filed within 30 days after the date of the final decision of the office.

SEC. 2. Section 129173 of the Health and Safety Code is amended to read:

129173. In fulfilling the purposes of this article, as set forth in Section 129005, and upon making a determination that the financial status of a borrower may jeopardize a borrower's ability to fulfill its obligations under any insured loan transaction so as to threaten the economic interest of the office in the borrower or to jeopardize the borrower's ability to continue to provide needed health care services in its community, including, but not limited to, a declaration of default under any contract related to the transaction, the borrower missing any payment to its lender, or the borrower's accounts payable exceeding three months, the office may assume or direct managerial or financial control of the borrower in any or all of the following ways:

(a) The office may supervise and prescribe the activities of the borrower in the manner and under the terms and conditions as the office may stipulate in any contract with the borrower.

(b) Notwithstanding the provisions of the articles of incorporation or other documents of organization of a nonprofit corporation borrower, this control may be exercised through the removal and appointment by the office of members of the governing body of the

borrower sufficient such that the new members constitute a voting majority of the governing body.

(c) In the event the borrower is a nonprofit corporation or a political subdivision, the office may request the Secretary of the Health and Welfare Agency to appoint a trustee, this trustee shall have full and complete authority of the borrower over the insured project, including all property on which the office holds a security interest. No trustee shall be appointed unless approved by the office. A trustee appointed by the secretary pursuant to this subdivision may exercise all the powers of the officers and directors of the borrower, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the office or a trustee by reason of their exercising the powers of the officers and directors of a borrower pursuant to the direction of, or with the approval of, the secretary.

(d) The office may institute any action or proceeding, or the office may request the Attorney General to institute any action or proceeding against any borrower, to obtain injunctive or other equitable relief, including the appointment of a receiver for the borrower or the borrower's assets, in the superior court in and for the county in which the assets or a substantial portion of the assets are located. The proceeding under this section for injunctive relief shall conform with the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the office shall not be required to allege facts necessary to show lack of adequate remedy at law, or to show irreparable loss or damage. Injunctive relief may compel the borrower, its officers, agents, or employees to perform each and every provision contained in any regulatory agreement, contract of insurance, or any other loan closing document to which the borrower is a party, or any obligation imposed on the borrower by law, and require the carrying out of any and all covenants and agreements and the fulfillment of all duties imposed on the borrower by law or such documents.

A receiver may be appointed pursuant to Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure. Upon a proper showing, the court shall grant the relief provided by law and requested by the office or the Attorney General. No receiver shall be appointed unless approved by the office. A receiver appointed by the superior court pursuant to this subdivision and Section 564 of the Code of Civil Procedure may, with the approval of the court, exercise all of the powers of the officers and directors of the borrower, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the office, the Attorney General, or a receiver by reason of their exercising the powers of the officers and directors of a borrower pursuant to the order of, or with the approval of, the superior court.

(e) The borrower shall inform the office in advance of all meetings of its governing body. The borrower shall not exclude the office from attending any meeting of the borrower's governing body.

(f) Other than the loan insured under this chapter, the office shall not be liable for any debt of a borrower, or to a borrower, as a result of the office asserting its legal remedies against a borrower insured under this chapter.

SEC. 3. Section 129174 is added to the Health and Safety Code, immediately following Section 129173, to read:

129174. In the event a borrower has defaulted in making its payments on the loan insured by the office to the borrower's bond trustee, at any time thereafter, the office may defease a portion or all of the bonds or may purchase a portion or all of the bonds at a private or public sale or on the open market. For this purpose, the office may use any funds available, including, but not limited to, funds in the Health Facility Construction Loan Insurance Fund, funds that the office may receive either from settlement or recoveries from lawsuits, funds from the sale of assets of the borrower, or funds held by the borrower's bond trustee. If requested by the office, the Treasurer shall purchase the bonds on behalf of the office. Upon the purchase of any bonds under this section, the office shall direct the borrower's bond trustee to cancel the bonds purchased.

For the purposes of this section, "bonds" mean bonds, certificate of participation, notes, or other evidence of indebtedness of a loan insured by the office.

SEC. 4. Section 129174.1 is added to the Health and Safety Code, to read:

129174.1. In the event a loan insured by the office has gone into bankruptcy and that a plan has been proposed for adoption, upon a certification by the office that the insurance is in place and would be in place if the plan were adopted, then the office shall have the right to vote on the plan on behalf of the holders of the loan insured by the office.

CHAPTER 412

An act to amend Section 8283 of the Fish and Game Code, relating to crabs.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 8283 of the Fish and Game Code is amended to read:

8283. (a) If requested on or before November 10 of any year, the director shall consult with the Dungeness crab industry and shall specify by public announcement on or before November 20 of that year when crab traps may be set and baited prior to the opening date of the Dungeness crab season in Fish and Game Districts 6, 7, 8, and 9. Crab traps may be set and baited in advance of that opening date in those districts if no other attempt is made to take or possess Dungeness crab in those districts.

(b) Except in Fish and Game Districts 6, 7, 8, and 9, crab traps may be set and baited 18 hours in advance of the opening date of the Dungeness crab season, if no other attempt is made to take or possess Dungeness crab.

CHAPTER 413

An act to amend Sections 1339.32, 1339.33, 1339.34, and 1339.35 of, and to repeal Section 1339.37 of, the Health and Safety Code, relating to health.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 1339.32 of the Health and Safety Code is amended to read:

1339.32. A special hospital: hospice shall be deemed to provide acute palliative care. All patients receiving inpatient care in a Special Hospital: Hospice Project shall be admitted by, and under the supervision of, a physician member of the organized medical staff.

SEC. 2. Section 1339.33 of the Health and Safety Code is amended to read:

1339.33. Notwithstanding any other provisions of law, in order to be licensed as a special hospital: hospice, each project facility shall meet the requirements of Sections 70101 to 70137, inclusive, 70201 to 70219, inclusive, 70241 to 70279, inclusive, 70701 to 70707, inclusive, and 70708 to 70765, inclusive, of Title 22 of the California Code of Regulations; Sections 2-1001A to 2-1015A, inclusive, Section 2-1018A, Sections 2-1020A to 2-1024A, inclusive, Sections 2-1026A to 2-1028A, inclusive, Section 2-1040A, Section 2-1044A, and Section 2-1051A of Title 24 of the California Code of Regulations. In addition to complying with these regulations in Titles 22 and 24 of the California Code of Regulations, each facility shall meet, for the duration of the project, the hospice standards used by the Medicare program (42 C.F.R., Part 418, Sections 418.1 to 418.405, inclusive) the Medi-Cal program (subdivision (e) of Sections 51003 to 51543, inclusive, of Title 22, California Code of Regulations), and the Joint Commission on the

Accreditation of Healthcare Organizations' "Hospice Standards Manual."

Each facility licensed as a special hospital: hospice shall maintain a transfer agreement with a general acute care hospital.

SEC. 3. Section 1339.34 of the Health and Safety Code is amended to read:

1339.34. (a) Each facility that is part of the project shall report to the Legislature at the end of each year of operation on all of the following factors:

(1) Acuity levels of patients using the project facilities; relative cost-effectiveness of these facilities.

(2) Quality of care in the facilities.

(3) Utilization of the facilities.

(4) Staffing requirements of the facilities.

(b) Reports shall be submitted to the Legislature no later than three months after the close of the 12-month period for which the report is made. However, the Legislature may approve requests to extend this deadline that are submitted no later than 30 days prior to the deadline and that state the reason for the delay and corrective measures that have been taken to avoid future delays. No report deadline will be extended for more than three months beyond the original report date.

SEC. 4. Section 1339.35 of the Health and Safety Code is amended to read:

1339.35. The project shall commence on January 1, 1990. However, the State Department of Health Services may establish an earlier commencement date for any one of the facilities if that facility has been licensed as a special hospital: hospice prior to January 1, 1990.

SEC. 5. Section 1339.37 of the Health and Safety Code is repealed.

CHAPTER 414

An act to add Section 668.2 to the Harbors and Navigation Code, relating to boating safety.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 668.2 is added to the Harbors and Navigation Code, to read:

668.2. The department may grant funds from the Harbors and Watercraft Revolving Fund to local public agencies, nonprofit organizations, and colleges and universities for scholarship funding relating to boating safety education and to finance the purchase of

vessels and related safety equipment for use in boating safety education classes. The department may adopt regulations necessary to implement this section.

CHAPTER 415

An act to amend Sections 270.03, 270.04, and 987.71 of the Military and Veterans Code, relating to veterans.

[Approved by Governor August 17, 1996. Filed with Secretary of State August 19, 1996.]

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

SECTION 1. Section 270.03 of the Military and Veterans Code is amended to read:

270.03. As used in this article:

(a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficiently to provide a living for the purchaser and his or her dependents.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and the purchaser's dependents as a place of abode. It includes a "condominium," as defined in subdivision (h). "Home" also includes a "mobilehome," as defined in subdivision (k).

(c) "Purchaser" means a member of the California National Guard or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) "Progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) "Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on the real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and the purchaser's dependents as a place of abode. A condominium may include, in addition, a separate interest in other portions of the real property. "Condominium" also includes a half-duplex and a patio home when the structure is situated on its own property line.

(i) "Effective rate of interest" means the average rate of interest on the unpaid balance due on a participation contract to which the department's legal rights are subject, and the rate of interest on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) "Mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is sited one or more mobilehome modules which will, in the opinion of the department, suit the needs of the purchaser and the purchaser's dependents as a place of abode and meets all requirements of local governmental jurisdictions. However, where the mobilehome module or modules are sited on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

(*l*) "Member" means an individual on active National Guard status and assigned to a federally recognized unit of the California National Guard.

(m) "Indian member" means a member as defined in subdivision (*l*) who in addition either belongs to an Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs or is an Indian beneficiary and who is eligible under this article for purchase by the department of a home or farm sited on trust land.

(n) "Trust land," with respect to an Indian member, means land held in trust by the United States government for individual Indians, Indians who belong to Indian tribes, or Indian tribes.

(o) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(p) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band.

(q) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs.

(r) "Indian beneficiary" means an Indian for whom land is held in trust by the United States government.

(s) "Department" means the Department of Veterans Affairs.

SEC. 2. Section 270.04 of the Military and Veterans Code is amended to read:

270.04. The administration of the provisions of this article is vested in the Department of Veterans Affairs.

The department shall adopt rules and regulations in keeping with the purpose of this article to establish preferences in the granting of benefits conferred by this article.

SEC. 3. Section 987.71 of the Military and Veterans Code is amended to read:

987.71. (a) The purchaser shall make an initial payment of at least 5 percent of the selling price of the property. Purchasers of homes where the purchase price is equal to or less than sixty thousand dollars ($60,000) shall make an initial payment of at least 3 percent of the selling price of the property. The department may waive the initial payment in any case where the value of the property as determined by the department appraisal equals the amount to be paid by the department plus at least 5 percent where the purchase price is greater than sixty thousand dollars ($60,000). In the case of homes where the purchase price is equal to or less than sixty thousand dollars ($60,000), the department may waive the initial payment where the value of the property as determined by the department appraisal equals the amount to be paid by the department plus at least 3 percent.

(b) The balance of the purchase price may be amortized over a period fixed by the department, not exceeding 40 years for farms or homes and not exceeding 30 years for mobilehomes located in mobilehome parks, as defined in Section 18214 of the Health and Safety Code, together with interest thereon at the rate determined by the department pursuant to Section 987.87 for these amortization purposes.

(c) The department may, in order to allow the veteran to purchase the home selected without incurring excessive monthly payments, at the time of initial purchase, postpone the commencement of payment of the principal balance for not to exceed five years if the veteran's current income meets the standards for purchase on these terms and if the department determines, in accordance with previously established criteria for these determinations, that the veteran's income can reasonably be expected to increase sufficiently within the five-year period to make the transition to fully amortized principal and interest payments, so long as the total term of the contract of purchase does not exceed 40 years, or 30 years where the contract relates to a mobilehome located in a mobilehome park, as defined in Section 18214 of the Health and Safety Code.

(d) The purchaser on any installment date may pay any or all installments still remaining unpaid.

(e) In any individual case, the department may for good cause postpone, from time to time, upon terms the department determines to be proper, the payment of the whole or any part of any installment of the purchase price or interest thereon.

(f) Each installment shall include an amount sufficient to pay the principal and interest on the participation contract to which the interest of the department is subject, and any amount as may be required by a covenant or provision contained in any resolution of issuance.

CHAPTER 416

An act to add Article 17 (commencing with Section 1370) to Chapter 2 of Division 10 of the Evidence Code, relating to hearsay, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 3, 1996. Filed with Secretary of State September 4, 1996.]

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

SECTION 1. It is the intent of the Legislature that enactment of this statute shall not affect other evidentiary requirements, including, but not limited to, Sections 351 and 352, shall not impair a party's right to attack the credibility of the declarant pursuant to Section 1202, shall not affect the defendant's right to discovery for purposes of producing rebuttal evidence attacking the declarant's credibility, and shall not be used in a manner inconsistent with the defendant's right to due process and to confront witnesses under the United States or California Constitution.

SEC. 2. Article 17 (commencing with Section 1370) is added to Chapter 2 of Division 10 of the Evidence Code, to read:

Article 17. Physical Abuse

1370. (a) Evidence of a statement by a declarant is not made inadmissible by the hearsay rule if all of the following conditions are met:

(1) The statement purports to narrate, describe, or explain the infliction or threat of physical injury upon the declarant.

(2) The declarant is unavailable as a witness pursuant to Section 240.

(3) The statement was made at or near the time of the infliction or threat of physical injury. Evidence of statements made more than five years before the filing of the current action or proceeding shall be inadmissible under this section.

(4) The statement was made under circumstances that would indicate its trustworthiness.

(5) The statement was made in writing, was electronically recorded, or made to a law enforcement official.

(b) For purposes of paragraph (4) of subdivision (a), circumstances relevant to the issue of trustworthiness include, but are not limited to, the following:

(1) Whether the statement was made in contemplation of pending or anticipated litigation in which the declarant was interested.

(2) Whether the declarant has a bias or motive for fabricating the statement, and the extent of any bias or motive.

(3) Whether the statement is corroborated by evidence other than statements that are admissible only pursuant to this section.

(c) A statement is admissible pursuant to this section only if the proponent of the statement makes known to the adverse party the intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings in order to provide the adverse party with a fair opportunity to prepare to meet the statement.

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 permit the admission of important evidence in various civil and criminal proceedings as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 417

An act to amend Section 14670.95 of the Government Code, to amend Section 6 of Chapter 1309 of the Statutes of 1990, Section 4 of Chapter 620 of the Statutes of 1989, and Section 1 of Chapter 761 of the Statutes of 1976, relating to state real property.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 11, 1996.]

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

SECTION 1. Section 14670.95 of the Government Code is amended to read:

14670.95. (a) Notwithstanding Sections 11011, 14670, and 14670.9 and Section 118 of the Streets and Highways Code, the Director of General Services, with the approval of the State Public Works Board, may sell, lease, or exchange approximately 150 acres of vacant land located adjacent to the northerly side of the east campus of Agnews State Hospital, County of Santa Clara.

(b) In connection with the sale of property described in subdivision (a), the Director of General Services may, with the consent of the agency having jurisdiction over the property, execute

and record covenants, conditions, and restrictions affecting remaining state-owned property, whether surplus or not, adjacent to, or in the proximity of, and benefiting, the surplus property being sold. The authority contained in this subdivision shall be exclusive to that certain purchase and sale agreement between the Department of General Services and CPS, a commercial real estate company, a California corporation, dated prior to May 1, 1996.

SEC. 1.5. The Director of General Services, with the approval of the State Public Works Board, may sell, exchange, lease, or transfer for current market value or for any lesser consideration authorized by law and upon those terms and conditions and subject to those reservations and exceptions as the Director of General Services determines are in the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 0.54 acre, with structures used as laboratories by the State Department of Health Services, located at 2002 Acton Street, Berkeley, Alameda County.

Parcel 2. Approximately 3.02 acres, with a structure used as a headquarters by the California Highway Patrol, located at 2490 First Avenue, Sacramento, Sacramento County.

Parcel 3. Approximately 11.03 acres of land used for agricultural purposes, being a portion of the Northern California Youth Center, located at 7650 Newcastle Road, Stockton, San Joaquin County.

Parcel 4. Approximately 1.32 acres at the Long Beach Marina. Property abuts Bay Shore and Appian Way, lots 47 through 53, tract 17597 in the County of Los Angeles, City of Long Beach. Property is encumbered by a lease to the City of Long Beach through March 2014 and will be sold to the City of Long Beach for use as a marina.

Parcel 5. Approximately 488.7 acres known as Black Mountain Conservation Camp, located in Sonoma County, 23125 Fort Ross Road, Cazadero.

Parcel 6. Excess acreage located at Lanterman Developmental Center, 3530 Pomona Boulevard, Pomona, Los Angeles County. Specific parcels available for sale or lease to be determined through study by the Department of General Services and the State Department of Developmental Services.

Parcel 7. Approximately 345 acres located at 26501 Avenue 140, Porterville, Tulare County. Consists of three parcels, 25 acres at the southwest corner of the property that may be offered for agricultural purposes, 156 acres at the northeast corner that may be offered for wetlands mitigation, and 164 acres at the northwest corner of the property that may be offered for ecological preserve. Specific parcels available for sale or lease to be determined through study by the Department of General Services and the State Department of Developmental Services.

Parcel 8. Approximately 19.5 acres of excess land at Atascadero State Hospital, located on the corner of Viejo and Halcon Road, City of Atascadero, San Luis Obispo County. Specific parcels available for

sale or lease to be determined through study jointly approved by the Department of General Services and the State Department of Mental Health.

Parcel 9. Approximately 77 acres at Patton State Hospital, located between Victoria Avenue and Orange Street in the City of San Bernardino, San Bernardino County. Specific parcels available for sale or lease to be determined through study jointly approved by the Department of General Services and the State Department of Mental Health.

Parcel 10. Approximately 40 acres located at the Santa Cruz Armory, at the end of Branciforte Avenue and De Laveaga Park Drive in the City of Santa Cruz, Santa Cruz County.

SEC. 2. The Director of General Services, with the approval of the State Public Works Board, may sell or lease for current market value only, all or part of the following property:

Parcel 1. Approximately 0.33 acre, with a structure used by the Employment Development Department, located at 146 Market Street, Colusa, Colusa County.

SEC. 3. (a) The Director of General Services may transfer to the City of Corcoran, at no cost, for public road purposes, real property consisting of approximately 1.39 acres with road improvements, known as Paris Avenue, being a portion of the California State Prison-Corcoran, Corcoran, Kings County, pursuant to a joint powers agreement between the city and the Department of Corrections upon those terms and conditions and subject to those reservations and exceptions as the Director of General Services determines are in the best interest of the state.

(b) The Director of General Services may transfer to the Imperial Irrigation District, at no cost, for electrical power purposes, real property consisting of a 200' x 250' parcel of land improved with an electrical substation and related improvements, located at 2302 Brown Road, being a portion of Centinela State Prison, Imperial, Imperial County, pursuant to a joint powers agreement between the Imperial Irrigation District and the Department of Corrections, upon those terms and conditions and subject to those reservations and exceptions as the Director of General Services determines are in the best interest of the state.

SEC. 3.5. (a) Notices of every public auction or bid opening shall be posted on the property to be sold under this act and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated.

(b) Any sale, exchange, lease, or transfer of the parcels described in this act is exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

SEC. 4. The Director of Parks and Recreation, with the approval of the State Public Works Board and the Director of General Services, may sell or exchange for current market value and upon the terms

and conditions and with the reservations and exceptions that may be in the best interest of the state, all or part of the following property:

Parcel 1. Approximately two acres of land at Henry Cowell Redwoods State Park located on the north side of Zayante Creek between the confluence of the San Lorenzo River and Graham Hill Road, near Felton, Santa Cruz County.

SEC. 4.5. (a) The Department of General Services shall be reimbursed for any cost or expense incurred in the disposition of any parcels.

(b) The net proceeds of any moneys received from the disposition of any parcels described in this act shall be deposited in the General Fund and be available for appropriation in accordance with Section 15863 of the Government Code, except as follows:

(1) The net proceeds received from the disposition of Parcel 2 in Section 1 shall be deposited in the Motor Vehicle Account of the State Transportation Fund.

(2) The net proceeds received from the disposition of Parcel 1 as described in Section 2 shall be deposited in the Employment Development Department Building Fund established pursuant to Section 1591 of the Unemployment Insurance Code.

(3) The net proceeds received from the disposition of Parcel 10, as described in Section 1.5, shall be deposited in the Armory Fund.

(4) The net proceeds received from the disposition of Parcel 1, as described in Section 4, shall be deposited in the State Parks and Recreation Fund.

SEC. 5. As to any property sold pursuant to this act consisting of 15 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits possessed by the state, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to property sold pursuant to this act consisting of more than 15 acres, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove the deposits shall be limited to those areas of the property conveyed that the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the deposits.

SEC. 6. Section 6 of Chapter 1309 of the Statutes of 1990 is amended to read:

Sec. 6. The Director of General Services, with the approval of the State Public Works Board, may sell or lease for current market value only, all or part of the following property:

Parcel 1. Approximately 0.74 acre, with a structure used as office space by the Employment Development Department at 1924 "Q" Street, Bakersfield, Kern County.

Parcel 2. Approximately 0.6 acre, with a structure used as office space by the Employment Development Department at 83-151 Requa Avenue, Indio, Riverside County.

Parcel 4. Approximately 1.18 acres, with a structure used as office space by the Employment Development Department at 3460 Orange Street, Riverside, Riverside County.

SEC. 7. Section 4 of Chapter 620 of the Statutes of 1989, as amended by Section 6 of Chapter 391 of the Statutes of 1994, is amended to read:

Sec. 4. The Director of General Services, with the approval of the State Public Works Board, may sell, exchange, or lease for current market value or for any lesser consideration authorized by law and upon such terms and conditions and subject to such reservations and exceptions as the Director of General Services determines are in the best interests of the state, all or any part of the following real property:

Parcel 2. Approximately 0.4 acre with a structure, known as the Paskenta Residence of the Department of Forestry and Fire Protection and fronting on Toomes Camp Road near its intersection with Mountain View Road in Tehama County.

Parcel 3. Approximately 2.68 acres in two parcels known as Rio Vista North Fishing Access No. 1 of the Department of Fish and Game and lying between State Highway Route 84 and the Sacramento River downstream of its confluence with Cache Slough and Steamboat Slough in Solano County.

Parcel 4. Approximately 1.0 acre known as Rio Vista North Fishing Access No. 2 of the Department of Fish and Game and fronting on the west side of State Highway Route 84 and the Sacramento River downstream of its confluence with Cache Slough and Steamboat Slough in Solano County.

Parcel 5. Approximately 2.22 acres, consisting of part of the Los Ranchos Wildlife Area of the Department of Fish and Game fronting on the eastern right-of-way of State Highway Route 227 near its intersection with the right-of-way of the Southern Pacific Transportation Company in San Luis Obispo County near the unincorporated community of Edna.

Parcel 6. Approximately 0.86 acre with a structure utilized as office space by the Department of Motor Vehicles and known as 379 Colusa Avenue, Yuba City.

Parcel 7. Approximately 4.5 acres, being the Military Department's Manhattan Beach Armory located at 3601 Bell Avenue, Manhattan Beach. This parcel shall not be disposed of, however, until the City of Manhattan Beach amends its zoning ordinance to rezone approximately 2.5 acres of this parcel as R-1, and the Adjutant General determines that operations of the Military Department conducted on this parcel can be relocated to alternative facilities at another location. Upon both these conditions being satisfied, the Department of General Services shall, notwithstanding Section

11011.1 of the Government Code, convey to the City of Manhattan Beach, for municipal purposes only and at no cost to the city, the remaining part of this parcel that was not rezoned to R-1.

Parcel 9. Approximately 0.13 acre, consisting of an unimproved, subdivided lot fronting on Palisades Beach Road immediately adjacent to Santa Monica State Beach.

Parcel 10. Approximately 0.12 acre, consisting of an unimproved, subdivided lot fronting on Palisades Beach Road immediately adjacent to Santa Monica State Beach.

Parcel 11. Approximately 0.23 acre, consisting of an unimproved, subdivided lot fronting on Palisades Beach Road immediately adjacent to Santa Monica State Beach.

SEC. 8. Section 1 of Chapter 761 of the Statutes of 1976 is amended to read:

Section 1. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell or lease for current market value and upon such terms and conditions and with such reservations and exceptions as in his or her opinion may be for the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 8 acres of land, located on the north side of Alamitos County Road, across from the Almaden Reservoir, being an unused forest fire station site in Santa Clara County.

Parcel 2. Approximately 95 acres of land, located off of State Highway 67, about 8 miles southwest of the community of Ramona, being a portion of the Ramona Forest Fire Station in San Diego County.

Parcel 3. Approximately 6.53 acres of land, being the former Brownsville Forest Fire Station, located on Willow Glen County Road, approximately one-half mile south of the community of Brownsville in Yuba County.

Parcel 4. Approximately 50 acres of land, being a portion of the Youth Authority Ventura School, located in the City of Oxnard, in Ventura County.

Parcel 5. Approximately 7.10 acres of land, being the Coarsegold Forest Fire Station, located about 4 miles southwesterly of the community of Coarsegold on County Road No. 415, in Madera County.

Parcel 7. Approximately 0.49 acre of land, being a portion of the Mt. Danaher Ranger Unit Headquarters, located one-half mile easterly of the town of Camino, on Mt. Danaher Road, in El Dorado County.

Parcel 8. Approximately 2.5 acres of land, being land acquired by the state as partial satisfaction of a personal income tax liability, located on Carter Lane, approximately one-half mile west of the Bermuda Dunes Airport in Riverside County.

Parcel 9. Approximately 1.5 acres of land, being a portion of the Dorris Agricultural Quarantine Inspection Station, located about $^{1}/_{4}$

mile south of the community of Dorris on State Highway Route 97, in Siskiyou County.

SEC. 9. The authorization for disposal of the following properties is rescinded by Sections 6, 7, and 8 of this act, as the concerned state agencies have reported that the properties are no longer considered surplus:

(a) Parcel 3 of Section 6 of Chapter 1309 of the Statutes of 1990.

(b) Parcel 1 of Section 4 of Chapter 620 of the Statutes of 1989.

(c) Parcel 6 of Section 1 of Chapter 761 of the Statutes of 1976.

CHAPTER 418

An act relating to economic development.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 11, 1996.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) California has established overseas trade offices charged with developing the state's exports and promoting job-creating industry investment in the state. California currently has overseas trade offices located in London, Frankfurt, Mexico City, Taipei, Hong Kong, Tokyo, and Africa, and a representative office in Jerusalem.

(b) California needs to establish new markets for its products in order to compensate for the impact of the national recession and protracted military base closures.

(c) The United States Department of Commerce has identified India as a "Big Emerging Market."

(d) Trade opportunities are rapidly increasing in India for California products and services.

(e) India has a consuming market of 250 million people with substantial levels of income.

(f) India has a gross national product that is larger than that of South Korea, Mexico, Australia, or Sweden; and the American investment in India is expected to be $30 billion through 1998.

(g) India's recent economic reforms have the potential of surpassing economic opportunities elsewhere in Asia. For example, tariffs in India in 1990–91 were at a maximum 400 percent, as of 1994 they were 65 percent. Continued reforms indicate that the reduction of trade barriers is consistent and would be favorable to increased trade with California.

(h) California exported 30 percent of its industrial machinery and computers to India.

(i) California exported 21 percent of its electronic equipment, not including computers, to India.

(j) For these reasons, the Legislature believes that establishing overseas trade offices in India should be considered by the Trade and Commerce Agency.

SEC. 2. It is the recommendation of the Legislature that the Governor instruct the Director of the California State World Trade Commission to continue to study the viability of California products in India and the feasibility of establishing an overseas trade office in that country. The Legislature further recommends that the director be instructed to publish any new findings made pursuant to this section and report back to the Legislature by January 1, 1998.

CHAPTER 419

An act to amend Section 1547 of the Penal Code, relating to crimes, and making an appropriation therefor.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 1547 of the Penal Code is amended to read:

1547. (a) The Governor may offer a reward of not more than fifty thousand dollars ($50,000), payable out of the General Fund, for information leading to the arrest and conviction of any of the following:

(1) Any convict who has escaped from a state prison, prison camp, prison farm, or the custody of any prison officer or employee or as provided in Section 3059 or 4530.

(2) Any person who has committed, or is charged with the commission of, an offense punishable by death.

(3) Any person engaged in the robbery or hijacking of, or any attempt to rob or hijack, any person upon or in charge of, in whole or in part, any public conveyance engaged at the time in carrying passengers within this state.

(4) Any person who attempts to murder either in the first or second degree, assaults with a deadly weapon, or inflicts serious bodily harm upon a peace officer or firefighter who is acting in the line of duty.

(5) Any person who has committed a crime involving the burning or bombing of public or private property, including any public hospital housed in a privately owned facility.

(6) Any person who has committed a crime involving the burning or bombing of any private hospital. A reward may be offered by the Governor in conjunction with such a crime only if a reward in conjunction with the same crime is offered by the hospital, or any other public or private donor on its behalf. The amount of the reward

offered by the Governor shall not exceed the aggregate amount offered privately, or fifty thousand dollars ($50,000), whichever is less. Nothing in this paragraph shall preclude a private hospital, or any public or private donor on its behalf, from offering a reward in an amount exceeding fifty thousand dollars ($50,000). If a person providing information for a reward under this paragraph so requests, his or her name and address shall remain confidential. This confidentiality, however, shall not preclude or obstruct the investigations of law enforcement authorities.

(7) Any person who commits a violation of Section 11413.

(8) Any person who commits a violation of Section 207.

(9) Any person who has committed a crime involving the burning or bombing of any bookstore or public or private library not subject to Section 11413. A reward may be offered by the Governor in conjunction with such a crime only if a reward in conjunction with the same crime is offered by the bookstore or library, or any other public or private donor on its behalf. The amount of the reward offered by the Governor shall not exceed the aggregate amount offered privately, or fifty thousand dollars ($50,000), whichever is less. Nothing in this paragraph shall preclude a bookstore or public or private library, or any public or private donor on its behalf, from offering a reward in an amount exceeding fifty thousand dollars ($50,000). If a person providing information for a reward under this paragraph so requests, his or her name and address shall remain confidential. This confidentiality, however, shall not preclude or obstruct the investigations of law enforcement authorities.

(10) Any person who commits a violation of Section 454 or 463.

(11) Any person who willfully and maliciously sets fire to, or who attempts to willfully and maliciously set fire to, any property that is included within a hazardous fire area designated by the State Board of Forestry pursuant to Section 4252 of the Public Resources Code or by the Director of Forestry and Fire Protection pursuant to Section 4253 of the Public Resources Code, if the fire, or attempt to set a fire, results in death or great bodily injury to anyone, including fire protection personnel, or if the fire causes substantial structural damage.

(12) Any person who has committed, or is charged with the commission of, a felony that is punishable under Section 422.75 and that resulted in serious bodily injury or in property damage of more than ten thousand dollars ($10,000).

(13) Any person who commits an act that violates Section 11411, if the Governor determines that the act is one in a series of similar or related acts committed in violation of that section by the same person or group.

(b) The Governor may offer a reward of not more than one hundred thousand dollars ($100,000) for information leading to the arrest and conviction of any person who kills a peace officer or firefighter who is acting in the line of duty.

(c) The Governor may offer a reward of not more than one hundred thousand dollars ($100,000), payable out of the General Fund, for information leading to the arrest and conviction of any person who commits arson upon a place of worship.

(d) The reward shall be paid to the person giving the information, immediately upon the conviction of the person so arrested.

(e) As used in this section, "hijacking" means an unauthorized person causing, or attempting to cause, by violence or threat of violence, a public conveyance to go to an unauthorized destination.

CHAPTER 420

An act to amend Sections 2800.2 and 2800.3 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 2800.2 of the Vehicle Code is amended to read:

2800.2. (a) If a person flees or attempts to elude a pursuing peace officer in violation of Section 2800.1 and the pursued vehicle is driven in a willful or wanton disregard for the safety of persons or property, the person driving the vehicle, upon conviction, shall be punished by imprisonment in the state prison, by imprisonment in the county jail for not more than one year, or by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

(b) For purposes of this section, a willful or wanton disregard for the safety of persons or property includes, but is not limited to, driving while fleeing or attempting to elude a pursuing peace officer during which time either three or more violations that are assigned a traffic violation point count under Section 12810 occur, or damage to property occurs.

SEC. 2. Section 2800.3 of the Vehicle Code is amended to read:

2800.3. Whenever willful flight or attempt to elude a pursuing peace officer in violation of Section 2800.1 proximately causes death or serious bodily injury to any person, the person driving the pursued vehicle, upon conviction, shall be punished by imprisonment in the state prison for two, three, or four years, by imprisonment in the county jail for not more than one year, or by a fine of not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

For purposes of this section, "serious bodily injury" has the same meaning as defined in paragraph (5) of subdivision (f) of Section 243 of the Penal Code.

CHAPTER 421

An act to add Section 1170.16 to the Penal Code, relating to manslaughter.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 1170.16 is added to the Penal Code, to read:

1170.16. In lieu of the term provided in Section 1170.1, a full, separate, and consecutive term may be imposed for each violation of subdivision (a) of Section 192, whether or not the offenses were committed during a single transaction.

CHAPTER 422

An act to add Section 827.1 to the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 827.1 is added to the Welfare and Institutions Code, to read:

827.1. Notwithstanding Section 827 or any other provision of law, written notice that a minor has been found by a court of competent jurisdiction to have committed any felony pursuant to Section 602 shall be provided by the court within seven days to the sheriff of the county in which the offense was committed and to the sheriff of the county in which the minor resides. Written notice shall include only that information regarding the felony offense found to have been committed by the minor and the disposition of the minor's case. If at any time thereafter the court modifies the disposition of the minor's case, it shall also notify the sheriff as provided above. The sheriff may disseminate the information to other law enforcement personnel upon request, provided that he or she reasonably believes that the

release of this information is generally relevant to the prevention or control of juvenile crime.

Any information received pursuant to this section shall be received in confidence for the limited law enforcement purpose for which it was provided and shall not be further disseminated except as provided in this section. An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 423

An act to add Section 243.35 to, and to repeal and add Section 241.3 of, the Penal Code, relating to crimes.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 241.3 of the Penal Code is repealed.

SEC. 2. Section 241.3 is added to the Penal Code, to read:

241.3. (a) When an assault is committed against any person on the property of, or on a motor vehicle of, a public transportation provider, the offense shall be punished by a fine not to exceed two thousand dollars ($2,000), or by imprisonment in a county jail not to exceed one year, or by both the fine and imprisonment.

(b) As used in this section, "public transportation provider" means a publicly or privately owned entity that operates, for the transportation of persons for hire, a bus, taxicab, streetcar, cable car, trackless trolley, or other motor vehicle, including a vehicle operated on stationary rails or on a track or rail suspended in air, or that operates a schoolbus.

(c) As used in this section, "on the property of" means the entire station where public transportation is available, including the parking lot reserved for the public who utilize the transportation system.

SEC. 3. Section 243.35 is added to the Penal Code, to read:

243.35. (a) Except as provided in Section 243.3, when a battery is committed against any person on the property of, or in a motor vehicle of, a public transportation provider, the offense shall be punished by a fine not to exceed two thousand dollars ($2,000), or by imprisonment in a county jail not to exceed one year, or by both the fine and imprisonment.

(b) As used in this section, "public transportation provider" means a publicly or privately owned entity that operates, for the transportation of persons for hire, a bus, taxicab, streetcar, cable car, trackless trolley, or other motor vehicle, including a vehicle operated on stationary rails or on a track or rail suspended in air, or that operates a schoolbus.

(c) As used in this section, "on the property of" means the entire station where public transportation is available, including the parking lot reserved for the public who utilize the transportation system.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 424

An act to add Chapter 6.5 (commencing with Section 2791) to Part 2 of Division 1 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Chapter 6.5 (commencing with Section 2791) is added to Part 2 of Division 1 of the Public Utilities Code, to read:

CHAPTER 6.5. TRANSFER OF FACILITIES IN MASTER-METERED MOBILEHOME PARKS AND MANUFACTURED HOUSING COMMUNITIES TO GAS OR ELECTRIC CORPORATION OWNERSHIP

2791. (a) The owner of a master-metered mobilehome park or manufactured housing community that provides gas or electric service to residents may transfer ownership and operational responsibility to the gas or electric corporation providing service in the area in which the park or community is located pursuant to this chapter, or as the park or community owner and the serving gas or electric corporation mutually agree.

(b) Costs, including both costs related to transfer procedures and costs related to construction, related to the transfer of ownership process, whether or not resulting in a transfer of ownership to the serving gas or electric corporation, shall not be passed through to the park or community residents. Costs related to the transfer of ownership process, whether or not resulting in a transfer of ownership to the serving gas or electric corporation, shall not be passed through to the gas or electric corporation, except as otherwise provided in this chapter.

(c) Residents of mobilehome parks and manufactured housing communities constructed after January 1, 1997, shall be individually metered and served by gas and electric distribution facilities owned, operated, and maintained by the gas or electric corporation providing the service in the area where the new park or community is located consistent with the commission's orders regarding unbundling, aggregation, master-metering, and selection of suppliers by residential customers. Each gas and electric corporation shall cooperate with the owner of any park or community constructed after January 1, 1997, to ensure timely and expeditious installation of the gas and electric distribution system and to eliminate any delay in the design, construction, permitting, and operation of the gas and electric system in the park or community.

2792. (a) Upon receipt of a written notice of intent to transfer from the mobilehome park or manufactured housing community owner, the gas or electric corporation shall within 90 days do all of the following:

(1) Meet with the park or community owner to describe the procedures involved in a transfer of ownership and operation responsibility.

(2) Perform a preliminary review of the gas or electric system, or both, in the park or community.

(3) Inspect documentation provided by the park or community owner of the construction, operation, and condition of the gas or electric system, or both.

(4) Advise the park or community owner concerning the general condition of the plant and equipment, along with a preliminary opinion concerning the extent of construction work or other activity necessary to comply with Section 2794.

(5) Offer a preliminary nonbinding estimate of the cost of transfer.

(6) Offer the park or community owner a preliminary nonbinding cost estimate to perform an engineering evaluation and estimate the construction work and equipment replacement to be performed by the gas or electric corporation at the owner's expense.

(b) The gas or electric corporation shall develop the cost estimate for the engineering evaluation in good faith using the same methodology as is used for similar projects. The preliminary cost estimate shall be effective for a minimum of 90 days. The gas or electric corporation shall give the owner timely notice of any increase in the estimated cost of the engineering evaluation.

(c) During 1997, gas and electric corporations shall make a good faith effort to respond within 90 days to the notice provided in subdivision (a).

(d) The gas or electric corporation may charge a fee for the initial inspection not to exceed one hundred fifty dollars ($150).

2793. (a) Upon receipt from the park or community owner of a deposit representing the gas or electric corporation's estimated cost of the engineering evaluation, the gas or electric corporation shall, within 90 days, do all of the following:

(1) Develop an engineering plan for bringing the gas or electric system to the standard described in Section 2794, incorporating all relevant documentation including plans, drawings, engineering studies, and other existing documentation provided by the park or community owner, and considering incorporation of all portions of the gas or electric system found to be used, useful, and compatible.

(2) Develop an appraisal of the value to the gas or electric corporation of the physical plant and equipment found to be used, useful, and compatible that comprise the gas or electric system, or both, to be transferred, including an estimate of the remaining useful life of the gas or electric system. The value to the gas or electric corporation shall take into consideration the expenditures by the park or community owner to comply with the criteria established in Section 2794.

(3) Present a proposal, in sufficient detail to serve as a bid document for the transfer of ownership of the system to the gas or electric corporation.

(b) The proposal may be based on either of the following approaches or as the park or community owner and the gas or electric corporation mutually agree:

(1) The park or community owner is responsible for all construction and equipment replacement activity, if any, at the park or community owner's expense less any credits or allowances, if any, including credits or allowances based on incremental increases in the gas or electric corporation's revenues associated with the park or community owner's investment in the gas or electric system. The construction and equipment replacement and the credits and allowances shall be based on the principles established in the gas or electric corporation's line and service extension rules, if applicable.

(2) The gas or electric corporation shall pay the park or community owner for the appraised value to the gas or electric corporation of any gas or electric distribution facilities found to be used, useful, and compatible. If any new facilities are necessary, the park or community owner shall be responsible for the costs of the excavation, installation of substructures, conduit and meter panels, and surface repairs. Except as provided in paragraph (4) of subdivision (c), the gas or electric corporation shall be responsible for the costs of any additional construction and equipment replacement, including cabling and transformers.

(c) The proposal shall include the following:

(1) A description of construction and equipment replacement activity, if any, to be accomplished at the park or community owner's expense.

(2) Requirements for any additional provisions or rights for the construction or maintenance of public utility facilities on park or community premises, including easements and rights-of-way acceptable to the gas or electric corporation.

(3) Any specific requirements or costs, or both, with respect to the presence of used and useful materials or equipment that are nonstandard, including, but not limited to, inventory requirements, specialized equipment requirements, or specialized personnel or training.

(4) Any specific requirements or costs, or both, with respect to the presence of exceptional construction conditions or operation and maintenance conditions.

(d) If the actual cost of the engineering evaluation is greater than the gas or electric corporation estimate, the park or community owner shall pay the gas or electric corporation the difference within 30 days of receipt of notice. If the actual cost of the engineering evaluation is less than the deposit, the gas or electric corporation shall pay the park or community owner the difference within 30 days. The content of the proposal shall become the property of the park or community owner.

(e) Within 90 days of receipt of the proposal for transfer of ownership, a park or community owner may do any of the following:

(1) Present objections to the gas or electric corporation in writing for resolution and may require mediation of the commission if the parties are unable to resolve the objection.

(2) Decline to proceed, without prejudice to the right to present a new notice at any future date.

(3) Accept the proposal and contract with the gas or electric corporation for completion of the construction work and equipment replacement, if any, or the acquisition of the gas or electric system, or both.

(4) Accept the proposal and contract with an approved third party for completion of the construction work and equipment replacement, if any, in accordance with the applicable gas or electric corporation applicant installation rules.

(f) Any new facilities provided by the gas or electric corporation to extend distribution or service facilities from the existing gas or electric corporation system within the park to previously undeveloped locations shall be provided in accordance with line extension rules and service extension rules contained in gas or electric corporation tariffs filed with the commission, including any and all free extensions, allowances, and advances subject to refund.

(g) Upon completion of construction work and equipment replacement, if any, receipt of appropriate inspection approval from the gas or electric corporation and authorities having jurisdiction for the inspections, and completion of all financial transactions among the parties, the park or community owner shall transfer and the gas or electric corporation shall acquire ownership and operational responsibility for the gas or electric system.

(h) Upon receipt of the proposal described in paragraph (3) of subdivision (a), the park or community owner shall notify the park residents concerning the pendency of a transfer process request and the provisions of the transfer process law.

2794. (a) A gas or electric system shall be considered acceptable for transfer if it is in compliance with the following criteria:

(1) It is capable of providing the end users a safe and reliable source of gas or electric service.

(2) It meets the commission's general orders, is compatible, and, in the case of new construction, meets the gas or electric corporation's design and construction standards insofar as they are related to safety and reliability. The parties may waive these requirements by mutual agreement and, where necessary, with commission approval. The deviations as are agreed upon may be reflected in the purchase price.

(3) It is capable of serving the customary expected load in the park or community determined in accordance with a site-specific study, studies of comparable parks or communities, industry standards, and the gas or electric corporation's rules as approved by the commission.

(b) As used in this section, "customary expected load" means the anticipated level of service demanded by the dwelling units in the park or community. The park or community owner shall not be responsible for betterments or improvements to the gas or electric

corporation's distribution system facilities or operations that do not benefit the park or community.

(c) Satisfaction of the criteria shall not require any particular system architecture or replacement of used and useful equipment, plant, or facilities, except as needed to comply with subdivision (a). Equipment, facilities, or plant that are part of the existing gas or electric system shall be considered compatible unless their presence in the system would cause substantial increase in the frequency or duration of outages in the case of failure or emergency, or they have no remaining useful life. Pursuant to subdivision (c) of Section 2793, equipment, facilities, or plant that require special training for the gas or electric corporation's employees, or require the gas or electric corporation to maintain inventories of nonstandard equipment may be considered compatible, but their presence may be reflected in the appraised value or the cost imposed on the park or community owner.

2795. The park or community owner and the gas or electric corporation shall develop a cost for the transfer of the gas or electric system that reflects the factors in Section 2793, indemnity and liability issues, and any other factors as the parties may mutually agree upon, and to which the gas or electric corporation's ratepayers are indifferent. The parties may agree on a schedule for phasing in facilities to meet expected load increases and betterments, and the costs associated with those activities.

2796. (a) During the pendency of a transfer request, the owner of the park or community shall be responsible for the continued maintenance to preserve the integrity of the park or community gas or electric system and safe and reliable operation of the park or community system in accordance with applicable laws.

(b) During the pendency of a transfer request the owner of the park or community shall be liable for injury and damage resulting from operation of the submetered gas and electric system. After transfer the gas or electric corporation shall assume responsibility for operation of the gas or electric system and provision of service to residents of the park or community and shall assume liability for any future injury or damage resulting from operation of the gas or electric system except with respect to defects known to the park or community owner and not disclosed to the gas or electric corporation during the transfer of ownership process.

2797. The commission shall permit the gas or electric corporation to recover in its revenue requirement and rates all costs to acquire, improve, upgrade, operate, and maintain transferred mobilehome park or manufactured housing community gas or electric systems.

2798. The commission shall adopt a standard form of agreement for transfer of gas and electric distribution facilities in mobilehome parks and manufactured housing communities that shall be the basis for expedited approval of the transfers. The contract shall be based on this chapter, the regulations of the commission, and on gas or

electric corporation rules and regulations, as approved by the commission.

2799. (a) The mobilehome park or manufactured housing community owner may, by written notice, stop the transfer process at any time. Within 60 days of delivery to the park or community owner of an itemized bill, the owner shall reimburse the gas or electric corporation for all costs incurred through the date notice is provided.

(b) At any time during the transfer of ownership process, either party may apply to the commission for informal mediation and resolution of any issue, finding, determination, or delay in the conversion process.

(c) If the initiation of the transfer process does not result in a transfer of the park or community owner's gas or electric system to the gas or electric corporation, all information, data, reports, studies, and proposals shall be retained by the gas or electric corporation for a period of five years or offered to the park or community owner. Prior to disposal of the records, the gas or electric corporation shall offer them to the park or community owner, except that the gas or electric corporation shall not be required to provide proprietary information to the park or community owner.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 425

An act to amend Sections 14571.4 and 14581 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 September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 14571.4 of the Public Resources Code is amended to read:

14571.4. (a) (1) On and after January 1, 1995, and for a period not to exceed three years thereafter, the department shall certify one operator to establish the Pacific Beach Pilot Mobile Recycling Program, as a pilot program, incorporating all convenience zones in the Pacific Beach area of San Diego County.

(2) For the purposes of this section, "the Pacific Beach area of San Diego County" means the area designated in the Pacific Beach Community Plan.

(b) Notwithstanding Sections 14570 and 14571, for the duration of the pilot program, all convenience zones within the Pacific Beach area of San Diego County shall be considered served if all of the following conditions are met:

(1) The recycling center operator meets all of the following:

(A) The center is open for business at least once each week at each of five locations, three of which are within the existing convenience zones in the Pacific Beach area of San Diego County.

(B) The center is open for business at least eight hours per day at each location.

(C) The center agrees to accept, and pay the refund value for, all eligible beverage container types.

(D) The center is certified by the department for operation in at least five locations, each of which shall be approved by the department.

(2) All dealers within the Pacific Beach area of San Diego County post a clear and conspicuous sign of at least 10 inches by 15 inches at each public entrance to the dealer's place of business, indicating the location, hours, and day of operation for each recycling location within the Pacific Beach area.

(c) A recycling center operator approved by the department, that meets the requirements of subdivision (b), shall be designated a certified recycling center and shall be eligible to apply for handling fees pursuant to Section 14585.

(d) As a condition of the continuation of the pilot program, within six months after the initiation of the pilot program, the total minimum monthly volume of beverage containers recycled by the recycling center operator at all sites combined within the Pacific Beach area of San Diego County shall be at least 120,000 containers per month.

(e) (1) On or before April 11, 1997, the department shall submit a report to the Legislature, and shall submit copies of the report to the appropriate policy committees of the Legislature, and, upon request, to any Member of the Legislature, on the effectiveness of the pilot program in meeting the goals of this division, together with a recommendation with regard to the continuance of the pilot

program. The report shall include an evaluation of the effectiveness of the pilot program in avoiding increased vagrancy and crime adjacent to recycling locations and shall compare the effectiveness of the pilot program in providing convenient opportunities for beverage container recycling when compared to comparable communities which have convenience zone recycling.

(2) The law enforcement agency which has jurisdiction over the Pacific Beach area shall provide appropriate crime statistics and any other relevant information to the department so that the effectiveness of the pilot program in avoiding increased vagrancy and crime adjacent to recycling locations can be evaluated.

(f) If the department determines that it is necessary to adopt or revise regulations to implement this section, the regulations shall be adopted or revised as emergency regulations. The Office of Administrative Law shall consider these emergency regulations to be necessary for the immediate preservation of the public peace, health, and safety, and the general welfare for the purposes of Section 11349.6 of the Government Code. Notwithstanding the 120-day period provided for in subdivision (e) of Section 11346.1 of the Government Code, the emergency regulations shall be repealed 180 days from the effective date of the regulations.

(g) 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 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, the department may expend the money set aside in the fund, pursuant to subdivision (c) of Section 14580 for the purposes of this section, in the following order of priority:

(1) Eighteen million five hundred thousand dollars ($18,500,000) may be expended, until January 1, 1999, for the payment of handling fees required pursuant to Section 14585.

(2) Five million dollars ($5,000,000) may be expended, until January 1, 1999, for payments for curbside programs pursuant to Section 14549.6.

(3) (A) Seven million dollars ($7,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), may be expended in the form of grants issued to either of the following:

(i) Certified community conservation corps, that either exist currently, or that are formed at a future date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the most recent census, of more than 250,000 persons.

(ii) Community conservation corps, that are designated by a county to perform litter abatement, recycling, and related activities,

and are certified by the California Conservation Corps as having operated for a minimum of two years and as meeting all other criteria of Section 14507.5.

(B) Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(4) Two million dollars ($2,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), may be expended, in the form of grants to nonprofit organizations or governmental entities, as determined by the department.

(b) The nine million dollars ($9,000,000) that is set aside pursuant to paragraphs (3) and (4) of subdivision (a), is a base amount that the department shall adjust annually to reflect any increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

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 authorize in a timely manner an extension of time for the Department of Conservation to submit to the Legislature the report required pursuant to paragraph (1) of subdivision (e) of Section 14571.4 of the Public Resources Code, it is necessary that this act take effect immediately.

CHAPTER 426

An act to amend Sections 41954, 41956.1, and 41960 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 41954 of the Health and Safety Code is amended to read:

41954. (a) The state board shall adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage and transfer operations, with performance standards which are reasonable and necessary to achieve or maintain any applicable ambient air quality standard.

(b) The state board shall, after a public hearing, adopt additional performance standards which are reasonable and necessary to ensure that systems for the control of gasoline vapors resulting from motor vehicle fueling operations do not cause excessive gasoline liquid

spillage when used in a proper manner. To the maximum extent practicable, the additional performance standards shall allow flexibility in the design of gasoline vapor recovery systems and their components.

(c) The state board shall certify, in cooperation with the districts, any gasoline vapor control system, upon its determination that the system, if properly installed and maintained, will meet the requirements of subdivision (a). The state board shall enumerate the specifications used for issuing the certification. After a system has been certified, if circumstances beyond the control of the state board cause the system to no longer meet the required specifications or standards, the state board may revoke or modify the certification.

(d) The state board may test, or contract for testing, gasoline vapor control systems for the purpose of certifying them.

(e) The state board shall charge a reasonable fee for certification, not to exceed its estimated costs therefor. Payment of the fee shall be a condition of certification.

(f) No person shall offer for sale, sell, or install any new or rebuilt gasoline vapor control system, or any component of the system, unless the system or component has been certified by the state board and is clearly identified by a permanent identification of the certified manufacturer or rebuilder.

(g) (1) Except as authorized by other provisions of law and except as provided in this subdivision, no district may adopt, after July 1, 1995, stricter procedures or performance standards than those adopted by the state board pursuant to subdivision (a), and no district may enforce any such stricter procedures or performance standards.

(2) Any such stricter procedures or performance standards shall not require the retrofitting, removal, or replacement of any existing system, which is installed and operating in compliance with applicable requirements, within four years from the effective date of those procedures or performance standards, except that existing requirements for retrofitting, removal, or replacement of nozzles with nozzles containing vapor-check valves may be enforced commencing July 1, 1998.

(3) Any such stricter procedures or performance standards shall not be implemented until at least two systems meeting the stricter performance standards have been certified by the state board.

(4) If the certification of a gasoline vapor control system, or a component thereof, is revoked or modified, no district shall require a currently installed system, or component thereof, to be removed for a period of four years from the date of revocation or modification.

(h) No district shall require the use of test procedures for testing the performance of a gasoline vapor control system unless those test procedures have been adopted by the state board or have been determined by the state board to be equivalent to those adopted by the state board, except that test procedures used by a district prior

to January 1, 1996, may continue to be used until January 1, 1998, without state board approval.

(i) With respect to those vapor control systems subject to certification by the state board, there shall be no criminal or civil proceedings commenced or maintained for failure to comply with any statute, rule, or regulation requiring a specified vapor recovery efficiency if the vapor control equipment which has been installed to comply with applicable vapor recovery requirements meets both of the following requirements:

(1) Has been certified by the state board at an efficiency equal to or greater than the efficiency required by applicable statutes, rules, or regulations.

(2) Is installed, operated, and maintained in accordance with the procedures set forth in the certification and the instructions of the equipment manufacturer.

SEC. 2. Section 41956.1 of the Health and Safety Code is amended to read:

41956.1. (a) Whenever the state board, the Division of Measurement Standards of the Department of Food and Agriculture, or the State Fire Marshal revises performance or certification standards or revokes a certification, any systems or any system components certified under procedures in effect prior to the adoption of revised standards or the revocation of the certification and installed prior to the effective date of the revised standards or revocation may continue to be used in gasoline marketing operations for a period of four years after the effective date of the revised standards or the revocation of the certification. However, all necessary repair or replacement parts or components shall be certified.

(b) Notwithstanding subdivision (a), whenever the State Fire Marshal determines that a system or a system component creates a hazard to public health and welfare, the State Fire Marshal may prevent use of the particular system or component.

(c) Notwithstanding subdivision (a), the Division of Measurement Standards may prohibit the use of any system or any system component if it determines on the basis of test procedures adopted pursuant to subdivision (c) of Section 41956, that use of the system or component will result in gasoline recirculation.

SEC. 3. Section 41960 of the Health and Safety Code is amended to read:

41960. (a) Certification of a gasoline vapor recovery system for safety and measurement accuracy by the State Fire Marshal and the Division of Measurement Standards and, if necessary, by the Division of Occupational Safety and Health shall permit its installation wherever required in the state, if the system is also certified by the state board.

(b) Except as otherwise provided in subdivision (g) of Section 41954, no local or regional authority shall prohibit the installation of

a certified system without obtaining concurrence from the state agency responsible for the aspects of the system which the local or regional authority disapproves.

CHAPTER 427

An act to amend Sections 35757, 35782, 38191, and 38192 of, to amend the heading of Article 2.5 (commencing with Section 38191) of Chapter 5 of Part 3 of Division 15 of, and to add Sections 32920 and 32920.5 to, the Food and Agricultural Code, relating to milk.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 32920 is added to the Food and Agricultural Code, to read:

32920. Any pasteurized milk or milk product, frozen dessert, cheese, or product resembling milk products shall be produced, distributed, or sold in accordance with the current good manufacturing practices set forth in Title 21 of the Code of Federal Regulations, as amended.

SEC. 2. Section 32920.5 is added to the Food and Agricultural Code, to read:

32920.5. Any sanitary, sterilization, or pasteurization requirement relating to or affecting the production of raw milk for pasteurization or the processing, distribution, or sale of any pasteurized milk or pasteurized milk product, frozen dessert, cheese, or product resembling milk products, that is adopted by the secretary pursuant to this section, shall be in conformity with the "Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food" in Part 110 (commencing with Section 110.3) of Title 21 of the Code of Federal Regulations. The secretary, after public hearing, may adopt regulations referencing sections or portions thereof, of the most current revision of the "Grade A Pasteurized Milk Ordinance/Grade A Dry Milk Ordinance—Recommendations of the United States Public Health Service/Food and Drug Administration."

SEC. 3. Section 35757 of the Food and Agricultural Code is amended to read:

35757. The secretary, in compliance with Section 407 of this code and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt regulations pertaining to temperature requirements for market milk delivered to consumers. Notwithstanding any other provision of this chapter, these regulations may establish temperature requirements for

market milk delivered to consumers that differ from any or all requirements provided for in this chapter. In adopting these regulations, the secretary shall take into consideration the preservation of high quality market milk for consumers, as well as avoidance of hardship and unreasonable expense for persons engaged in the processing, packaging, and distribution of market milk.

SEC. 4. Section 35782 of the Food and Agricultural Code is amended to read:

35782. Market milk shall be cooled to 45 degrees Fahrenheit or below, whether it is raw or pasteurized, and, except as otherwise provided in Section 35783, shall be so maintained until it is delivered to the consumer.

SEC. 5. The heading of Article 2.5 (commencing with Section 38191) of Chapter 5 of Part 3 of Division 15 of the Food and Agricultural Code is amended to read:

Article 2.5. One Percent Lowfat Milk

SEC. 6. Section 38191 of the Food and Agricultural Code is amended to read:

38191. One percent lowfat milk is a market milk product with added milk solids derived from market milk. One percent lowfat milk shall contain not less than 0.9 percent milk fat, not more than 1.1 percent milk fat, and not less than 11 percent of milk solids not fat.

SEC. 7. Section 38192 of the Food and Agricultural Code is amended to read:

38192. Except as otherwise provided in this article, one percent lowfat milk shall meet all standards and requirements that are specified in this division for market milk.

CHAPTER 428

An act relating to taxation.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

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

(1) The current alternative minimum tax is excessively complicated and burdensome to California businesses.

(2) The alternative minimum tax calculation is so complex that it is not well complied with or understood.

(3) Many California businesses must compute this complex tax even if they are not ultimately subject to it.

(4) Any changes to the alternative minimum tax will necessarily be complicated and require study.

(b) The Franchise Tax Board and the Department of Finance shall, with input from affected taxpayers, on or before June 1, 1997, jointly prepare and make recommendations to the Legislature with respect to statutory changes aimed at simplifying the alternative minimum tax. These recommendations shall be based on an examination of all of the following:

(1) A profile of taxpayers who must make the alternative minimum tax calculation.

(2) A profile of taxpayers who pay the alternative minimum tax.

(3) An analysis of what the other 49 states do with respect to an alternative minimum tax.

(4) The original purpose of the alternative minimum tax and whether the tax is achieving that purpose.

(5) An analysis of alternative proposals for eliminating the major sources of complexity within the alternative minimum tax, including repealing the tax.

CHAPTER 429

An act to amend Sections 41750, 41751, 41752, 41753, 41754, and 41755 of, and to amend the heading of Article 1.5 (commencing with Section 41750) of Chapter 3 of Part 4 of Division 26 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. The heading of Article 1.5 (commencing with Section 41750) of Chapter 3 of Part 4 of Division 26 of the Health and Safety Code is amended to read:

Article 1.5. Portable Equipment

SEC. 2. Section 41750 of the Health and Safety Code is amended to read:

41750. The Legislature hereby finds and declares all of the following:

(a) Existing law authorizes each district to impose separate and sometimes inconsistent emission control requirements for, and to require separate permits to operate, portable equipment that are used at various sites throughout the state.

(b) That multiplicity of permits and regulatory requirements imposes a complex and costly burden on California businesses that use, hire, provide, and manufacture that equipment.

(c) A uniform, voluntary system of statewide registration and regulation of portable equipment, consistent with current state and federal air quality law, is necessary to ensure consistent and reasonable regulation of that equipment without undue burden on their owners, operators, and manufacturers.

(d) Portable equipment has attributes of both mobile sources and stationary sources of air pollution. A separate registration and emission control program is needed to reflect the unique operating characteristics of that equipment while providing authority for a statewide program of emission reduction measures to be applied to existing in-state, out-of-state, and newly manufactured portable equipment.

SEC. 3. Section 41751 of the Health and Safety Code is amended to read:

41751. (a) As used in this article, "portable equipment" includes any internal combustion engine that is portable, and equipment that is associated with, and driven solely by, any portable internal combustion engine. Portable equipment does not include an engine used to propel nonroad equipment or a motor vehicle of any kind, including, but not limited to, a heavy-duty vehicle.

(b) As used in this article, "portable" means that it is carried or moved from one location to another in the normal course of business. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, or a dolly, trailer, vessel, platform, or mounting.

(c) Portable equipment includes, but is not limited to, any of the following:

(1) Confined and unconfined abrasive blasting equipment.

(2) Portland concrete batch plants.

(3) Sand and gravel screening, rock crushing, unheated pavement crushing, and recycling operations equipment.

(4) Consistent with federal law, portable internal combustion engines used in conjunction with, but not limited to, the following types of operations:

(A) Well drilling, including service equipment and work over rigs.

(B) Power generation, excluding cogeneration.

(C) Pumps.

(D) Compressors.

(E) Pile drivers.

(F) Welding.

(G) Cranes.

(H) Wood chippers.

(5) Equipment necessary for the operation of portable equipment.

SEC. 4. Section 41752 of the Health and Safety Code is amended to read:

41752. (a) At the earliest feasible date, but not later than July 1, 1997, the state board shall do all of the following:

(1) Evaluate the emissions from the operation of portable equipment and identify emission reduction technologies that may be applied to portable equipment.

(2) After holding at least one public hearing, establish, by regulation, emission limits and emission control requirements, consistent with Section 41754, and an optional registration program for portable equipment that is, or may be, used in more than a single district.

(b) The registration program shall take effect on the date specified by the state board in the regulation, but not later than 180 days from the date that the state board adopts the regulation.

(c) The program shall provide for the voluntary registration of portable equipment, and may provide for the renewal of a registration not more than once every three years.

(d) (1) The state board may establish a schedule of fees for purposes of this article to be assessed on persons seeking to register, or to renew the registration of, portable equipment. The state board may establish separate fees for the initial registration and for the renewal of a registration. The fees charged, in the aggregate, shall not exceed the reasonable cost to the state board of administering the registration program, and adopting the regulations specified in Section 41754.

(2) The state board shall, in adopting the regulations specified in Section 41754, include a uniform statewide district fee schedule for the recovery of the reasonable costs of enforcement pursuant to Section 41755.

(e) Notwithstanding Section 41754, the state board may periodically revise and update the regulations adopted pursuant to this section, including, but not limited to, revising and updating a determination of best available control technology (BACT) for portable internal combustion engines.

SEC. 5. Section 41753 of the Health and Safety Code is amended to read:

41753. (a) (1) It is the intent of the Legislature that the registration of, and the regulation of emissions from, portable equipment that is operated in more than one district and that is subject to the registration program be done on a uniform, statewide basis by the state board and that the permitting, registration, and regulation of portable equipment by the districts be preempted.

(2) Notwithstanding paragraph (1), if the owner or operator of portable equipment elects not to register under the statewide registration program, the unregistered portable equipment shall be subject to district permitting requirements pursuant to district regulations.

(b) On and after the effective date of the statewide registration program established by the state board pursuant to subdivision (a)

of Section 41752 and upon the registration of portable equipment by the portable equipment owner or operator, a district shall not, with respect to the affected portable equipment, do any of the following:

(1) Require a permit for the construction or operation of the portable equipment.

(2) Assess any fee related to the construction or operation of the portable equipment, other than that specified in paragraph (2) of subdivision (d) of Section 41752.

(3) Adopt any emission limit or emission control requirement applicable to the portable equipment.

(4) Except as provided in Section 41755, enforce any emission limit or emission control requirement applicable to the portable equipment.

(c) The state board, in consultation with affected districts, shall amend the state implementation plan as necessary to include the statewide registration program and conform the state implementation plan to its requirements.

SEC. 6. Section 41754 of the Health and Safety Code is amended to read:

41754. (a) The regulations adopted by the state board, on or before July 1, 1997, shall include, but need not be limited to, provisions that ensure all of the following:

(1) That emissions from portable equipment subject to the statewide registration program will not, in the aggregate, interfere with the attainment or maintenance of state or federal ambient air quality standards and the emissions from any one portable equipment engine, exclusive of background concentration, shall not cause an exceedance of any ambient air quality standard. This paragraph shall not be construed as requiring portable equipment operators to provide emission offsets for portable equipment registered under the program.

(2) (A) That, to the extent not in conflict with federal law, the registration program preserves the most stringent requirements adopted by a district which require the use of best available control technology (BACT) for each class or category of portable equipment determined appropriate by the state board, and which requirements were in effect on January 1, 1995. In determining the appropriate emission limits or emission control technology requirements for classes and categories of portable equipment, the state board may set different requirements for portable equipment that is defined by the state board as California resident portable equipment.

(B) Notwithstanding subparagraph (A) and, to the extent not in conflict with federal law, the state board may consider technical and economic feasibility in establishing emission limits or control equipment requirements for any category or class of existing California resident portable equipment, if all portable equipment in that category or class is required to be modified or replaced to meet

BACT or the more stringent of a state or federal emission standard, at a date determined by the state board.

(3) That any registered portable equipment, including any turbine, used by the Department of Defense or the National Guard exclusively for military technical support or other federal emergency purposes, as specified in the regulations adopted by the state board, is not subject to any statewide or district emission control or emission limit.

(b) No emission limit or emission control requirement shall be established for any portable equipment defined by the state board as California resident portable equipment unless the state board determines that the emission limit or emission control requirement is technologically and economically feasible and is necessary to carry out the express terms of this division, including, but not limited to, Section 43013, or to attain or maintain state or federal ambient air quality standards.

(c) Prior to adopting any emission limit or emission control requirement, the state board shall consider the magnitude of the resultant air quality benefits and the potential effects of the regulation on the costs to businesses that use the portable equipment.

(d) The emission limits established for any portable equipment or class of portable equipment shall reflect the effectiveness of all control equipment installed and operated on the portable equipment or particular class of portable equipment.

(e) No emission limits other than those established by the state board for any portable equipment or class of portable equipment shall be used by a district for purposes of calculating and reporting emissions from portable equipment subject to this article.

(f) Any recordkeeping and reporting requirements prescribed by the state board for the purpose of tracking portable equipment utilization and movement shall be the minimum that is necessary to provide sufficient emission inventory data and allow adequate enforcement of the registration program.

(g) Source testing of portable equipment emissions for registration purposes shall not be required if there is no emission standard applicable to portable equipment, or if acceptable emissions data is available. For purposes of this subdivision, "acceptable emissions data" means emissions data representative of current portable equipment operations that is either reliable emissions data from the portable equipment manufacturer or a source test performed within three years prior to the date that the emissions data is requested.

SEC. 7. Section 41755 of the Health and Safety Code is amended to read:

41755. (a) Districts shall enforce the statewide registration program, emission limitations, and emission control requirements established by the state board pursuant to this article in the same manner as a district rule or regulation.

(b) (1) Source testing of engines for compliance purposes shall not be required more frequently than once every three years, except where evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect emissions from the engine are identified.

(2) A district may conduct source testing to determine compliance with mass emission limits where there is an indication of noncompliance.

(3) Except as required for purposes of paragraph (2), source testing of engine emissions for compliance purposes shall not be required of engines for which there is no applicable emission limit.

CHAPTER 430

An act to add Section 5063 to the Business and Professions Code, relating to accountants.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 5063 is added to the Business and Professions Code, to read:

5063. (a) A licensee shall report to the board in writing of the occurrence of any of the following events occurring on or after January 1, 1997, within 30 days of the date the licensee has knowledge of these events:

(1) The conviction of the licensee of any of the following:

(A) A felony.

(B) Any crime related to the qualifications, functions, or duties of a public accountant or certified public accountant, or to acts or activities in the course and scope of the practice of public accountancy.

(C) Any crime involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

As used in this section, a conviction includes the initial plea, verdict, or finding of guilt, pleas of no contest, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence actually imposed until appeals are exhausted.

(2) The cancellation, revocation, or suspension of a certificate, other authority to practice or refusal to renew a certificate or other authority to practice as a certified public accountant or a public accountant, by any other state or foreign country.

(3) The cancellation, revocation, or suspension of the right to practice as a certified public accountant or a public accountant before any governmental body or agency.

(b) The report required by subdivision (a) shall be signed by the licensee and set forth the facts which constitute the reportable event. If the reportable event involves the action of an administrative agency or court, then the report shall set forth the title of the matter, court or agency name, docket number, and dates of occurrence of the reportable event.

(c) A licensee shall promptly respond to oral or written inquiries from the board concerning the reportable events, including inquiries made by the board in conjunction with license renewal.

(d) Nothing in this section shall impose a duty upon any licensee to report to the board the occurrence of any of the events set forth in subdivision (a) either by or against any other licensee.

CHAPTER 431

An act to add Chapter 10.5 (commencing with Section 186.11) to Title 7 of Part 1 of, and to repeal Section 186.11 of, the Penal Code, relating to crime.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 186.11 of the Penal Code is repealed.

SEC. 2. Chapter 10.5 (commencing with Section 186.11) is added to Title 7 of Part 1 of the Penal Code, to read:

CHAPTER 10.5. FRAUD AND EMBEZZLEMENT: VICTIM RESTITUTION

186.11. (a) (1) Any person who commits two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of more than one hundred thousand dollars ($100,000), shall be punished, upon conviction of two or more felonies in a single criminal proceeding, in addition and consecutive to the punishment prescribed for the felony offenses of which he or she has been convicted, by an additional term of imprisonment in the state prison as specified in paragraph (2) or (3). This enhancement shall be known as the aggravated white collar crime enhancement. The aggravated white collar crime enhancement shall only be imposed once in a single criminal proceeding. For purposes of this section, "pattern of related felony conduct" means engaging in at least two felonies that have the same

or similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics, and that are not isolated events. For purposes of this section, "two or more related felonies" means felonies committed against two or more separate victims, or against the same victim on two or more separate occasions.

(2) If the pattern of related felony conduct involves the taking of more than five hundred thousand dollars ($500,000), the additional term of punishment shall be two, three, or five years in the state prison.

(3) If the pattern of related felony conduct involves the taking of more than one hundred thousand dollars ($100,000), but not more than five hundred thousand dollars ($500,000), the additional term of punishment shall be the term specified in subdivision (a) or (b) of Section 12022.6.

(b) (1) The additional prison term and penalties provided for in subdivisions (a), (c), and (d) shall not be imposed unless the facts set forth in subdivision (a) are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(2) The additional prison term provided in paragraph (2) of subdivision (a) shall be in addition to any other punishment provided by law, including Section 12022.6, and shall not be limited by any other provision of law.

(c) Any person convicted of two or more felonies, as specified in subdivision (a), shall also be liable for a fine not to exceed five hundred thousand dollars ($500,000) or double the value of the taking, whichever is greater, if the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact. However, if the pattern of related felony conduct involves the taking of more than one hundred thousand dollars ($100,000), but not more than five hundred thousand dollars ($500,000), the fine shall not exceed one hundred thousand dollars ($100,000) or double the value of the taking, whichever is greater.

(d) Any person convicted of two or more felonies, as specified in subdivision (a), shall be liable for the costs of restitution to victims of the pattern of fraudulent or unlawful conduct, if the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact.

(e) (1) If a person is alleged to have committed two or more felonies, as specified in subdivision (a), and the aggravated white collar crime enhancement is also charged, any asset or property that is in the control of that person, and any asset or property that has been transferred by that person to a third party, subsequent to the commission of any criminal act alleged pursuant to subdivision (a), other than in a bona fide purchase, whether found within or outside the state, may be preserved by the superior court in order to pay

restitution and fines imposed pursuant to this section. Upon conviction of two or more felonies, as specified in subdivision (a), this property may be levied upon by the superior court to pay restitution and fines imposed pursuant to this section if the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact.

(2) To prevent dissipation or secreting of assets or property, the prosecuting agency may, at the same time as or subsequent to the filing of a complaint or indictment charging two or more felonies, as specified in subdivision (a), and the enhancement specified in subdivision (a), file a petition with the criminal division of the superior court of the county in which the accusatory pleading was filed, seeking a temporary restraining order, preliminary injunction, the appointment of a receiver, or any other protective relief necessary to preserve the property or assets. This petition shall commence a proceeding that shall be pendent to the criminal proceeding and maintained solely to effect the criminal remedies provided for in this section. The proceeding shall not be subject to or governed by the provisions of the Civil Discovery Act of 1986 as set forth in Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure. The petition shall allege that the defendant has been charged with two or more felonies, as specified in subdivision (a), and is subject to the aggravated white collar crime enhancement specified in subdivision (a). The petition shall identify that criminal proceeding and the assets and property to be affected by an order issued pursuant to this section.

(3) A notice regarding the petition shall be provided, by personal service or registered mail, to every person who may have an interest in the property specified in the petition. Additionally, the notice shall be published for at least three successive weeks in a newspaper of general circulation in the county where the property affected by an order issued pursuant to this section is located. The notice shall state that any interested person may file a verified claim with the superior court stating the nature and amount of their claimed interest. The notice shall set forth the time within which a claim of interest in the protected property is required to be filed.

(4) If the property to be preserved is real property, the prosecuting agency shall record, at the time of filing the petition, a lis pendens in each county in which the real property is situated which specifically identifies the property by legal description, the name of the owner of record as shown on the latest equalized assessment roll, and the assessor's parcel number.

(5) If the property to be preserved are assets under the control of a banking or financial institution, the prosecuting agency, at the time of the filing of the petition, may obtain an order from the court directing the banking or financial institution to immediately disclose

the account numbers and value of the assets of the accused held by the banking or financial institution. The prosecuting agency shall file a supplemental petition, specifically identifying which banking or financial institution accounts shall be subject to a temporary restraining order, preliminary injunction, or other protective remedy.

(6) Any person claiming an interest in the protected property may, at any time within 30 days from the date of the first publication of the notice of the petition, or within 30 days after receipt of actual notice, file with the superior court of the county in which the action is pending a verified claim stating the nature and amount of his or her interest in the property or assets. A verified copy of the claim shall be served by the claimant on the Attorney General or district attorney, as appropriate.

(7) The imposition of fines and restitution pursuant to this section shall be determined by the superior court in which the underlying criminal offense is sentenced. Any judge who is assigned to the criminal division of the superior court in the county where the petition is filed may issue a temporary restraining order in conjunction with, or subsequent to, the filing of an allegation pursuant to this section. Any subsequent hearing on the petition shall also be heard by a judge assigned to the criminal division of the superior court in the county in which the petition is filed. At the time of the filing of an information or indictment in the underlying criminal case, any subsequent hearing on the petition shall be heard by the superior court judge assigned to the underlying criminal case.

(f) Concurrent with or subsequent to the filing of the petition, the prosecuting agency may move the superior court for, and the superior court may issue, the following pendente lite orders to preserve the status quo of the property alleged in the petition:

(1) An injunction to restrain any person from transferring, encumbering, hypothecating, or otherwise disposing of that property.

(2) Appointment of a receiver to take possession of, care for, manage, and operate the assets and properties so that the property may be maintained and preserved. The court may order that a receiver appointed pursuant to this section shall be compensated for all reasonable expenditures made or incurred by him or her in connection with the possession, care, management, and operation of any property or assets that are subject to the provisions of this section.

(3) A bond or other undertaking, in lieu of other orders, of a value sufficient to ensure the satisfaction of restitution and fines imposed pursuant to this section.

(g) (1) No preliminary injunction may be granted or receiver appointed by the court without notice that meets the requirements of paragraph (3) of subdivision (e) to all known and reasonably ascertainable interested parties and upon a hearing to determine that an order is necessary to preserve the property pending the outcome

of the criminal proceedings. A temporary restraining order may be issued by the court, ex parte, pending that hearing in conjunction with or subsequent to the filing of the petition upon the application of the prosecuting attorney. The temporary restraining order may be based upon the sworn declaration of a peace officer with personal knowledge of the criminal investigation that establishes probable cause to believe that aggravated white collar crime has taken place and that the amount of restitution and fines established by this section exceeds or equals the worth of the assets subject to the temporary restraining order. The declaration may include the hearsay statements of witnesses to establish the necessary facts. The temporary restraining order may be issued without notice upon a showing of good cause to the court.

(2) The defendant, or a person who has filed a verified claim as provided in paragraph (6) of subdivision (e), shall have the right to have the court conduct an order to show cause hearing within 10 days of the service of the request for hearing upon the prosecuting agency, in order to determine whether the temporary restraining order should remain in effect, whether relief should be granted from any lis pendens recorded pursuant to paragraph (4) of subdivision (e), or whether any existing order should be modified in the interests of justice. Upon a showing of good cause, the hearing shall be held within two days of the service of the request for hearing upon the prosecuting agency.

(3) In determining whether to issue a preliminary injunction or temporary restraining order in a proceeding brought by a prosecuting agency in conjunction with or subsequent to the filing of an allegation pursuant to this section, the court has the discretion to consider any matter that it deems reliable and appropriate, including hearsay statements, in order to reach a just and equitable decision. The court shall weigh the relative degree of certainty of the outcome on the merits and the consequences to each of the parties of granting the interim relief. If the prosecution is likely to prevail on the merits and the risk of the dissipation of assets outweighs the potential harm to the defendants and the interested parties, the court shall grant injunctive relief. The court shall give significant weight to the following factors:

(A) The public interest in preserving the property or assets pendente lite.

(B) The difficulty of preserving the property or assets pendente lite where the underlying alleged crimes involve issues of fraud and moral turpitude.

(C) The fact that the requested relief is being sought by a public prosecutor on behalf of alleged victims of white collar crimes.

(D) The likelihood that substantial public harm has occurred where aggravated white collar crime is alleged to have been committed.

(E) The significant public interest involved in compensating the victims of white collar crime and paying court imposed restitution and fines.

(4) The court, in making its orders, may consider a defendant's request for the release of a portion of the property affected by this section in order to pay reasonable legal fees in connection with the criminal proceeding, any necessary and appropriate living expenses pending trial and sentencing, and for the purpose of posting bail. The court shall weigh the needs of the public to retain the property against the needs of the defendant to a portion of the property. The court shall consider the factors listed in paragraph (3) prior to making any order releasing property for these purposes.

(5) The court, in making its orders, shall seek to protect the interests of any innocent third persons, including an innocent spouse, who were not involved in the commission of any criminal activity.

(6) Any petition filed pursuant to this section is part of the criminal proceedings for purposes of appointment of counsel and shall be assigned to the criminal division of the superior court of the county in which the accusatory pleading was filed.

(7) Based upon a noticed motion brought by the receiver appointed pursuant to paragraph (2) of subdivision (f), the court may order an interlocutory sale of property named in the petition when the property is liable to perish, to waste, or to be significantly reduced in value, or when the expenses of maintaining the property are disproportionate to the value thereof. The proceeds of the interlocutory sale shall be deposited with the court or as directed by the court pending determination of the proceeding pursuant to this section.

(8) The court may make any orders that are necessary to preserve the continuing viability of any lawful business enterprise that is affected by the issuance of a temporary restraining order or preliminary injunction issued pursuant to this action.

(9) In making its orders, the court shall seek to prevent any asset subject to a temporary restraining order or preliminary injunction from perishing, spoiling, going to waste, or otherwise being significantly reduced in value. Where the potential for diminution in value exists, the court shall appoint a receiver to dispose of or otherwise protect the value of the property or asset.

(10) A preservation order shall not be issued against any assets of a business that are not likely to be dissipated and that may be subject to levy or attachment to meet the purposes of this section.

(h) If the allegation that the defendant is subject to the aggravated white collar crime enhancement is dismissed or found by the trier of fact to be untrue, any preliminary injunction or temporary restraining order issued pursuant to this section shall be dissolved. If a jury is the trier of fact, and the jury is unable to reach a unanimous verdict, the court shall have the discretion to continue or dissolve all or a portion of the preliminary injunction or temporary restraining

order based upon the interests of justice. However, if the prosecuting agency elects not to retry the case, any preliminary injunction or temporary restraining order issued pursuant to this section shall be dissolved.

(i) (1) (A) If the defendant is convicted of two or more felonies, as specified in subdivision (a), and the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact, the trial judge shall continue the preliminary injunction or temporary restraining order until the date of the criminal sentencing and shall make a finding at that time as to what portion, if any, of the property or assets subject to the preliminary injunction or temporary restraining order shall be levied upon to pay fines and restitution to victims of the crime. The order imposing fines and restitution may exceed the total worth of the property or assets subjected to the preliminary injunction or temporary restraining order. The court may order the immediate transfer of the property or assets to satisfy any judgment and sentence made pursuant to this section. Additionally, upon motion of the prosecution, the court may enter an order as part of the judgment and sentence making the order imposing fines and restitution pursuant to this section enforceable pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

(B) Additionally, the court shall order the defendant to make full restitution to the victim or to make restitution to the victim based on his or her ability to pay, as defined in subdivision (b) of Section 1203.1b. The payment of the restitution ordered by the court pursuant to this section shall be made a condition of any probation granted by the court if the existence of facts that would make the defendant subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact. Notwithstanding any other provision of law, the court may order that the period of probation continue for up to 10 years or until full restitution is made to the victim, whichever is earlier.

(C) The sentencing court shall retain jurisdiction to enforce the order to pay additional fines and restitution and, in appropriate cases, may initiate probation violation proceedings or contempt of court proceedings against a defendant who is found to have willfully failed to comply with any lawful order of the court.

(D) If the execution of judgment is stayed pending an appeal of an order of the superior court pursuant to this section, the preliminary injunction or temporary restraining order shall be maintained in full force and effect during the pendency of the appellate period.

(2) The order imposing fines and restitution shall not affect the interest in real property of any third party that was acquired prior to the recording of the lis pendens, unless the property was obtained from the defendant other than as a bona fide purchaser for value. If

any assets or property affected by this section are subject to a valid lien, mortgage, security interest, or interest under a conditional sales contract and the amount due to the holder of the lien, mortgage, interest, or contract is less than the appraised value of the property, that person may pay to the state or the local government that initiated the proceeding the amount of the difference between the appraised value of the property and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon that payment, the state or local entity shall relinquish all claims to the property. If the holder of the interest elects not to make that payment to the state or local governmental entity, the interest in the property shall be deemed transferred to the state or local governmental entity and any indicia of ownership of the property shall be confirmed in the state or local governmental entity. The appraised value shall be determined as of the date judgment is entered either by agreement between the holder of the lien, mortgage, security interest, or interest under a conditional sales contract and the governmental entity involved, or if they cannot agree, then by a court-appointed appraiser for the county in which the action is brought. A person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract shall be paid the appraised value of his or her interest.

(3) In making its final order, the court shall seek to protect the legitimately acquired interests of any innocent third persons, including an innocent spouse, who were not involved in the commission of any criminal activity.

(j) In all cases where property is to be levied upon pursuant to this section, a receiver appointed by the court shall be empowered to liquidate all property or assets which shall be distributed in the following order of priority:

(1) To the receiver, or court-appointed appraiser, for all reasonable expenditures made or incurred by him or her in connection with the sale of the property or liquidation of assets, including all reasonable expenditures for any necessary repairs, storage, or transportation of any property levied upon under this section.

(2) To any holder of a valid lien, mortgage, or security interest up to the amount of his or her interest in the property or proceeds.

(3) To any victim as restitution for any fraudulent or unlawful acts alleged in the accusatory pleading that were proven by the prosecuting agency as part of the pattern of fraudulent or unlawful acts.

(4) For payment of any fine imposed pursuant to this section. The proceeds obtained in payment of a fine shall be paid to the treasurer of the county in which the judgment was entered, or if the action was undertaken by the Attorney General, to the Treasurer. If the payment of any fine imposed pursuant to this section involved losses resulting from violation of Section 550 of this code or Section 1871.4

of the Insurance Code, one-half of the fine collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half of the fine collected shall be paid to the Department of Insurance for deposit in the appropriate account in the Insurance Fund. The proceeds from the fine first shall be used by a county to reimburse local prosecutors and enforcement agencies for the reasonable costs of investigation and prosecution of cases brought pursuant to this section.

(5) To the Restitution Fund, or in cases involving convictions relating to insurance fraud, to the State Insurance Fund as restitution for crimes not specifically pleaded and proven in the accusatory pleading.

(k) If, after distribution pursuant to paragraphs (1) and (2) of subdivision (j), the value of the property to be levied upon pursuant to this section is insufficient to pay for restitution and fines, the court shall order an equitable sharing of the proceeds of the liquidation of the property, and any other recoveries, which shall specify the percentage of recoveries to be devoted to each purpose. At least 70 percent of the proceeds remaining after distribution pursuant to paragraphs (1) and (2) of subdivision (j) shall be devoted to restitution.

(*l*) Unless otherwise expressly provided, the remedies or penalties provided by this section are cumulative to each other and to the remedies or penalties available under all other laws of this state, except that two separate actions against the same defendant and pertaining to the same fraudulent or unlawful acts may not be brought by a district attorney or the Attorney General pursuant to this section and Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code. If a fine is imposed under this section, it shall be in lieu of all other fines that may be imposed pursuant to any other provision of law for the crimes for which the defendant has been convicted in the action.

CHAPTER 432

An act to amend Sections 41051, 41052, 41076, 41088, and 41101 of the Revenue and Taxation Code, relating to emergency telephone users surcharges.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 41051 of the Revenue and Taxation Code is amended to read:

41051. The surcharges imposed by this part and the amounts thereof required to be collected are due monthly, and the amount of surcharge collected in one calendar month by the service supplier shall be remitted to the board on or before the last day of the second month following the month in which the surcharges were collected. However, the fourth quarter collection for the 1996 calendar year shall be remitted no later than February 15, 1997.

SEC. 2. Section 41052 of the Revenue and Taxation Code is amended to read:

41052. On or before the last day of the second month following each month in which the surcharges were collected, a return for that month shall be filed with the board in such form as the board may prescribe.

The service supplier shall include a list of any service users who have refused to pay a cumulative total of three dollars ($3) or more of the surcharge imposed by this part with each return filing.

SEC. 3. Section 41076 of the Revenue and Taxation Code is amended to read:

41076. Except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return every notice of a deficiency determination shall be mailed within three years after the last day of the second calendar month following the month for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In the case of failure to make a return, every notice of determination shall be mailed within eight years after the last day of the second calendar month following the month for which the amount is proposed to be determined.

SEC. 4. Section 41088 of the Revenue and Taxation Code is amended to read:

41088. The board may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the board at or before the hearing. Unless the penalty imposed by Section 41074 or Section 41080 applies to the amount of the determination as originally made or as increased, the claim for increase shall be asserted within eight years after the last day of the second calendar month following the month for which the increase is asserted.

SEC. 5. Section 41101 of the Revenue and Taxation Code is amended to read:

41101. No refund shall be approved by the board after three years from the last day of the second month following the close of the month for which the overpayment was made, or, with respect to determinations made under Article 3 or 4 of Chapter 4 of this part, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires the later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the

expiration of that period unless a claim for credit is filed with the board within that period.

CHAPTER 433

An act to amend Section 25143.2 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 25143.2 of the Health and Safety Code is amended to read:

25143.2. (a) Recyclable materials are subject to this chapter and the regulations adopted by the department to implement this chapter which apply to hazardous wastes, unless the department issues a variance pursuant to Section 25143, or except as provided otherwise in subdivision (b), (c), or (d) or in the regulations adopted by the department pursuant to Sections 25150 and 25151.

(b) Except as otherwise provided in subdivisions (e), (f), and (g), recyclable material that is managed in accordance with Section 25143.9 and is or will be recycled by any of the following methods shall be excluded from classification as a waste:

(1) Used or reused as an ingredient in an industrial process to make a product if the material is not being reclaimed.

(2) Used or reused as a safe and effective substitute for commercial products if the material is not being reclaimed.

(3) Returned to the original process from which the material was generated, without first being reclaimed, if the material is returned as a substitute for raw material feedstock, and the process uses raw materials as principal feedstocks.

(c) Except as otherwise provided in subdivision (e), any recyclable material may be recycled at a facility that is not authorized by the department pursuant to the applicable hazardous waste facilities permit requirements of Article 9 (commencing with Section 25200) if either of the following requirements is met:

(1) The material is a petroleum refinery waste containing oil that is converted into petroleum coke at the same facility at which the waste was generated unless the resulting coke product would be identified as a hazardous waste under this chapter.

(2) The material meets all of the following conditions:

(A) The material is recycled and used at the same facility at which the material was generated.

(B) The material is recycled within the applicable generator accumulation time limit specified in Section 25123.3 and the

regulations adopted by the department pursuant to paragraph (1) of subdivision (b) of Section 25123.3.

(C) The material is managed in accordance with all applicable requirements for generators of hazardous wastes under this chapter and regulations adopted by the department.

(d) Except as otherwise provided in subdivisions (e), (f), (g), and (h), recyclable material that meets the definition of a non-RCRA hazardous waste in Section 25117.9, is managed in accordance with Section 25143.9, and meets or will meet any of the following requirements is excluded from classification as a waste:

(1) The material can be shown to be recycled and used at the site where the material was generated.

(2) The material qualifies as one or more of the following:

(A) The material is a product, which has been processed from a hazardous waste, or which has been handled, at a facility authorized by the department pursuant to the facility permit requirements of Article 9 (commencing with Section 25200) to process or handle the material, if the product meets both of the following conditions:

(i) The product does not contain constituents, other than those for which the material is being recycled that render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141.

(ii) The product is used, or distributed or sold for use, in a manner for which the product is commonly used.

(B) The material is a petroleum refinery waste containing oil which is converted into petroleum coke at the same facility at which the waste was generated, unless the resulting coke product would be identified as a hazardous waste under this chapter.

(C) The material is oily waste, used oil, or spent nonhalogenated solvent which is managed by the owner or operator of a refinery that is processing primarily crude oil and which is not subject to permit requirements for the recycling of used oil, or a public utility, or a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent of the refinery or public utility, and which meets all of the following requirements:

(i) The material is either burned in an industrial boiler, an industrial furnace, an incinerator, or a utility boiler that is in compliance with with all applicable federal and state laws, or is recombined with normal process streams to produce a fuel or other refined petroleum product.

(ii) The material is managed at the site where it was generated; managed at another site owned or operated by the generator, a corporate subsidiary of the generator, a subsidiary of the same entity of which the generator is a subsidiary, or the corporate parent of the generator; or, if the material is generated in the course of oil or gas exploration or production, managed by an unrelated refinery receiving the waste through a common pipeline.

(iii) The material does not contain constituents other than those for which the material is being recycled that render the material hazardous under regulations adopted pursuant to Sections 25140 and 25141, unless the material is an oil-bearing material or recovered oil that is managed in accordance with subdivisions (a) and (c) of Section 25144.

(D) The material is a fuel which is transferred to, and processed into a fuel or other refined petroleum product at, a petroleum refinery, as defined in paragraph (4) of subdivision (a) of Section 25144, and which meets one of the following requirements:

(i) The fuel has been removed from a fuel tank and is contaminated with water or nonhazardous debris, of not more than 2 percent by weight, including, but not limited to, rust or sand.

(ii) The fuel has been unintentionally mixed with an unused petroleum product.

(3) The material is transported between locations operated by the same person who generated the material if the material is recycled at the last location operated by that person and all of the conditions of clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (4) are met. If requested by the department or by any official authorized to enforce this section pursuant to subdivision (a) of Section 25180, a person handling material subject to this paragraph shall, within 15 days from the date of receipt of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(4) (A) The material is transferred between locations operated by the same person who generated the material if the material is to be recycled at an authorized offsite hazardous waste facility and if all of the following conditions are met:

(i) The material is transferred by employees of that person in vehicles under the control of that person or by a registered hazardous waste hauler under contract to that person.

(ii) The material is not handled at any interim location.

(iii) The material is not held at any publicly accessible interim location for more than four hours unless required by other provisions of law.

(iv) The material is managed in compliance with this chapter and the regulations adopted pursuant to this chapter prior to the initial transportation of the material and after the receipt of the material at the last location operated by that person. Upon receipt of the material at the last location operated by that person, the material shall be deemed to have been generated at that location.

(v) All of the following information is maintained in an operating log at the last location operated by that person and kept for at least three years after receipt of the material at that location:

(I) The name and address of each generator location contributing material to each shipment received.

(II) The quantity and type of material contributed by each generator to each shipment of material.

(III) The destination and intended disposition of all material shipped offsite or received.

(IV) The date of each shipment received or sent offsite.

(vi) If requested by the department, or by any law enforcement official, a person handling material subject to this paragraph shall, within 15 days from the date of receipt of the request, supply documentation to show that the requirements of this paragraph have been satisfied.

(B) For purposes of paragraph (3) and subparagraph (A) of this paragraph, "person" also includes corporate subsidiary, corporate parent, or subsidiary of the same corporate parent.

(C) Persons that are a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent, and that manage recyclable materials under paragraph (3) or subparagraph (A) of this paragraph, are jointly and severally liable for any activities excluded from regulation pursuant to this section.

(5) The material is used or reused as an ingredient in an industrial process to make a product if the material is not being treated before introduction to that process except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents that are hazardous wastes pursuant to the department's regulations and are in compliance with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting.

(D) Sieving.

(E) Grinding.

(F) Physical or gravity separation without the addition of external heat or any chemicals.

(G) pH adjustment.

(H) Viscosity adjustment.

(6) The material is used or reused as a safe and effective substitute for commercial products, if the material is not being treated except by one or more of the following procedures, and if any discharges to air from the following procedures do not contain constituents that are hazardous wastes pursuant to the department's regulations and are in compliance with applicable air pollution control laws:

(A) Filtering.

(B) Screening.

(C) Sorting.

(D) Sieving.

(E) Grinding.

(F) Physical or gravity separation without the addition of external heat or any chemicals.

(G) pH adjustment.

(H) Viscosity adjustment.

(7) The material is a chlorofluorocarbon or hydrochlorofluorocarbon compound or a combination of chlorofluorocarbon or hydrochlorofluorocarbon compounds, is being reused or recycled, and is used in heat transfer equipment, including, but not limited to, mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, used in fire extinguishing products, or contained within foam products.

(e) Notwithstanding subdivisions (b), (c), and (d), all of the following recyclable materials are hazardous wastes and subject to full regulation under this chapter, even if the recycling involves use, reuse, or return to the original process as described in subdivision (b), or even if the recycling involves activities or materials described in subdivisions (c) and (d):

(1) Materials which are a RCRA hazardous waste, as defined in Section 25120.2, used in a manner constituting disposal, or used to produce products that are applied to the land including, but not limited to, materials used to produce a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance.

(2) Materials which are a non-RCRA hazardous waste, as defined in Section 25117.9, and used in a manner constituting disposal or used to produce products that are applied to the land as a fertilizer, soil amendment, agricultural mineral, or an auxiliary soil and plant substance. The department may adopt regulations to exclude materials from regulation pursuant to this paragraph.

(3) Materials burned for energy recovery, used to produce a fuel, or contained in fuels, except materials exempted under paragraph (1) of subdivision (c) or excluded under subparagraph (B), (C), or (D) of paragraph (2) of subdivision (d).

(4) Materials accumulated speculatively.

(5) Materials determined to be inherently wastelike pursuant to regulations adopted by the department.

(6) Used or spent etchants, stripping solutions, and plating solutions that are transported to an offsite facility operated by a person other than the generator and which are either of the following:

(A) The etchants or solutions are no longer fit for their originally purchased or manufactured purpose.

(B) If the etchants or solutions are reused, the generator and the user cannot document that they are used for their originally purchased or manufactured purpose without prior treatment.

(7) Used oil, as defined in subdivision (a) of Section 25250.1, unless one of the following applies:

(A) The used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d), paragraph (4) of subdivision (d), subdivision (e) of Section 25250.1, Section 25250.2, or Section 25250.3, and is managed in accordance with the applicable requirements of

Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

(B) The used oil is used or reused on the site where it was generated or is excluded under paragraph (3) of subdivision (d), and is managed in accordance with the applicable requirements of Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations, and is not any of the following:

(i) Used in a manner constituting disposal or used to produce a product that is applied to land.

(ii) Burned for energy recovery or used to produce a fuel unless the used oil is excluded under subparagraph (B) or (C) of paragraph (2) of subdivision (d).

(iii) Accumulated speculatively.

(iv) Determined to be inherently wastelike pursuant to regulations adopted by the department.

(f) (1) Any person who manages a recyclable material under a claim that the material qualifies for exclusion or exemption pursuant to this section shall provide, upon request, to the department, the Environmental Protection Agency, or any local agency or official authorized to bring an action as provided in Section 25180, all of the following information:

(A) The name, street and mailing address, and telephone number of the owner or operator of any facility that manages the material.

(B) Any other information related to that person's management of the material requested by the department, the Environmental Protection Agency, or the authorized local agency or official.

(2) Any person claiming an exclusion or an exemption pursuant to this section shall maintain adequate records to demonstrate to the satisfaction of the requesting agency or official that there is a known market or disposition for the material, and that the requirements of any exemption or exclusion pursuant to this section are met.

(3) For purposes of determining that the conditions for exclusion from classification as a waste pursuant to this section are met, any person, facility, site, or vehicle engaged in the management of a material under a claim that the material is excluded from classification as a waste pursuant to this section shall be subject to Section 25185.

(g) For purposes of Chapter 6.8 (commencing with Section 25300), recyclable materials excluded from classification as a waste pursuant to this section are not excluded from the definition of hazardous substances in subdivision (g) of Section 25316.

(h) Used oil that fails to qualify for exclusion pursuant to subdivision (d) solely because the used oil is a RCRA hazardous waste may be managed pursuant to subdivision (d) if the used oil is also managed in accordance with the applicable requirements of Part 279 (commencing with Section 279.1) of Title 40 of the Code of Federal Regulations.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 434

An act to amend Section 1569.2 of, and to add Section 1569.316 to, the Health and Safety Code, and to add Section 4750.5 to the Welfare and Institutions Code, relating to services for the elderly and developmentally disabled.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 1569.2 of the Health and Safety Code is amended to read:

1569.2. As used in this chapter:

(a) "Administrator" means the individual designated by the licensee to act in behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.

(b) "Care and supervision" means the facility assumes responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which the resident's physical health, mental health, safety or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care.

(c) "Department" means the State Department of Social Services.

(d) "Director" means the Director of Social Services.

(e) "Health-related services" mean services which shall be directly provided by an appropriate skilled professional, including a registered nurse, licensed vocational nurse, physical therapist, or occupational therapist.

(f) "Instrumental activities of daily living" means any of the following: housework, meals, laundry, taking of medication, money

management, appropriate transportation, correspondence, telephoning, and related tasks.

(g) "License" means a basic permit to operate a residential care facility for the elderly.

(h) "Personal activities of daily living" means any of the following: dressing, feeding, toileting, bathing, grooming, and mobility and associated tasks.

(i) "Personal care" means assistance with personal activities of daily living, to help provide for and maintain physical and psychosocial comfort.

(j) "Protective supervision" means observing and assisting confused residents, including persons with dementia, to safeguard them against injury.

(k) "Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

This subdivision shall be operative only until the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(*l*) "Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

This subdivision shall become operative upon the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(m) "Supportive services" means resources available to the resident in the community which help to maintain their functional ability and meet their needs as identified in the individual resident assessment. Supportive services may include any of the following: medical, dental, and other health care services; transportation; recreational and leisure activities; social services; and counseling services.

SEC. 2. Section 1569.316 is added to the Health and Safety Code, to read:

1569.316. (a) The referring agency or facility, or its designee, shall provide to the administrator all information in its possession

concerning any history of dangerous propensity of the client prior to the placement in the residential care facility for the elderly. However, no confidential client information shall be released pursuant to this section without the consent of the client or his or her authorized representative.

(b) In determining a person's compatibility, the licensee shall consider criteria that includes, but is not limited to, both of the following:

(1) The extent to which the person's personal and health care needs can be adequately met in the residential care facility for the elderly.

(2) The existence of a past history of violence or mental illness that would create a risk for the person or other residents of that facility.

SEC. 3. Section 4750.5 is added to the Welfare and Institutions Code, to read:

4750.5. In order to gather data that is relevant to ensuring the safety and well-being of persons with developmental disabilities, the department shall ensure that the client master file entry for any person with developmental disabilities placed by a regional center will be updated within 30 days after the change of residence.

CHAPTER 435

An act to amend Sections 11512.5, 11701, 12258, 14007, and 14009 of, and to add Section 12811.5 to, and to repeal Sections 11736, 11925, 12036 of, the Food and Agricultural Code, and to amend Section 6254.2 of the Government Code, relating to agriculture.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 11512.5 of the Food and Agricultural Code is amended to read:

11512.5. (a) The commissioner may refuse, suspend, or revoke a county registration or permit pursuant to Section 11735, 11924, 12035, or 14008. Before that action is taken, the party whose registration or permit request is to be refused, suspended, or revoked, the registered party, or the permittee shall be given a written notice of the proposed action, including the basis for the action, and shall have the right to request a hearing before the commissioner within 20 days after receiving notice of the proposed action. A notice of the proposed action that is sent by certified mail to the last known address of the person against whom the action is proposed shall be considered received even if delivery is refused or the notice is not accepted at that address. If a hearing is requested, notice of the time and place

of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to present any evidence or argument on his or her own behalf. If a hearing is not requested in a timely manner, the commissioner may take the action proposed without a hearing. If the party whose registration or permit is refused, suspended, or revoked requested and appeared at a hearing, he or she may appeal to the director within 10 days of mailing or personal service of the commissioner's decision. The following procedure shall apply to the appeal:

(1) The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her authorized agent and shall state the grounds for the appeal. The commissioner's decision shall be stayed pending the director's decision, except as provided in subdivision (b). The party whose registration or permit has been refused shall remain unregistered or unpermitted pending the outcome of the appeal.

(2) Any party may, at the time of filing the appeal or within 10 days thereafter, make written application to the director to present new evidence, stating the materiality of the evidence, and the reasons why the evidence was not introduced at the hearing before the commissioner. The evidence may be allowed in the discretion of the director. Thereafter, 10 days shall be given the parties to rebut the evidence and make written application to the director to present oral or written argument. An application to present written argument shall be granted, but the director shall have discretion to grant oral argument or to grant both oral and written argument. If an application to present oral argument is granted, written notice of the time and place for oral argument shall be given each party at least 10 days before the date set therefor. The time may be shortened by mutual agreement of the parties. If written argument is granted, all parties shall be notified thereof and shall simultaneously file briefs within the time specified by the director.

(3) The director shall decide the appeal upon the evidence received at the hearing before the commissioner, oral or written argument, and new or additional evidence as the director may have admitted.

(4) On an appeal pursuant to this section, the director may sustain, reverse, or modify the decision of the commissioner. A copy of the director's decision shall be delivered or mailed to each party. This shall not be a limitation on the director's authority to institute proceedings against any state license or other indicant of permission issued pursuant to this division or pursuant to Division 7 (commencing with Section 12501).

(5) A review of a decision of the director may be sought by the appellant within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(b) Notwithstanding any other provision of law, whenever the commissioner has reason to believe that continuance of a registration

or permit specified in subdivision (a) endangers public health or safety or the environment, the commissioner, without prior notice, may immediately suspend the registration or permit. The commissioner shall inform the party registered or the permittee, in writing, of the suspension as soon as practical, specifying the reasons for the immediate suspension. When acting pursuant to this subdivision, the commissioner, within seven days of informing the permittee or registered person of the immediate suspension, shall issue a written notice of proposed action as specified in subdivision (a). Subdivision (a) applies to the notice of proposed action, hearing, and appeal, except as otherwise provided in this subdivision. If a hearing is requested, it shall be held not later than seven days from the date the request for the hearing is received by the commissioner, unless the person requesting the hearing agrees to a later hearing date. The commissioner's decision shall be issued within 10 days after the conclusion of the hearing. If the party against whom action was taken requested and appeared at a hearing, he or she may appeal the commissioner's decision, issued following the hearing, to the director as provided in subdivision (a). The director may stay the commissioner's decision pending the director's decision.

SEC. 2. Section 11701 of the Food and Agricultural Code is amended to read:

11701. It is unlawful for a person to advertise, solicit, or operate as a pest control business, unless the person has a valid pest control business license issued by the director.

SEC. 3. Section 11736 of the Food and Agricultural Code is repealed.

SEC. 4. Section 11925 of the Food and Agricultural Code is repealed.

SEC. 5. Section 12036 of the Food and Agricultural Code is repealed.

SEC. 6. Section 12258 of the Food and Agricultural Code is amended to read:

12258. It is unlawful for any person who is subject to this chapter to do any of the following:

(a) Fail to notify the director of any change of address.

(b) Fail to comply with the provisions of this division or Division 7 (commencing with Section 12501) relating to pesticides or the rules and regulations adopted pursuant to those provisions.

(c) Make false or fraudulent statements, or misrepresent or fail to disclose any material fact in making an application for a license or renewal of a license.

(d) Make any false or misleading statements in any written record or report relating to pesticides or involving the pest control dealer business where that person is, or was, employed.

(e) Fail to supervise employees actively in the use and sale of pesticides and exercise responsibility in carrying on the business of a pest control dealer.

SEC. 7. Section 12811.5 is added to the Food and Agricultural Code, to read:

12811.5. Except as provided in Section 13128, data, other than public literature, previously submitted to the director or the Administrator of the United States Environmental Protection Agency to support an application for the original registration of a pesticide, or to support an application for an amendment adding any new use to that registration and that pertains solely to that new use, shall not, without the written permission of the original data submitter, or its assigns or successors in interest, be considered by the director to support an application by another person.

SEC. 8. Section 14007 of the Food and Agricultural Code is amended to read:

14007. (a) Every permit that is issued under the regulations adopted pursuant to this chapter is conditioned upon compliance with this code and regulations adopted pursuant thereto and upon other specified conditions that may be required to accomplish the purposes of this chapter.

(b) Any permit may be issued for a one-year period. Permits issued for perennial agricultural plantings, nonproduction agricultural sites, or nonagricultural sites may be issued for up to a three-year period.

(c) The permittee or a designated agent shall report immediately any change in the information submitted or pertinent to the issuance of a valid permit to the appropriate commissioner.

SEC. 9. Section 14009 of the Food and Agricultural Code is amended to read:

14009. (a) Any interested person may request the commissioner to review his or her action in issuing, refusing, revoking, suspending, or conditioning a permit to use or possess a restricted material. The commissioner shall review the request and issue a written decision in response to the request to review within 10 days of receipt of the request, or as soon as practicable. The commissioner may affirm, modify, or cancel the permit action reviewed. A directly affected person may thereafter appeal to the director to review the commissioner's action.

(b) The commissioner and director shall conduct each review in an expeditious manner so that needed pest control measures are not adversely affected.

(c) Each request for review shall be submitted in writing to the commissioner by the person requesting the review and shall include all of the following:

(1) The location of persons, property, or areas that would be affected and the location of property to be treated.

(2) The name of the restricted material involved.

(3) The name and address of the person in charge of the property to be treated, if different from the person filing the request for review.

(4) Any other information that the person filing the request for review or the commissioner determines to be relevant.

(d) In an appeal of a commissioner's action to the director, the issues are limited to any of the following:

(1) Whether the proposed permit use is consistent with applicable pesticide label restrictions and applicable regulations.

(2) Whether the commissioner properly considered the provisions of Section 14006.5.

(3) Whether the commissioner abused his or her discretion in issuing, refusing, revoking, or conditioning the permit.

(e) The director shall act on these appeals within 10 days of receipt thereof or as soon thereafter as is practicable. The director may stay the operation of a permit until his or her review is complete.

(f) (1) Prior to conducting a public review, the director shall notify directly affected persons at least 72 hours in advance of the location and time of the public review.

(2) Before acting on an appeal, the director shall, in a specified location open to the public, review the information provided to him or her as specified in this section if requested to do so in writing by any interested person.

(3) The director may request additional testimony or other evidence specified in this section at the public review from interested persons.

(g) Judicial review of any decision by the director pursuant to this section shall be pursuant to Section 1094.5 of the Code of Civil Procedure. Review shall be limited to whether the proposed permit use is consistent with applicable pesticide label restrictions and regulations and whether the director abused his or her discretion.

SEC. 10. Section 6254.2 of the Government Code is amended to read:

6254.2. (a) Nothing in this chapter exempts from public disclosure the same categories of pesticide safety and efficacy information that are disclosable under paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136h(d)(1)), if the individual requesting the information is not an officer, employee, or agent specified in subdivision (h) and signs the affirmation specified in subdivision (h).

(b) The Director of Pesticide Regulation, upon his or her initiative, or upon receipt of a request pursuant to this chapter for the release of data submitted and designated as a trade secret by a registrant or applicant, shall determine whether any or all of the data so submitted is a properly designated trade secret. In order to assure that the interested public has an opportunity to obtain and review pesticide safety and efficacy data and to comment prior to the expiration of the public comment period on a proposed pesticide registration, the director shall provide notice to interested persons

when an application for registration enters the registration evaluation process.

(c) If the director determines that the data is not a trade secret, the director shall notify the registrant or applicant by certified mail.

(d) The registrant or applicant shall have 30 days after receipt of this notification to provide the director with a complete justification and statement of the grounds on which the trade secret privilege is claimed. This justification and statement shall be submitted by certified mail.

(e) The director shall determine whether the data is protected as a trade secret within 15 days after receipt of the justification and statement or, if no justification and statement is filed, within 45 days of the original notice. The director shall notify the registrant or applicant and any party who has requested the data pursuant to this chapter of that determination by certified mail. If the director determines that the data is not protected as a trade secret, the final notice shall also specify a date, not sooner than 15 days after the date of mailing of the final notice, when the data shall be available to any person requesting information pursuant to subdivision (a).

(f) "Trade secret" means data that is nondisclosable under paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act.

(g) This section shall be operative only so long as, and to the extent that, enforcement of paragraph (1) of subsection (d) of Section 10 of the federal Insecticide, Fungicide, and Rodenticide Act has not been enjoined by federal court order, and shall become inoperative if an unappealable federal court judgment or decision becomes final that holds that paragraph invalid, to the extent of the invalidity.

(h) The director shall not knowingly disclose information submitted to the state by an applicant or registrant pursuant to Article 4 (commencing with Section 12811) of Chapter 2 of Division 7 of the Food and Agricultural Code to any officer, employee, or agent of any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in countries in addition to the United States, or to any other person who intends to deliver this information to any foreign or multi-national business or entity, unless the applicant or registrant consents to the disclosure. To implement this subdivision, the director shall require the following affirmation to be signed by the person who requests such information :

AFFIRMATION OF STATUS

This affirmation is required by Section 6254.2 of the Government Code.

I have requested access to information submitted to the Department of Pesticide Regulation (or previously submitted to the Department of Food and Agriculture) by a pesticide applicant or

registrant pursuant to the California Food and Agricultural Code. I hereby affirm all of the following statements:

(1) I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity, including the business or entity of which I am an officer, employee, or agent engaged in the production, sale, or distribution of pesticides in countries other than the United States or in countries in addition to the United States, or to the officers, employees, or agents of such a business or entity.

(2) I will not purposefully deliver or negligently cause the data to be delivered to a business or entity specified in paragraph (1) or its officers, employees, or agents.

I am aware that I may be subject to criminal penalties under Section 118 of the Penal Code if I make any statement of material facts knowing that the statement is false or if I willfully conceal any material fact.

Name of Requester	Name of Requester's Organization
Signature of Requester	Address of Requester
Date / Request No.	Telephone Number of Requester
Name, Address, and Telephone Number of Requester's Client, if the requester has requested access to the information on behalf of someone other than the requester or the requester's organization listed above.	

(i) Notwithstanding any other provision of this section, the director may disclose information submitted by an applicant or registrant to any person in connection with a public proceeding conducted under law or regulation, if the director determines that the information is needed to determine whether a pesticide, or any ingredient of any pesticide, causes unreasonable adverse effects on health or the environment.

(j) The director shall maintain records of the names of persons to whom data is disclosed pursuant to this section and the persons or

organizations they represent and shall inform the applicant or registrant of the names and the affiliation of these persons.

(k) Section 118 of the Penal Code applies to any affirmation made pursuant to this section.

(*l*) Any officer or employee of the state or former officer or employee of the state who, because of this employment or official position, obtains possession of, or has access to, material which is prohibited from disclosure by this section, and who, knowing that disclosure of this material is prohibited by this section, willfully discloses the material in any manner to any person not entitled to receive it, shall, upon conviction, be punished by a fine of not more than ten thousand dollars ($10,000), or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment.

For purposes of this subdivision, any contractor with the state who is furnished information pursuant to this section, or any employee of any contractor, shall be considered an employee of the state.

(m) This section does not prohibit any person from maintaining a civil action for wrongful disclosure of trade secrets.

(n) The director may limit an individual to one request per month pursuant to this section if the director determines that a person has made a frivolous request within the past 12-month period.

SEC. 11. The Department of Pesticide Regulation shall evaluate any minor crop provisions in any enacted reauthorization of the federal Insecticide, Fungicide, and Rodenticide Act and shall submit a report to the Legislature recommending any conforming statutory changes for California to realize the full benefit of any such federal program.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 436

An act to amend Section 29532.1 of, and to add Title 7.95 (commencing with Section 67950) to, the Government Code, to add

Section 99311.1 to the Public Utilities Code, and to amend Section 164.3 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 29532.1 of the Government Code is amended to read:

29532.1. Pursuant to subdivision (a) of Section 29532, each of the following entities is designated the transportation planning agency for its respective area:

(a) The Metropolitan Transportation Commission created by Title 7.1 (commencing with Section 66500).

(b) The Tahoe Regional Planning Agency created by interstate compact and ratified by Title 7.4 (commencing with Section 66800).

(c) The Placer County Transportation Planning Agency created by Title 7.91 (commencing with Section 67910).

(d) The Nevada County Transportation Planning Agency created by Title 7.92 (commencing with Section 67920).

(e) The Transportation Agency of Monterey County created pursuant to Title 7.93 (commencing with Section 67930).

(f) The Santa Cruz County Regional Transportation Commission created by Title 7.94 (commencing with Section 67940).

(g) The El Dorado County Transportation Planning Agency created by Title 7.95 (commencing with Section 67950).

SEC. 2. Title 7.95 (commencing with Section 67950) is added to the Government Code, to read:

TITLE 7.95. EL DORADO COUNTY TRANSPORTATION PLANNING AGENCY

67950. The El Dorado County Transportation Planning Agency is hereby created, as a local area planning agency, and not as a part of the executive branch of the state government, to provide regional transportation planning for the area of El Dorado County, exclusive of the Tahoe Basin. The agency may be known by any other name it chooses.

67951. The agency shall be composed of three members appointed by the county board of supervisors and three members appointed by the city council of the City of Placerville. The appointing authority, for each regular member it appoints, may appoint an alternate member to serve in place of the regular member when the regular member is absent or disqualified from participating in a meeting of the agency.

SEC. 3. Section 99311.1 is added to the Public Utilities Code, to read:

99311.1. Upon appropriation by the Legislature, the director shall allocate, from the account or from other available state or federal sources, or from both state and federal sources, for the purposes of subdivision (b) of Section 99311, an amount commensurate with the historical annual allocation to transportation planning agencies designated pursuant to Section 29532 of the Government Code that do not directly receive federal planning funds, as set forth in Section 134 of Title 23 of the United States Code.

SEC. 4. Section 164.13 of the Streets and Highways Code is amended to read:

164.13. For purposes of subdivision (e) of Section 164.3, the eligible interregional and intercounty routes include all of the following:

Route 50.

Route 53.

Route 58, between Route 5 and Route 15.

Route 62.

Route 63, between the north urban limits of Visalia and Route 180.

Route 65, between the north urban limits of Bakersfield and Route 198 near Exeter, and between Route 80 and Route 99 near Yuba City.

Route 68.

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 that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 437

An act to amend Section 25117 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

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

(a) This act recognizes that zinc is not an ordinary constituent in waste. Zinc is essential to human, plant, and animal life. The federal

government has established a recommended daily allowance for zinc of 15 milligrams. In addition to those qualities, zinc's primary commercial use is as a protector of iron and steel against corrosion, and metals corrosion annually costs the economy 4.2 percent of the Gross National Product. In addition, the corrosion of metal materials results in their disposal and, thereby, has an adverse impact upon the environment.

(b) This act is intended to preserve natural resources by removing existing disincentives to the recycling of materials containing zinc. The recycling of those materials reduces the demand for the mining of zinc ore. Today, in the United States, approximately one-third of all zinc products consumed comes from recycling.

(c) This act also is intended to remove disincentives to using such beneficial products as paints that are rich in zinc for corrosion protection. Those disincentives arise because having to treat zinc-rich paint debris as a hazardous waste raises the life-cycle cost of the material. Increased cost causes less effective substitutes to be used. Having less effective paint products used means added cost to both the public and private sectors by resulting in more frequent repaintings and places additional burdens on the environment by generating additional, nonrecyclable debris from those repaintings.

(d) This act is also intended to remove disincentives to using secondary materials containing zinc, in lieu of zinc-containing products made from zinc ore, in the manufacture of fertilizers in California.

(e) Lastly, this act is intended to ensure that zinc-containing wastes are regulated in California consistent with applicable requirements of the federal Resources Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.; RCRA), and consistent with the protection of public health and safety and the environment.

SEC. 2. Section 25117 of the Health and Safety Code is amended to read:

25117. (a) Except as provided in subdivision (d), "hazardous waste" means a waste that meets any of the criteria for the identification of a hazardous waste adopted by the department pursuant to Section 25141.

(b) "Hazardous waste" includes, but is not limited to, RCRA hazardous waste.

(c) Unless expressly provided otherwise, "hazardous waste" also includes extremely hazardous waste and acutely hazardous waste.

(d) Notwithstanding subdivision (a), in any criminal or civil prosecution brought by a city or district attorney or the Attorney General for violation of this chapter, when it is an element of proof that the person knew or reasonably should have known of the violation, or violated the chapter willfully or with reckless disregard for the risk, or acted intentionally or negligently, the element of proof that the waste is hazardous waste may be satisfied by demonstrating

that the waste exhibited the characteristics set forth in subdivision (b) of Section 25141.

SEC. 3. On or before July 1, 1997, the Department of Toxic Substances Control shall do all of the following:

(a) Evaluate the extent to which the state hazardous waste classification criteria, guidelines, or testing requirements, as they pertain to zinc-containing waste streams, are needed to protect against hazards to public health or safety or the environment.

(b) Determine which, if any, of those criteria, guidelines, or testing requirements should be modified or eliminated based upon the evaluation required by subdivision (a).

(c) Adopt, amend, or repeal regulations that reflect the determinations required by subdivision (b).

SEC. 4. The Department of Toxic Substances Control shall, as part of its regulatory structure update project, not later than March 31, 1997, do both of the following:

(a) Review the requirements that govern the transport, handling, or consolidation and transfer of non-RCRA hazardous wastes that are all of the following:

(1) Generated at one location.

(2) Transported to a second location owned or operated by the generator or by a person other than the generator.

(3) Handled or consolidated and transferred at the second location before being transported for treatment, recycling, or disposal at an authorized hazardous waste facility.

(b) Report to the appropriate policy committees in both houses of the Legislature any recommendations that the department may have concerning appropriate changes to the statutory requirements that govern the transport, handling, or consolidation and transfer of the non-RCRA hazardous wastes described in subdivision (a).

CHAPTER 438

An act to add Section 65302.6 to the Government Code, relating to land use.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 65302.6 is added to the Government Code, to read:

65302.6. (a) The Legislature finds and declares that the provision of basic health, welfare, land use planning, and economic development programs by rural counties is a matter of statewide interest. The administration of statewide programs by counties is

presently achieved pursuant to state regulations and mandates imposed by the state. Accordingly, it is the intent of the Legislature in enacting this section to protect the economic viability, and health and safety of specified rural counties by studying ways to reduce the burden of preparing and adopting housing elements.

(b) As used in this section, "frontier county" means a county that satisfies each of the following requirements:

(1) The county has a population of less than 35,000 residents as of January 1, 1997, as estimated by the Demographic Research Unit of the State Department of Finance.

(2) At least 50 percent of the area within the boundaries of the county is owned by the federal government.

(3) The county has issued less than 250 building permits for the construction, installation, or renovation of dwelling units, including mobilehomes, in 1995.

(c) On or before January 1, 1998, the Department of Housing and Community Development shall report to the Legislature its recommendations for adapting the requirements of Article 10.6 (commencing with Section 65580) to the conditions, needs, and opportunities of frontier counties, including, but not limited to, the preparation and self-certification of housing elements by frontier counties.

CHAPTER 439

An act to amend Sections 10232.6, 11302, 11310, 11314, 11315, 11319, 11320, 11321, 11323, 11324, 11325, 11328, 11340, 11341, 11343, 11344, 11360, 11400, 11401, 11406, 11408, 11410, 11411, 11412, and 11422 of, and to repeal Sections 11311, 11312, 11342, 11402, 11403, and 11421 of, the Business and Professions Code, relating to real estate appraisers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 10232.6 of the Business and Professions Code is amended to read:

10232.6. (a) A real estate broker, acting within the course and scope of his or her license, who arranges for or engages the services of an appraiser licensed or certified by the Office of Real Estate Appraisers for the applicable transaction, and delivers the resulting appraisal to the prospective lender and prospective purchaser as required by Section 10232.5, has met the broker's obligation of full and complete disclosure solely pursuant to paragraph (2) of subdivision (a) of Section 10232.5 and paragraph (2) of subdivision

(b) of Section 10232.5, and is not required to provide a separate estimate of fair market value under Section 10232.5.

(b) This section shall not apply in instances where the licensed or certified appraiser is an employee of the broker. However, the duty of disclosure shall not be deemed met where the broker knew or should have known that the referral was negligently made or that the fair market value provided by the appraiser was inaccurate.

(c) Nothing in this section is intended to relieve the broker of any obligation or requirement to disclose what he or she knows about the value of the property.

(d) This section shall apply only to loan transactions and shall have no effect on a real estate broker's duties of disclosure in purchase or sales transactions.

SEC. 2. Section 11302 of the Business and Professions Code is amended to read:

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

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

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

The term "appraisal" does not include an opinion given by a real estate licensee or engineer or land surveyor in the ordinary course of his or her business in connection with a function for which a license is required under Chapter 7 (commencing with Section 6700) or Chapter 15 (commencing with Section 8700) of Division 3, or Chapter 3 (commencing with Section 10130) or Chapter 7 (commencing with Section 10500) and the opinion shall not be referred to as an appraisal. This part does not apply to a probate referee acting pursuant to Sections 400 to 408, inclusive, of the Probate Code unless the appraised transaction is federally related.

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

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

(e) "Director" means the Director of the Office of Real Estate Appraisers.

(f) "Federal financial institutions regulatory agency" means the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Home Loan Bank System, National Credit Union Administration, the Resolution Trust Corporation, and any

other agency determined by the director to have jurisdiction over transactions subject to this part.

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

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

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

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

(k) "Office" means the Office of Real Estate Appraisers.

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

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

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

SEC. 3. Section 11310 of the Business and Professions Code is amended to read:

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

(a) The director shall serve at the pleasure of the Governor. The salary for the director shall be fixed and determined by the secretary with approval of the Department of Personnel Administration.

(b) The director shall not be actively engaged in the appraisal business or any other affected industry for the term of appointment, and thereafter the director shall be subject to Section 87406 of the Government Code.

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

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

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

SEC. 4. Section 11311 of the Business and Professions Code is repealed.

SEC. 5. Section 11312 of the Business and Professions Code is repealed.

SEC. 6. Section 11314 of the Business and Professions Code is amended to read:

11314. The office is required to include in its regulations requirements for licensure and discipline of real estate appraisers that ensure protection of the public interest and comply in all respects with Public Law 101-73 and any subsequent amendments thereto. Requirements for each level of licensure shall, at a minimum, meet the criteria established by the Appraiser Qualification Board of the Appraisal Foundation or the Appraisal Subcommittee.

SEC. 7. Section 11315 of the Business and Professions Code is amended to read:

11315. (a) The director may issue to a licensee, applicant, or person who acts in a capacity that requires a license under this part a citation that may contain an order to pay an administrative fine assessed by the office if the appraiser is in violation of this part or any regulations adopted to carry out its purposes.

(b) A citation shall be written and describe with particularity the nature of the violation, including a specific reference to the provision of law determined to have been violated.

(c) If appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(d) In no event shall the administrative fine assessed by the office exceed ten thousand dollars ($10,000) per violation. In assessing a fine, the office shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the person who committed the violation, and the history of previous violations.

(e) A citation or fine assessment issued pursuant to a citation shall inform the person cited that, if he or she desires a hearing to contest the finding of a violation, he or she must request a hearing by written notice to the office within 30 days of the date of issuance of the citation or assessment. 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. The citation shall also inform the person cited that failure to respond to the citation shall result in any order of abatement or administrative fine imposed becoming final, and that

any order of abatement or administrative fine shall constitute an enforceable civil judgment in addition to any other penalty or remedy available pursuant to law.

(f) (1) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, shall result in disciplinary action by the office. If a licensee fails to pay a fine within 30 days, the director shall charge him or her interest and a penalty of 10 percent of the fine amount. Interest shall be charged at the pooled money investment rate.

(2) If a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to any fee for renewal of a license. A license shall not be renewed prior to payment of the renewal fee and fine.

(3) Any fine not paid within 30 days of a final order shall constitute a valid and enforceable civil judgment.

(g) A citation may be issued without the assessment of an administrative fine.

(h) Any administrative fine or penalty imposed pursuant to this section shall be in addition to any other criminal or civil penalty provided for by law.

(i) Administrative fines collected pursuant to this section shall be deposited in the Real Estate Appraisers Regulation Fund.

SEC. 8. Section 11319 of the Business and Professions Code is amended to read:

11319. Notwithstanding any other provision of this code, the Uniform Standards of Professional Appraisal Practice constitute the minimum standard of conduct and performance for a licensee in any work or service performed that is addressed by those standards. If a licensee also is certified by the Board of Equalization, he or she shall follow the standards established by the Board of Equalization when fulfilling his or her responsibilities for assessment purposes.

SEC. 9. Section 11320 of the Business and Professions Code is amended to read:

11320. No person shall engage in federally related real estate appraisal activity governed by this part or assume or use the title of or any title designation or abbreviation as a licensed appraiser in this state without first obtaining a license as defined in Section 11302. Any person who willfully violates this provision is guilty of a public offense punishable by imprisonment in the state prison, or in a county jail for not more than one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both the imprisonment and fine. The possession of a license issued pursuant to this part does not preempt the application of other statutes including the requirement for specialized training or licensure pursuant to Article 3 (commencing with Section 750) of Chapter 2.5 of Division 1 of the Public Resources Code.

SEC. 10. Section 11321 of the Business and Professions Code is amended to read:

11321. (a) No person other than a state licensed real estate appraiser may assume or use that title or any title, designation, or abbreviation likely to create the impression of state licensure as a real estate appraiser in this state.

(b) No person other than a licensee may sign an appraisal. A trainee licensed pursuant to Section 11327 may sign an appraisal if it is also signed by a licensee.

(c) No person other than a licensee holding a current valid license at the residential level issued under this part to perform, make, or approve and sign an appraisal may use the abbreviation SLREA in his or her real property appraisal business.

(d) No person other than a licensee holding a current valid license at a certified level issued under this part to perform, make, or approve and sign an appraisal may use the term "state certified real estate appraiser" or the abbreviation SCREA in his or her real property appraisal business.

SEC. 11. Section 11323 of the Business and Professions Code is amended to read:

11323. No licensee shall engage in any appraisal activity in connection with the purchase, sale, or transfer of real property if his or her compensation is affected by the sales commission generated by the transaction for which the appraisal was made.

SEC. 12. Section 11324 of the Business and Professions Code is amended to read:

11324. An individual who is not a licensee may assist in the preparation of an appraisal under the following conditions:

(a) The assistance is under the direct supervision of an individual who is a licensed appraiser and the final conclusion as to value is made by a licensed appraiser.

(b) The final appraisal document is approved and signed, with acceptance of full responsibility, by the supervising individual who is licensed by the state pursuant to this part, identifies the assisting individual, and identifies the scope of work performed by the individual who assisted in preparation of the appraisal.

SEC. 13. Section 11325 of the Business and Professions Code is amended to read:

11325. (a) The director shall adopt regulations which determine the parameters of appraisal work which may be performed by licensed appraisers.

(b) Regulations adopted by the director pursuant to this section shall, at a minimum, meet the standards established by federal financial institution regulatory agencies as required by Section 1112 of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law 101-73.

SEC. 14. Section 11328 of the Business and Professions Code is amended to read:

11328. To substantiate documentation of appraisal experience, or to facilitate the investigation of illegal or unethical activities by a

licensee, applicant, or other person acting in a capacity that requires a license, that licensee, applicant, or person shall, upon the request of the director, submit copies of appraisals, or any work product which is addressed by the Uniform Standards of Professional Appraisal Practice, and all supporting documentation and data to the office. This material shall be confidential in accordance with the confidentiality provisions of the Uniform Standards of Professional Appraisal Practice.

SEC. 15. Section 11340 of the Business and Professions Code is amended to read:

11340. The director shall adopt regulations governing the process and the procedure of applying for a license which shall include, but not be limited to, necessary experience or education, equivalency, and minimum requirements of the Appraisal Foundation, if any.

(a) For purposes of the educational background requirements established under this section, the director shall grant credits for any courses taken on real estate appraisal ethics or practices pursuant to Section 10153.2, or which are deemed by the director to meet standards established pursuant to this part and federal law.

(b) For the purpose of implementing and applying this section, the director shall prescribe by regulation "equivalent courses" and "equivalent experience." The experience of employees of an assessor's office or of the State Board of Equalization in setting forth opinions of value of real property for tax purposes shall be deemed equivalent to experience in federally related real estate appraisal activity. Notwithstanding any other law, a holder of a valid real estate broker license shall be deemed to have completed appraisal license application experience requirements upon proof that he or she has accumulated 1,000 hours of experience in the valuation of real property.

(c) The director shall adopt regulations for licensure which shall meet, at a minimum, the requirements and standards established by the Appraisal Foundation, the Resolution Trust Corporation, and the federal financial institutions regulatory agencies acting pursuant to Section 1112 of the Financial Institutions Reform Recovery and Enforcement Act of 1989, Public Law 101-73 (FIRREA). The director shall, by regulation, require the application for a real estate appraiser license to include the applicant's social security number.

(d) In evaluating the experience of any applicant for a license, regardless of the number of hours required of that applicant, the director shall apply the same standards to the experience of all applicants.

(e) No license shall be issued to an applicant who is less than 18 years of age.

SEC. 16. Section 11341 of the Business and Professions Code is amended to read:

11341. A license shall be valid for four years from the date of its issuance unless otherwise extended or limited by the director.

SEC. 17. Section 11342 of the Business and Professions Code is repealed.

SEC. 18. Section 11343 of the Business and Professions Code is amended to read:

11343. (a) Each applicant for a license shall submit two completed fingerprint cards.

(b) The fingerprint cards shall be used for the purpose of a criminal records check of applicants and licensees through state and federal law enforcement authorities.

(c) Results of any records check by federal law enforcement authorities shall not be released except in accordance with federal requirements.

SEC. 19. Section 11344 of the Business and Professions Code is amended to read:

11344. (a) Notwithstanding Section 11341, a temporary license may be issued pending the outcome of the fingerprint and background check or as otherwise prescribed by the director. A temporary license is valid for up to 150 days. Unless otherwise prohibited pursuant to Section 11350.6 of the Welfare and Institutions Code, a temporary license may be renewed once at the discretion of the director.

(b) The director may issue a probationary license as follows:

(1) By term.

(2) By conditions to be observed in the exercise of the privileges granted.

SEC. 20. Section 11360 of the Business and Professions Code is amended to read:

11360. The director shall adopt regulations governing the process and procedures for renewal of a license which shall include, but not be limited to, continuing education requirements.

SEC. 21. Section 11400 of the Business and Professions Code is amended to read:

11400. (a) Initial application fees shall be paid to the office at the time of application.

(b) All issuance-related fees shall be paid to the office at the time the issuance application is submitted to the office.

(c) All fees shall be paid by cashier's check, certified check, money order, or government purchase order. In addition, the office may accept personal checks or credit cards for the payment of fees. All fees shall be deemed earned by the office upon receipt and are refundable at the discretion of the director.

SEC. 22. Section 11401 of the Business and Professions Code is amended to read:

11401. (a) The fee to take an examination or reexamination for a license shall be set at an amount not to exceed the cost to the office as determined by competitive bid.

(b) The director may provide that the applicant pay the fee directly to the examination provider.

SEC. 23. Section 11402 of the Business and Professions Code is repealed.

SEC. 24. Section 11403 of the Business and Professions Code is repealed.

SEC. 25. Section 11406 of the Business and Professions Code is amended to read:

11406. (a) The director shall by regulation establish fees for approval of basic education and continuing education courses or their equivalent, or for the evaluation of petitions of applicants based upon claims of equivalency pursuant to Section 11340. The fees established by regulation shall be sufficient to cover the costs incurred by the office in processing applications for course approvals and petitions for equivalency.

(b) The director shall by regulation establish fees for approval of courses of study required to be taken by applicants for licenses. The fees established by regulation shall be sufficient to cover the costs incurred by the office in processing applications for course approvals and petitions for equivalency.

SEC. 26. Section 11408 of the Business and Professions Code is amended to read:

11408. (a) Application for issuance of a license must be submitted to the office within one year of the successful completion of the examination.

(b) Every applicant or licensee shall pay federal registry fees and state registry processing fees to the state as required as part of issuance-related fees.

SEC. 27. Section 11410 of the Business and Professions Code is amended to read:

11410. The Real Estate Appraisers Regulation Fund is hereby created in the State Treasury to consist of moneys raised by fees and assessments imposed pursuant to this part. Interest shall be paid on all money transferred to the General Fund from the Real Estate Appraisers Regulation Fund, notwithstanding the provisions of Section 16310 of the Government Code.

SEC. 28. Section 11411 of the Business and Professions Code is amended to read:

11411. There shall be separate accounts in the Real Estate Appraisers Regulation Fund for purposes of administration and for purposes of recovery. These accounts shall be known respectively as the Administration Account and the Recovery Account. On and after January 1, 2000, five percent of the amount of any license or certificate fee collected under this part shall be credited to the Recovery Account. The Recovery Account is a continuing appropriation for carrying out this chapter.

SEC. 29. Section 11412 of the Business and Professions Code is amended to read:

11412. (a) On or before January 1, 2000, the director shall determine the number of complaint cases containing judicial

findings of fraud that may be eligible for recovery pursuant to future regulations that are closely analogous to those which have been adopted for the Real Estate Recovery Fund established in Chapter 6.5 (commencing with Section 10470) of Part 1. This information shall be used by the director to determine whether a real estate appraiser Recovery Account is necessary or whether to recommend that it should be eliminated.

(b) On or before January 1, 2001, regulations shall be adopted for administration of the Recovery Account, which shall include claims, funding, and administrative procedures closely analogous to those which have been adopted for the Real Estate Recovery Fund established in Chapter 6.5 (commencing with Section 10470) of Part 1.

(c) The statute of limitations for claims against the fund arising between the effective date of this part and the creation of the fund shall be tolled until the date the fund is created.

SEC. 30. Section 11421 of the Business and Professions Code is repealed.

SEC. 31. Section 11422 of the Business and Professions Code is amended to read:

11422. The office shall, on or before February 1, 1994, and at least annually thereafter, transmit to the appraisal subcommittee specified in subdivision (d) of Section 11302 a roster of persons licensed pursuant to this part.

SEC. 32. 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 ensure the orderly renewal of licenses held by real estate appraisers and the appropriate and efficient use of revenues derived from the renewal process, it is necessary that this act take effect immediately.

CHAPTER 440

An act to amend Sections 1801.1, 1808.21, 1808.22, 1808.23, 1808.47, 2512, 6300, 6301, 12517, and 21753 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 1801.1 is added to the Vehicle Code, to read:

1801.1. (a) Notwithstanding any other provision of law, the department may allow a person to submit any document required to

be submitted to the department by using electronic media deemed feasible by the department instead of requiring the actual submittal of the original document.

(b) If a signature on a document is required by law in order to complete a transaction, that requirement may be waived by the department for an electronically submitted document when supported by a signed agreement between the department and the submitter. The agreement shall require, at a minimum, each document to include all information necessary to complete the transaction, certification by the submitter as to the truthfulness of all data to be transmitted to the department, and retention of supporting records by the submitter.

(c) The department may establish minimum transaction volume levels, audit and security standards, and technological requirements, or terms and conditions it deems necessary for the approval of this process.

(d) An electronically submitted document, once accepted by the department, shall be deemed the same as an original document, and shall be admissible in all administrative, quasi-judicial, and judicial proceedings.

SEC. 1.5. Section 1808.21 of the Vehicle Code is amended to read:

1808.21. (a) Any residence address in any record of the department is confidential and shall not be disclosed to any person, except a court, law enforcement agency, or other government agency, or as authorized in Section 1808.22 or 1808.23.

(b) Release of any mailing address or part thereof in any record of the department may be restricted to a release for purposes related to the reasons for which the information was collected, including, but not limited to, the assessment of driver risk, or ownership of vehicles or vessels. This restriction does not apply to a release to a court, a law enforcement agency, or other governmental agency, or a person who has been issued a requester code pursuant to Section 1810.2.

(c) Any person providing the department with a mailing address shall declare, under penalty of perjury, that the mailing address is a valid, existing, and accurate mailing address and shall consent to receive service of process pursuant to subdivision (b) of Section 415.20, subdivision (a) of Section 415.30, and Section 416.90 of the Code of Civil Procedure at the mailing address.

(d) (1) Any registration or driver's license record of a person may be suppressed from any other person, except those persons specified in subdivision (a), if the person requesting the suppression submits verification acceptable to the department that he or she has reasonable cause to believe either of the following:

(A) That he or she is the subject of stalking, as specified in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code.

(B) That there exists a threat of death or great bodily injury to his or her person, as defined in subdivision (d) of Section 12022.7 of the Penal Code.

(2) Upon suppression of a record, each request for information about that record shall be authorized by the subject of the record or verified as legitimate by other investigative means by the department before the information is released.

(e) Suppression of a record pursuant to subdivision (d) shall occur for one year after approval by the department. Not less than 60 days prior to the date the suppression of the record would otherwise expire, the department shall notify the subject of the record of its impending expiration. The suppression may be continued for a period determined by the department if the person submits verification acceptable to the department that he or she continues to have reasonable cause to believe that he or she is the subject of stalking. The notification shall instruct the person of the method to reapply for record suppression.

For the purposes of subdivisions (d) and (e), "verification acceptable to the department" means recent police reports, court documentation, or other documentation from a law enforcement agency.

SEC. 2. Section 1808.22 of the Vehicle Code is amended to read:

1808.22. (a) Section 1808.21 does not apply to a financial institution licensed by the state or federal government to do business in the State of California which states under penalty of perjury that it has obtained a written waiver of Section 1808.21 signed by the individual whose address is requested, or to providing the address of any person who has entered into an agreement held by that institution prior to July 1, 1990, so long as that agreement remains in effect.

(b) Section 1808.21 does not apply to an insurance company licensed to do business in California when the company, under penalty of perjury, requests the information for the purpose of obtaining the address of another motorist or vehicle owner involved in an accident with their insured, or requests the information on an individual who has signed a written waiver of Section 1808.21 or the individuals insured under a policy if a named insured of that policy has signed a written waiver.

(c) Section 1808.21 does not apply to an attorney when the attorney states, under penalty of perjury, that the motor vehicle or vessel registered owner or driver residential address information is necessary in order to represent his or her client in a criminal or civil action which directly involves the use of the motor vehicle or vessel that is pending, is to be filed, or is being investigated. Information requested pursuant to this subdivision is subject to all of the following:

(1) The attorney shall state that the criminal or civil action that is pending, is to be filed, or is being investigated relates directly to the use of that motor vehicle or vessel.

(2) The case number, if any, or the names of expected parties to the extent they are known to the attorney requesting the information, shall be listed on the request.

(3) A residence address obtained from the department shall not be used for any purpose other than in furtherance of the case cited or action to be filed or which is being investigated.

(4) If no action is filed within a reasonable time, the residence address information shall be destroyed.

(5) No attorney shall request residence address information pursuant to this subdivision in order to sell the information to any person.

(6) Within 10 days of receipt of a request, the department shall notify every individual whose residence address has been requested pursuant to this subdivision.

(d) A knowing violation of paragraph (1), (2), (3), (4), or (5) of subdivision (c) is a misdemeanor. A knowing violation of paragraph (1), (2), (3), (4), or (5) of subdivision (c) in furtherance of another crime is subject to the same penalties as that other crime.

SEC. 3. Section 1808.23 of the Vehicle Code is amended to read:

1808.23. (a) Section 1808.21 does not apply to a vehicle manufacturer licensed to do business in this state if the manufacturer, or its agent, under penalty of perjury, requests and uses the information only for the purpose of safety, warranty, including a warranty issued in compliance with Section 1795.92 of the Civil Code, emission, or product recall if the manufacturer offers to make and makes any changes at no cost to the vehicle owner.

(b) Section 1808.21 does not apply to a dealer licensed to do business in this state if the dealer, or its agent, under penalty of perjury, requests and uses the information only for the purpose of completing registration transactions and documents.

(c) Section 1808.21 does not apply to a person who, under penalty of perjury, requests and uses the information as permitted under subdivision (h) of Section 1798.24 of the Civil Code, if the request specifies that no persons will be contacted by mail or otherwise at the address included with the information released. The information released by the department under this subdivision shall not be in a form that identifies any person.

(d) Residential addresses released shall not be used for direct marketing or solicitation for the purchase of any consumer product or service.

SEC. 4. Section 1808.47 of the Vehicle Code is amended to read:

1808.47. Any person who has access to confidential or restricted information from the department shall establish procedures to protect the confidentiality of those records. If confidential or restricted addresses are released to any agent of a person authorized to obtain restricted addresses as provided in Section 1808.21, 1808.22, 1808.23, 1810.2, or 1810.7, the person shall require the agent to take all steps necessary to ensure confidentiality of these addresses and prevent any release of the information to a third party. No agent shall obtain or use any confidential or restricted records from requestor codeholders for any purpose other than the reason the information

was requested by the requestor codeholder who originally obtained the information.

SEC. 5. Section 2512 of the Vehicle Code is amended to read:

2512. (a) The commissioner, after consultation with, and pursuant to the recommendations of, the Emergency Medical Service Authority and the department, shall adopt and enforce reasonable regulations as the commissioner determines are necessary for the public health and safety regarding the operation, equipment, and certification of drivers of all ambulances used for emergency services. The regulations shall not conflict with standards established by the Emergency Medical Service Authority pursuant to Section 1797.170 of the Health and Safety Code. The commissioner shall exempt, upon request of the county board of supervisors that an exemption is necessary for public health and safety, noncommercial ambulances operated within the county from the regulations adopted under this section as are specified in the board of supervisors' request. The Emergency Medical Service Authority shall be notified by the county boards of supervisors of any exemptions.

(b) The department, in cooperation with the Department of the California Highway Patrol and the Emergency Medical Service Authority, may adopt and administer regulations relating to the issuance, suspension, or revocation of ambulance driver's certificates. In addition to the fee authorized in Section 2427, the department shall charge a fee of twenty-five dollars ($25) for the issuance of an original certificate and twelve dollars ($12) for the renewal of that certificate, and, in the administration thereof, to exercise the powers granted to the commissioner by this section.

(c) This section shall not preclude the adoption of more restrictive regulations by local authorities, except that inspection of ambulances pursuant to subdivision (b) of Section 2510 shall not be duplicated by local authorities. It is the intent of the Legislature that regulations adopted by the commissioner pursuant to this section shall be the minimum necessary to protect public health and safety, and shall not be so restrictive as to preclude compliance by ambulances operated in sparsely populated areas. This subdivision does not relieve the owner or driver of any ambulance from compliance with Section 21055.

(d) The Department of the California Highway Patrol after consultation with the department and the Emergency Medical Service Authority shall prepare, and make available for purchase, an ambulance driver's handbook.

SEC. 6. Section 6300 of the Vehicle Code is amended to read:

6300. Except as provided in Sections 5905, 5907, and 5908, no security interest in any vehicle registered under this code, irrespective of whether the registration was effected prior or subsequent to the creation of the security interest, is perfected until the secured party or his or her successor or assignee has deposited, either physically or by electronic transmission pursuant to Section

1801.1, with the department, at its office in Sacramento, or at any other office as may be designated by the director, a properly endorsed certificate of ownership to the vehicle subject to the security interest showing the secured party as legal owner if the vehicle is then registered under this code, or, if the vehicle is not so registered, an application in usual form for an original registration, together with an application for registration of the secured party as legal owner, and upon payment of the fees as provided in this code.

SEC. 7. Section 6301 of the Vehicle Code is amended to read:

6301. When the secured party, his or her successor, or his or her assignee, has deposited, either physically or by electronic transmission pursuant to Section 1801.1, with the department a properly endorsed certificate of ownership showing the secured party as legal owner or an application in usual form for an original registration, together with an application for registration of the secured party as legal owner, the deposit constitutes perfection of the security interest and the rights of all persons in the vehicle shall be subject to the provisions of the Uniform Commercial Code, but the vehicle subject to the security interest shall be subject to a lien for services and materials as provided in Chapter 6.5 (commencing with Section 3068) of Title 14 of Part 4 of Division 3 of the Civil Code.

SEC. 8. Section 12517 of the Vehicle Code is amended to read:

12517. (a) No person shall operate a schoolbus unless that person has in his or her immediate possession a valid driver's license for the appropriate class of vehicle to be driven endorsed for passenger transportation. When transporting one or more pupils at or below the 12th-grade level to or from a public or private school or to or from public or private school activities, the person shall also have in his or her immediate possession a certificate issued by the department to permit the operation of schoolbuses.

(b) No person shall operate a school pupil activity bus unless that person has in his or her immediate possession a valid driver's license for the appropriate class of vehicle to be driven endorsed for passenger transportation. When transporting one or more pupils at or below the 12th-grade level to or from public or private school activities, the person shall also have in his or her immediate possession a certificate issued by the department to permit the operation of school pupil activity buses.

(c) The applicant for a certificate to operate a schoolbus or school pupil activity bus shall meet the eligibility and training requirements specified for schoolbus and school pupil activity busdrivers in this code, the Education Code and regulations adopted by the Department of the California Highway Patrol, and, in addition to the fee authorized in Section 2427, shall pay a fee of twenty-five dollars ($25) with the application for issuance of an original certificate, and a fee of twelve dollars ($12) for the renewal of that certificate.

(d) A person holding a valid certificate to permit the operation of a schoolbus or school pupil activity bus, issued prior to January 1, 1991,

shall not be required to reapply for a certificate to satisfy any additional requirements imposed by the act adding this subdivision until the certificate he or she holds expires or is canceled or revoked.

SEC. 9. Section 21753 of the Vehicle Code is amended to read:

21753. Except when passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal or the momentary flash of headlights by the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 441

An act to amend Sections 2015 and 2021 of, and to repeal and add Section 3328 of, the Business and Professions Code, relating to health.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. 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.

SEC. 2. Section 2021 of the Business and Professions Code is amended to read:

2021. (a) If the board publishes a directory pursuant to Section 112, it may require persons licensed pursuant to this chapter to furnish any information as it may deem necessary to enable it to compile the directory.

(b) Each licensee shall report to the board each and every change of address within 30 days after each change, giving both the old and new address. If an address reported to the board at the time of application for licensure or subsequently is a post office box, the

applicant shall also provide the board with a street address. If another address is the licensee's address of record, he or she may request that the second address not be disclosed to the public.

(c) Each licensee shall report to the board each and every change of name within 30 days after each change, giving both the old and new names.

SEC. 3. Section 3328 of the Business and Professions Code is repealed.

SEC. 4. Section 3328 is added to the Business and Professions Code, to read:

3328. The committee may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations that are necessary to enable the committee to carry into effect the provisions of law relating to the practice of fitting or selling hearing aids. All regulations adopted, amended, or repealed by the committee, except those regulations adopted in furtherance of Sections 3326.5 and 3456, shall be subject to the review and approval of the board in accordance with the following procedure:

(a) The committee shall file with the board, and concurrently with the Office of Administrative Law, the notice of proposed adoption, amendment, or repeal of regulations, the express terms of the proposed regulations, and the initial statement of reasons for those regulations. The board may file written testimony regarding any proposed regulations with the committee and the committee shall file the testimony with the Office of Administrative Law.

(b) After the committee adopts, amends, or repeals any regulation pursuant to this section, the committee shall submit those regulations to the board. The board shall notify the committee of its approval or rejection of the regulations within 30 days of the submission by the committee. If the board fails to act within 30 days, the regulations shall be deemed approved. The board may act on the regulations at a regularly scheduled meeting or by a review of the written material from the committee. Any action taken after a review of the written material may be taken by a mail vote. The approval of regulations shall require the affirmative vote of a majority of the members then appointed.

(c) In the event the board disapproves a regulation, it shall notify the committee in writing of the basis for its disapproval.

CHAPTER 442

An act to amend Sections 40001, 40920.6, and 40923 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 40001 of the Health and Safety Code is amended to read:

40001. (a) Subject to the powers and duties of the state board, the districts shall adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by emission sources under their jurisdiction, and shall enforce all applicable provisions of state and federal law.

(b) The district rules and regulations may, and at the request of the state board shall, provide for the prevention and abatement of air pollution episodes which, at intervals, cause discomfort or health risks to, or damage to the property of, a significant number of persons or class of persons.

(c) Prior to adopting any rule or regulation to reduce criteria pollutants, a district shall determine that there is a problem that the proposed rule or regulation will alleviate and that the rule or regulation will promote the attainment or maintenance of state or federal ambient air quality standards.

(d) (1) The district rules and regulations shall include a process to approve alternative methods of complying with emission control requirements that provide equivalent emission reductions, emissions monitoring, or recordkeeping.

(2) A district shall allow the implementation of alternative methods of emission reduction, emissions monitoring, or recordkeeping if a facility demonstrates to the satisfaction of the district that those alternative methods will provide equivalent performance. Any alternative method of emission reduction, emissions monitoring, or recordkeeping proposed by the facility shall not violate other provisions of law.

(3) If a district rule specifies an emission limit for a facility or system, the district shall not set operational or effectiveness requirements for any specific emission control equipment operating on a facility or system under that limit. Any alternative method of emission reduction, emissions monitoring, or recordkeeping proposed by the facility shall include the necessary operational and effectiveness measurement elements that can be included as permit conditions by the district to ensure compliance with, and enforcement of, the equivalent performance requirements of paragraphs (1) and (2). Nothing in this subdivision limits the district's authority to inspect a facility's equipment or records to ensure operational compliance. This paragraph shall apply to existing rules and facilities operating under those rules.

SEC. 2. Section 40920.6 of the Health and Safety Code is amended to read:

40920.6. (a) Prior to adopting rules or regulations to meet the requirement for best available retrofit control technology pursuant to Sections 40918, 40919, 40920, and 40920.5, or for a feasible measure

pursuant to Section 40914, districts shall, in addition to other requirements of this division, do all of the following:

(1) Identify one or more potential control options which achieves the emission reduction objectives for the regulation.

(2) Review the information developed to assess the cost-effectiveness of the potential control option. For purposes of this paragraph, "cost-effectiveness" means the cost, in dollars, of the potential control option divided by emission reduction potential, in tons, of the potential control option.

(3) Calculate the incremental cost-effectiveness for the potential control options identified in paragraph (1). To determine the incremental cost-effectiveness under this paragraph, the district shall calculate the difference in the dollar costs divided by the difference in the emission reduction potentials between each progressively more stringent potential control option as compared to the next less expensive control option.

(4) Consider, and review in a public meeting, all of the following:

(A) The effectiveness of the proposed control option in meeting the requirements of this chapter and the requirements adopted by the state board pursuant to subdivision (b) of Section 39610.

(B) The cost-effectiveness of each potential control option as assessed pursuant to paragraph (2).

(C) The incremental cost-effectiveness between the potential control options as calculated pursuant to paragraph (3).

(5) Make findings at the public hearing at which the regulation is adopted stating the reasons for the district's adoption of the proposed control option or options.

(b) A district may establish its own best available retrofit control technology requirement based upon consideration of the factors specified in subdivision (a) and Section 40406 if the requirement complies with subdivision (d) of Section 40001 and is consistent with this chapter, other state law, and federal law, including, but not limited to, the applicable state implementation plan.

(c) A district shall allow the retirement of marketable emission reduction credits under a program which complies with all of the requirements of Section 39616, or emission reduction credits which meet all of the requirements of state and federal law, including, but not limited to, the requirements that those emission reduction credits be permanent, enforceable, quantifiable, and surplus, in lieu of any requirement for best available retrofit control technology, if the credit also complies with all district rules and regulations affecting those credits.

(d) After a district has established the cost-effectiveness, in a dollar amount, for any rule or regulation adopted pursuant to this section or Section 40406, 40703, 40914, 40918, 40919, 40920, 40920.6, or 40922, the district, consistent with subdivision (d) of Section 40001, shall allow alternative means of producing equivalent emission reductions at an equal or lesser dollar amount per ton reduced,

including the use of emission reduction credits, for any stationary source that has a demonstrated compliance cost exceeding that established dollar amount.

SEC. 3. Section 40923 of the Health and Safety Code is amended to read:

40923. (a) Upon the state board's approval of a district's attainment plan, and each January 1 thereafter, the district shall publish a list of regulatory measures scheduled or tentatively scheduled for consideration during the following year. The district shall not propose a regulatory measure for consideration during any year that is not contained in the district's most recently published list of proposed regulatory measures unless earlier consideration is necessary to satisfy federal requirements, to abate a substantial endangerment to public health or welfare, or to comply with Section 39666 or 40915.

(b) Subdivision (a) does not apply to any modification of existing rules that the district finds and determines is necessary to do either of the following:

(1) Preserve the original intent of the rules, as stated upon their adoption.

(2) Increase opportunities for alternative compliance methodology pursuant to subdivision (d) of Section 40001.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 443

An act to amend Sections 35016 and 35221 of the Food and Agricultural Code, relating to milk.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 35016 of the Food and Agricultural Code is amended to read:

35016. (a) Except as provided in subdivision (b), any hotel, restaurant, boardinghouse, hospital, or other concern or agency that

manufactures a product of milk for the use of any patron, guest, patient, or employee shall obtain a milk products plant license.

(b) (1) Any hotel, restaurant, or boardinghouse that manufactures hard frozen or semifrozen dairy products for the use of any patron, guest, or employee shall obtain a limited manufacturing permit from the secretary.

(2) The permit may be issued only after the secretary determines that the facility is suitable for manufacturing those products.

(3) A permit issued pursuant to this subdivision may be renewed annually, if the facility is found by the secretary, based on an onsite evaluation, to be in compliance with the conditions specified in paragraph (3) of subdivision (c).

(c) A hotel, restaurant, or boardinghouse issued a limited manufacturing permit pursuant to this section shall meet all of the following standards:

(1) The hard frozen and semifrozen dairy products manufactured shall be sold only to purchasers for consumption. No hard frozen or semifrozen product manufactured pursuant to the limited manufacturing permit shall be sold for resale.

(2) The hard frozen and semifrozen dairy products shall be manufactured using prepasteurized dairy ingredients.

(3) Adequate facilities, consistent with recognized good manufacturing practices for the manufacture of hard frozen and semifrozen dairy products, as determined by the secretary, shall be provided as a condition of the limited manufacturing permit. The facilities shall include, but not be limited to, adequate utensil and container washing, sterilization and storage, and sufficient sanitary work areas, including handwashing facilities, dedicated to the manufacture of hard frozen and semifrozen dairy products. Sanitation guidelines consistent with good manufacturing and handling practices for retail food establishments manufacturing hard frozen and semifrozen dairy products in conformance with Part 110 (commencing with Section 110.3) of Title 21 of the Code of Federal Regulations shall be utilized by the secretary as a condition for issuance and renewal of the limited manufacturing permit.

(4) The hotel, restaurant, or boardinghouse shall not manufacture more than 2,500 gallons of hard frozen or semifrozen dairy products during any year.

(5) The secretary, by agreement with any approved milk inspection service, may authorize the service to inspect and enforce the requirements of this code applicable to the facility covered by this section. Any agreement shall provide that the approved inspection service shall collect the applicable fees for those establishments as provided in Sections 35221 and 38933. The fees so collected shall be retained by the approved inspection service to cover its cost of inspection and enforcement, but 15 percent of the fees collected shall be remitted by the approved inspection service to the secretary to cover the cost of administration.

SEC. 2. Section 35221 of the Food and Agricultural Code is amended to read:

35221. (a) Every person that is engaged in the business of dealing in, receiving, manufacturing, freezing, or processing ice cream, ice milk, sherbet, or any similar frozen product, of manufacturing, freezing, or processing imitation ice cream, imitation ice milk, or any similar frozen product, or of processing any other dairy product for which a license is required, shall pay the following fees:

(1) For a license for all frozen milk products and all imitation frozen milk products, one hundred dollars ($100) for the calendar year for which the license is issued. The fee for the renewal of this license is one hundred dollars ($100), plus one dollar ($1) for each additional 10,000 gallons or fraction of 10,000 gallons over and above 20,000 gallons that were manufactured during the preceding year, ending December 31.

(2) For a semifrozen (soft-serve) milk products plant license issued to persons making application under Section 33704, one hundred fifty dollars ($150) for the calendar year for which the semifrozen (soft-serve) milk products plant license is issued. The fee for the renewal of this license is one hundred fifty dollars ($150).

(3) For a limited packaging permit issued to a licensed semifrozen (soft-serve) milk products plant making application under subdivision (b) of Section 33704, three hundred dollars ($300) for issuance of the initial permit. The fee for the annual renewal of this permit is one hundred fifty dollars ($150).

(4) For a limited manufacturing permit issued to a hotel, restaurant, or boardinghouse pursuant to Section 35016, one hundred dollars ($100) for the initial permit. The fee for the annual renewal of this permit shall be one hundred dollars ($100).

(5) For a person, except a hospital or sanitarium, that is engaged in the business of manufacturing any diabetic or dietetic frozen milk product or mix, one hundred dollars ($100) for the calendar year for which a diabetic or dietetic frozen milk products license is issued. The fee for the renewal of this license is one hundred dollars ($100).

(b) The license and permit fees required by this section shall be prorated on a quarterly basis for any licensee or permittee that commences operations after the first quarter in any calendar year, regardless of whether or not the milk products plant was licensed or permitted during the preceding calendar year.

CHAPTER 444

An act to amend Sections 21157 and 21080.5 of, to add Section 21158.1 to, and to repeal Section 833 of, the Public Resources Code, relating to the California Environmental Quality Act.

[Approved by Governor September 11, 1996. Filed with
Secretary of State September 12, 1996.]

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

SECTION 1. Section 833 of the Public Resources Code is repealed.

SEC. 2. Section 21157 of the Public Resources Code is amended to read:

21157. (a) A master environmental impact report may be prepared for any one of the following projects:

(1) A general plan, element, general plan amendment, or specific plan.

(2) A project that consists of smaller individual projects which will be carried out in phases.

(3) A rule or regulation which will be implemented by subsequent projects.

(4) Projects which will be carried out or approved pursuant to a development agreement.

(5) Public or private projects which will be carried out or approved pursuant to, or in furtherance of, a redevelopment plan.

(6) A state highway project or mass transit project which will be subject to multiple stages of review or approval.

(7) A regional transportation plan or congestion management plan.

(8) A plan proposed by a local agency for the reuse of a federal military base or reservation that has been closed or that is proposed for closure.

(9) Regulations adopted by the Fish and Game Commission for the regulation of hunting and fishing.

(b) When a lead agency prepares a master environmental impact report, the document shall include all of the following:

(1) A detailed statement as required by Section 21100.

(2) A description of anticipated subsequent projects that would be within the scope of the master environmental impact report, that contains sufficient information with regard to the kind, size, intensity, and location of the subsequent projects, including, but not limited to, all of the following:

(A) The specific type of project anticipated to be undertaken.

(B) The maximum and minimum intensity of any anticipated subsequent project, such as the number of residences in a residential development, and, with regard to a public works facility, its anticipated capacity and service area.

(C) The anticipated location and alternative locations for any development projects.

(D) A capital outlay or capital improvement program, or other scheduling or implementing device that governs the submission and approval of subsequent projects.

(3) A description of potential impacts of anticipated subsequent projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the master environmental impact report. This description shall not be construed as a limitation on the impacts which may be considered in a focused environmental impact report.

(c) Lead agencies may develop and implement a fee program in accordance with applicable provisions of law to generate the revenue necessary to prepare a master environmental impact report.

SEC. 3. Section 21080.5 of the Public Resources Code is amended to read:

21080.5. (a) Except as provided in Section 21158.1, when the regulatory program of a state agency requires a plan or other written documentation, containing environmental information and complying with paragraph (3) of subdivision (d), to be submitted in support of any activity listed in subdivision (b), the plan or other written documentation may be submitted in lieu of the environmental impact report required by this division if the Secretary of the Resources Agency has certified the regulatory program pursuant to this section.

(b) This section applies only to regulatory programs or portions thereof which involve either of the following:

(1) The issuance to a person of a lease, permit, license, certificate, or other entitlement for use.

(2) The adoption or approval of standards, rules, regulations, or plans for use in the regulatory program.

(c) A regulatory program certified pursuant to this section is exempt from Chapter 3 (commencing with Section 21100), Chapter 4 (commencing with Section 21150), and Section 21167, except as provided in Article 2 (commencing with Section 21157) of Chapter 4.5.

(d) To qualify for certification pursuant to this section, a regulatory program shall require the utilization of an interdisciplinary approach that will ensure the integrated use of the natural and social sciences in decisionmaking and which shall meet all of the following criteria:

(1) The enabling legislation of the regulatory program does both of the following:

(A) Includes protection of the environment among its principal purposes.

(B) Contains authority for the administering agency to adopt rules and regulations for the protection of the environment, guided by standards set forth in the enabling legislation.

(2) The rules and regulations adopted by the administering agency for the regulatory program do all of the following:

(A) Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation

measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

(B) Include guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program.

(C) Require the administering agency to consult with all public agencies which have jurisdiction, by law, with respect to the proposed activity.

(D) Require that final action on the proposed activity include the written responses of the issuing authority to significant environmental points raised during the evaluation process.

(E) Require the filing of a notice of the decision by the administering agency on the proposed activity with the Secretary of the Resources Agency. Those notices shall be available for public inspection, and a list of the notices shall be posted on a weekly basis in the Office of the Resources Agency. Each list shall remain posted for a period of 30 days.

(F) Require notice of the filing of the plan or other written documentation to be made to the public and to any person who requests, in writing, notification. The notification shall be made in a manner that will provide the public or any person requesting notification with sufficient time to review and comment on the filing.

(3) The plan or other written documentation required by the regulatory program does both of the following:

(A) Includes a description of the proposed activity with alternatives to the activity, and mitigation measures to minimize any significant adverse effect on the environment of the activity.

(B) Is available for a reasonable time for review and comment by other public agencies and the general public.

(e) (1) The Secretary of the Resources Agency shall certify a regulatory program which the secretary determines meets all the qualifications for certification set forth in this section, and withdraw certification on determination that the regulatory program has been altered so that it no longer meets those qualifications. Certification and withdrawal of certification shall occur only after compliance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) In determining whether or not a regulatory program meets the qualifications for certification set forth in this section, the inquiry of the secretary shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The inquiry shall not extend to individual decisions to be reached under the regulatory program, including the nature of specific alternatives or mitigation measures which might be proposed to lessen any significant adverse effect on the environment of the activity.

(3) If the secretary determines that the regulatory program submitted for certification does not meet the qualifications for certification set forth in this section, the secretary shall adopt findings setting forth the reasons for the determination.

(f) After a regulatory program has been certified pursuant to this section, any proposed change in the program which could affect compliance with the qualifications for certification specified in subdivision (d) may be submitted to the Secretary of the Resources Agency for review and comment. The scope of the secretary's review shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The review shall not extend to individual decisions to be reached under the regulatory program, including specific alternatives or mitigation measures which might be proposed to lessen any significant adverse effect on the environment of the activity. The secretary shall have 30 days from the date of receipt of the proposed change to notify the state agency whether the proposed change will alter the regulatory program so that it no longer meets the qualification for certification established in this section and will result in a withdrawal of certification as provided in this section.

(g) Any action or proceeding to attack, review, set aside, void, or annul a determination or decision of a state agency approving or adopting a proposed activity under a regulatory program which has been certified pursuant to this section on the basis that the plan or other written documentation prepared pursuant to paragraph (3) of subdivision (d) does not comply with this section shall be commenced not later than 30 days from the date of the filing of notice of the approval or adoption of the activity.

(h) (1) Any action or proceeding to attack, review, set aside, void, or annul a determination of the Secretary of the Resources Agency to certify a regulatory program pursuant to this section on the basis that the regulatory program does not comply with this section shall be commenced within 30 days from the date of certification by the secretary.

(2) In any action brought pursuant to paragraph (1), the inquiry shall extend only to whether there was a prejudicial abuse of discretion by the secretary. Abuse of discretion is established if the secretary has not proceeded in a manner required by law or if the determination is not supported by substantial evidence.

(i) For purposes of this section, any county agricultural commissioner is a state agency.

(j) For purposes of this section, any air quality management district or air pollution control district is a state agency, except that the approval, if any, by such a district of a nonattainment area plan is subject to this section only if, and to the extent that, the approval adopts or amends rules or regulations.

SEC. 4. Section 21158.1 is added to the Public Resources Code, to read:

21158.1. When a lead agency is required to prepare an environmental impact report pursuant to subdivision (d) of Section 21157.1 or is authorized to prepare a focused environmental impact report pursuant to Section 21158, the lead agency may not rely on subdivision (a) of Section 21080.5 for that purpose even though the lead agency's regulatory program is otherwise certified in accordance with Section 21080.5.

CHAPTER 445

An act to amend Sections 701, 719, 721, 730, 731, and 736 of the Harbors and Navigation Code, relating to yacht and ship brokers.

[Approved by Governor September 11, 1996. Filed with Secretary of State September 12, 1996.]

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

SECTION 1. Section 701 of the Harbors and Navigation Code is amended to read:

701. Unless the context otherwise requires, the following definitions shall govern the construction of this article:

(a) "Broker" means a person who, except as otherwise excluded by Section 710, for compensation or in expectation of compensation, does, or negotiates to do, one or more of the following acts for another or others:

(1) Sells or offers to sell, buys or offers to buy, solicits or obtains listings of, or negotiates the purchase, sale, or exchange of yachts, and who does not own those yachts.

(2) Leases or rents, offers to lease or rent, places for rent, solicits a listing of a yacht for rent, or negotiates the sale, purchase, or exchange of a lease on a yacht, for a rental or lease period of more than 90 consecutive days to any one person or business during any 12-month period, and who does not own that yacht.

(b) "Salesman" refers to a natural person who, except as otherwise excluded by Section 710, for compensation or in expectation of compensation, is employed by a licensed broker to do one or more of the acts set forth in subdivision (a). The term includes "saleswoman" and "salesperson."

(c) "Yacht" or "ship" refers to any vessel 16 feet or more in length and under 300 gross tons used for navigating in water and designed to be propelled by machinery or sail.

SEC. 2. Section 719 of the Harbors and Navigation Code is amended to read:

719. (a) A person shall be deemed qualified to submit an application for a broker's license if, as shown on the department's records, the person has been employed, within five years preceding

his or her application, as a licensed salesperson for at least one year, has been licensed as a broker within five years preceding his or her application, or has been employed as a broker or a yacht salesperson in another state when that employment was a primary occupation for a minimum of three continuous years immediately preceding application for a broker's license in California. Proof of employment as a broker in another state shall be in the form of all of the following:

(1) State, if applicable, and federal income tax returns, or a proof of earning statement made by the applicant under penalty of perjury, for the three-year period preceding application in California.

(2) If bonded, a statement issued by the applicant's bonding company that no action has been taken against the bond for fraud or gross misrepresentation for the period for which the bond has been issued.

(3) A copy of all business permits, issued by any state, county, or city agency, which, if applicable, includes the fictitious business name ("dba" or "doing business as") under which the applicant conducted a yacht or ship brokerage business for the three year period preceding application for a California broker's license.

(4) If the applicant conducts a yacht or ship brokerage business in another state that requires broker or salesperson licensing, evidence of a current license in that state.

(b) If the applicant is a partnership, then one of the partners of the applicant shall have the foregoing qualifications.

(c) If the applicant is a corporation, then the officer or officers of the corporation to be designated for a license as provided in this article shall have the foregoing qualifications.

(d) If the applicant is an individual, the applicant shall be at least 18 years of age.

SEC. 3. Section 721 of the Harbors and Navigation Code is amended to read:

721. (a) In addition to any proof of honesty, truthfulness, and good reputation required of any applicant for a broker's license, the department shall ascertain by written examination that the applicant, and in case of a partnership or corporation applicant for a broker's license that an officer or partner thereof through whom it proposes to act as a yacht broker, has all of the following:

(1) Appropriate knowledge of the English language, including reading, writing, and spelling, and of arithmetical computations common to the yacht brokerage business.

(2) An understanding of the principles of the yacht brokerage business and profession, including an understanding of a certificate of ownership, certificate of number, security agreement, bill of sale, and other documents required to register and number, and to transfer title of an undocumented vessel pursuant to the Vehicle Code.

(3) An understanding that transfer of title of a documented vessel shall be performed in accordance with federal law as administered by the United States Coast Guard.

(4) An understanding of maritime and admiralty liens with respect to vessels and the requirements of the Department of Transportation or other federal agency and the United States Coast Guard with respect to documentation, mortgaging, and transferring of title of documented vessels.

(5) An understanding of agency contracts and of types and kinds of listings and deposit receipts with respect to vessels.

(6) A general knowledge of equipment legally required on a yacht.

(7) A general understanding of the obligations between principal and agent, and of the fiduciary relationship between them, and of business ethics pertaining to the business and profession of yacht brokers and yacht salespersons.

(8) A general knowledge of yachts.

(b) (1) If an applicant fails to pass the required examination, the department shall so notify the applicant, may suggest further study, and, upon payment of the required fee, shall schedule a reexamination.

(2) Notwithstanding paragraph (1), whenever an applicant fails to pass the written examination on the third attempt to do so, he or she shall be prohibited from retaking the examination for a period of six months from the date of taking the third examination.

SEC. 4. Section 730 of the Harbors and Navigation Code is amended to read:

730. (a) Before any broker's license shall be issued or renewed by the department for any applicant, the applicant shall procure, file, and maintain with the department a good and sufficient bond in the amount of fifteen thousand dollars ($15,000) with a corporate surety duly licensed to do business within the State of California, and conditioned that the applicant shall not practice any fraud or deceit or make any fraudulent or grossly negligent representations that will cause a monetary loss to any person for whom the broker acts under this article.

(b) If any person suffers any loss or damage by reason of any fraud or deceit practiced on that person or any fraudulent or grossly negligent representation made to that person by a licensed broker or the broker's sales personnel acting for the broker on the broker's behalf or within the scope of the employment of the sales personnel, which fraud, deceit, or fraudulent or grossly negligent representation is practiced or made with respect to any act of the broker or the sales personnel for which a license is required under this article, that person has a right of action against the broker, the sales personnel, the surety upon the broker's bond, or the deposit held by the department in accordance with Section 731. If any action is commenced upon the bond, the surety thereunder and the licensed

yacht broker with respect to whom the bond has been issued shall immediately notify the department of the action.

(c) If an action is commenced on the bond of a licensed broker, the department may require the filing of an additional bond, and immediately upon the recovery in any action on the bond, the broker described therein shall file a new bond. Failure to file an additional bond within 15 days after notification that an additional bond is required by reason of action against the bond or after recovery on a bond constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled or on whose bond recovery has been made may be suspended.

(d) If a broker's bond is canceled for a reason other than an action being commenced upon it, a new bond shall be filed by the broker. Failure to file a new bond within 30 days after notification that a new bond is required because a previous bond has been canceled constitutes a failure to comply with this article, in which case the license of the licensed broker whose bond has been canceled may be suspended.

SEC. 5. Section 731 of the Harbors and Navigation Code is amended to read:

731. (a) A cash deposit given instead of the bond required by Section 730 shall be held by the department during the life of the license and for a period of four years after the expiration of the license.

(b) If an action is commenced on the cash deposit of a licensed broker pursuant to subdivision (a), the department may require the filing of an additional cash deposit, and immediately, upon the recovery in any action on the deposit, the broker described therein shall file a new bond, equal to the amount specified in the action or recovery, but no greater than the amount specified in subdivision (a) of Section 730, whichever is less. Failure to file an additional cash deposit within 30 days after notification that an additional cash deposit is required by reason of an action filed against the cash deposit, or after the recovery on a cash deposit, shall constitute a failure to comply with this article, in which case the department may suspend the license of the licensed broker whose cash deposit has been acted on, or where a cash deposit recovery has been made.

SEC. 6. Section 736 of the Harbors and Navigation Code is amended to read:

736. The department shall charge and collect the fees prescribed by this article in accordance with the following schedule:

(a) Two hundred dollars ($200) for each original broker's license.

(b) Seventy-five dollars ($75) per year for the renewal of an original broker's license.

(c) One hundred dollars ($100) for each original salesperson's license.

(d) Fifty dollars ($50) per year for the renewal of an original salesperson's license.

(e) Twenty-five dollars ($25) for a salesperson's temporary license.

(f) Twenty-five dollars ($25) for each license obtained by a broker for a branch office and for each renewal thereof.

(g) Ten dollars ($10) for each transfer of a salesperson's license for each change of employment.

(h) Ten dollars ($10) for each duplicate license.

(i) Ten dollars ($10) for each substitution of a name in the license of a corporation or a partnership.

(j) Ten dollars ($10) for the granting of each certificate of convenience under Section 727.

(k) Twenty-five dollars ($25) for each examination.

(*l*) A criminal records investigation fee, collected for both a salesperson's and broker's license, in an amount determined by the Department of Justice, or by any other state or federal custodian of criminal records from which the department has requested information concerning an applicant's criminal record, not to exceed the amount needed to reimburse the department for conducting the criminal records investigation.

CHAPTER 446

An act to amend Section 14105.12 of, and to add Section 14132.10 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 14105.12 of the Welfare and Institutions Code is amended to read:

14105.12. (a) The department shall specify circumstances under which requests shall be granted for authorization for services provided by a health facility licensed under subdivisions (c) and (d) of Section 1250 of the Health and Safety Code for periods of up to two years. This subdivision shall be implemented not later than July 1, 1994. The department shall consult with nursing facility providers and appropriate health care professionals in the development of the criteria and process for granting two-year authorizations pursuant to this subdivision.

(b) (1) As of July 1, 1997, the department shall specify circumstances under which requests shall be granted for authorization for services provided by a health facility licensed under subdivisions (e), (g), and (h) of Section 1250 of the Health and Safety Code for periods up to two years. The department shall consult with facility providers cited in this subdivision and appropriate health care

professionals in the development of the criteria and process for granting two-year authorizations pursuant to this subdivision.

(2) The department shall not implement paragraph (1) unless and until federal approval of a change in existing utilization control methods as provided in this section is obtained.

SEC. 2. Section 14132.10 is added to the Welfare and Institutions Code, to read:

14132.10. (a) Pediatric day health care provided by a health facility licensed under paragraph (11) of subdivision (a) of Section 1250.1 of the Health and Safety Code is a covered benefit under this chapter subject to terms, conditions, and utilization controls developed by the department. Pediatric day care does not include inpatient long-term care or family respite care.

(b) The department shall publish emergency regulations for pediatric day health care services by October 1, 1997. These regulations shall reimburse providers at a rate that shall be determined by the department, consistent with efficiency, economy, and quality of care until a new rate is determined on the basis of a cost study conducted by the department.

(c) Coverage for pediatric day health care services shall be available only to the extent that no additional net program costs are incurred.

(d) The department shall not approve a request for authorization of pediatric day health care when the beneficiary for whom the authorization is requested is an inpatient in a licensed health care facility.

(e) The department shall not approve a request for authorization of pediatric day care if the department determines that the total cost incurred by the Medi-Cal program for providing pediatric day health care services and all other medically necessary services to the individual beneficiary is greater than the total cost incurred by the Medi-Cal program in providing medically equivalent services at the beneficiary's otherwise appropriate level of institutional or home care.

(f) Coverage for pediatric day health care services shall be available only to the extent that federal financial participation in the cost of providing these services is available pursuant to a federally approved state plan amendment including those services as a Medi-Cal program benefit.

CHAPTER 447

An act to add Section 37625 to the Government Code, and to add Sections 1441.5 and 32111 to the Health and Safety Code, relating to public health facilities.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 37625 is added to the Government Code, to read:

37625. (a) A member of a municipal hospital's medical or allied health professional staff who is an officer of the municipal hospital shall not be deemed to be "financially interested," for purposes of Section 1090, in any of the contracts set forth in subdivision (b) made by any municipal hospital body or board of which the officer is a member if all of the following conditions are satisfied:

(1) The officer abstains from any participation in the making of the contract.

(2) The officer's relationship to the contract is disclosed to the body or board and noted in its official records.

(3) If paragraphs (1) and (2) are satisfied, the body or board does both of the following, without any participation by the officer:

(A) Finds that the contract is fair to the municipal hospital and in its best interest.

(B) Authorizes the contract in good faith.

(b) Subdivision (a) shall apply to the following contracts:

(1) A contract between the municipal hospital and the officer for the officer to provide professional services to the hospital's patients, employees, or medical staff members and their respective dependents, provided that similar contracts exist with other staff members and the amounts payable under the contract are no greater than the amounts payable under similar contracts covering the same or similar services.

(2) A contract to provide services to covered persons between the municipal hospital and any insurance company, health care service plan, employer, or other entity which provides health care coverage, and which also has a contract with the officer to provide professional services to its covered persons.

(3) A contract in which the municipal hospital and the officer are both parties if other members of the municipal hospital's medical or allied health professional staff are also parties, directly or through their professional corporations or other practice entities, provided the officer is offered terms no more favorable than those offered any other party who is a member of the municipal hospital's medical or allied health professional staff.

(c) This section does not permit an otherwise prohibited individual to be a member of the board of trustees of a municipal hospital, including, but not limited to, individuals described in Section 53227. Nothing in this section shall authorize a contract that would otherwise be prohibited by Section 2400 of the Business and Professions Code.

(d) For purposes of this section, a contract entered into by a professional corporation or other practice entity in which the officer has an interest shall be deemed the same as a contract entered into by the officer directly.

SEC. 2. Section 1441.5 is added to the Health and Safety Code, to read:

1441.5. (a) A member of a county hospital's medical or allied health professional staff who is an officer of the board of supervisors, or of a board or commission appointed by the board of supervisors for the operation of a county hospital shall not be deemed to be "financially interested," for purposes of Section 1090 of the Government Code, in any of the contracts set forth in subdivision (b) made by any county body or board of which the officer is a member if all of the following conditions are satisfied:

(1) The officer abstains from any participation in the making of the contract.

(2) The officer's relationship to the contract is disclosed to the body or board and noted in its official records.

(3) If the requirements of paragraphs (1) and (2) are satisfied, the body or board does both of the following, without any participation by the officer:

(A) Finds that the contract is fair to the county hospital and in its best interest.

(B) Authorizes the contract in good faith.

(b) Subdivision (a) shall apply to the following contracts:

(1) A contract between the county hospital and the officer for the officer to provide professional services to the hospital's patients, employees, or medical staff members and their respective dependents, provided that similar contracts exist with other staff members and the amounts payable under the contract are no greater than the amounts payable under similar contracts covering the same or similar services.

(2) A contract to provide services to covered persons between the county hospital and any insurance company, health care service plan, employer, or other entity which provides health care coverage, and which also has a contract with the officer to provide professional services to its covered persons.

(3) A contract in which the county hospital and the officer are both parties if other members of the county hospital's medical or allied health professional staff are also parties, directly or through their professional corporations or other practice entities, provided the officer is offered terms no more favorable than those offered any other party who is a member of the county hospital's medical or allied health professional staff.

(c) This section does not permit an otherwise prohibited individual to be a member of the board of supervisors or any committee or commission thereof. Nothing in this section shall

authorize a contract that would otherwise be prohibited by Section 2400 of the Business and Professions Code.

(d) For purposes of this section, a contract entered into by a professional corporation or other practice entity in which the officer has an interest shall be deemed the same as a contract entered into by the officer directly.

SEC. 3. Section 32111 is added to the Health and Safety Code, to read:

32111. (a) A member of a health care district's medical or allied health professional staff who is an officer of the district shall not be deemed to be "financially interest," for purposes of Section 1090 of the Government Code, in any of the contracts set forth in subdivision (b) made by any district body or board of which the officer is a member if all of the following conditions are satisfied:

(1) The officer abstains from any participation in the making of the contract.

(2) The officer's relationship to the contract is disclosed to the body or board and noted in its official records.

(3) If the requirements of paragraphs (1) and (2) are satisfied, the body or board does both of the following, without any participation by the officer:

(A) Finds that the contract is fair to the district and in its best interest.

(B) Authorizes the contract in good faith.

(b) Subdivision (a) shall apply to the following contracts:

(1) A contract between the district and the officer for the officer to provide professional services to the district's patients, employees, or medical staff members and their respective dependents, provided that similar contracts exist with other staff members and the amounts payable under the contract are no greater than the amounts payable under similar contracts covering the same or similar services.

(2) A contract to provide services to covered persons between the district and any insurance company, health care service plan, employer, or other entity which provides health care coverage, and which also has a contract with the officer to provide professional services to its covered persons.

(3) A contract in which the district and the officer are both parties if other members of the district's medical or allied health professional staff are also parties, directly or through their professional corporations or other practice entities, provided the officer is offered terms no more favorable than those offered any other party who is a member of the district's medical or allied health professional staff.

(c) This section does not permit an otherwise prohibited individual to be a member of the board of directors of a district, including, but not limited to, individuals described in Section 32110 of this code or in Section 53227 of the Government Code. Nothing in this section shall authorize a contract that would otherwise be prohibited by Section 2400 of the Business and Professions Code.

(d) For purposes of this section, a contract entered into by a professional corporation or other practice entity in which the officer has an interest shall be deemed the same as a contract entered into by the officer directly.

CHAPTER 448

An act to add Sections 1524.7 and 1569.159 to the Health and Safety Code, and to amend Section 2881 of the Public Utilities Code, relating to residential care facilities.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 1524.7 is added to the Health and Safety Code, to read:

1524.7. The State Department of Social Services shall provide to residential care facilities a form, which the residential care facility shall attach to each resident admission agreement, notifying the resident that he or she is entitled to obtain services and equipment from the telephone company. The form shall include the following information:

"Any hearing or speech impaired, or otherwise disabled resident of any residential care facility is entitled to equipment and service by the telephone company, pursuant to Section 2881 of the Public Utilities Code, to improve the quality of their telecommunications. Any resident who has a declaration from a licensed professional or a state or federal agency pursuant to Section 2881 of the Public Utilities Code that he or she is hearing or speech impaired, or otherwise disabled should contact the local telephone company and ask for assistance in obtaining this equipment and service."

This section shall not be construed to require, in any way, the licensee to provide a separate telephone line for any resident.

SEC. 2. Section 1569.159 is added to the Health and Safety Code, immediately after Section 1569.158, to read:

1569.159. The State Department of Social Services shall provide to residential care facilities for the elderly a form, which the residential care facility for the elderly shall attach to each resident admission agreement, notifying the resident that he or she is entitled to obtain services and equipment from the telephone company. The form shall include the following information:

"Any hearing or speech impaired, or otherwise disabled resident of any residential care facility for the elderly is entitled to equipment and service by the telephone company, pursuant to Section 2881 of the Public Utilities Code, to improve the quality of their

telecommunications. Any resident who has a declaration from a licensed professional, or a state or federal agency pursuant to Section 2881 of the Public Utilities Code, that he or she is hearing or speech impaired, or otherwise disabled should contact the local telephone company and ask for assistance in obtaining this equipment and service.''

This section shall not be construed to require, in any way, the licensee to provide a separate telephone line for any resident.

SEC. 3. Section 2881 of the Public Utilities Code is amended to read:

2881. (a) The commission shall design and implement a program whereby each telephone corporation shall provide a telecommunications device capable of serving the needs of individuals who are deaf or hearing impaired, together with a single party line, at no charge additional to the basic exchange rate, to any subscriber who is certified as an individual who is deaf or hearing impaired by a licensed physician and surgeon, audiologist, or a qualified state or federal agency, as determined by the commission, and to any subscriber that is an organization representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e). A licensed hearing aid dispenser may recommend an individual to a licensed physician and surgeon or audiologist for purposes of participation in the program.

(b) The commission shall also design and implement a program whereby each telephone corporation shall provide a dual-party relay system, using third-party intervention to connect individuals who are deaf or hearing impaired and offices of organizations representing individuals who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e), with persons of normal hearing by way of intercommunications devices for individuals who are deaf or hearing impaired and the telephone system, making available reasonable access of all phases of public telephone service to telephone subscribers who are deaf or hearing impaired. In order to make a dual-party relay system that will meet the requirements of individuals who are deaf or hearing impaired available at a reasonable cost, the commission shall initiate an investigation, conduct public hearings to determine the most cost-effective method of providing dual-party relay service to the deaf or hearing impaired when using a telecommunications device, and solicit the advice, counsel, and physical assistance of statewide nonprofit consumer organizations of the deaf, during the development and implementation of the system. The commission shall phase in this program, on a geographical basis, over a three-year period ending on January 1, 1987. The commission shall apply for certification of this program under rules adopted by the Federal Communications Commission pursuant to Section 401 of the Americans with Disabilities Act of 1990 (Public Law 101-336).

(c) The commission shall also design and implement a program whereby specialized or supplemental telephone communications equipment may be provided to subscribers who are certified to be disabled at no charge additional to the basic exchange rate. The certification, including a statement of medical need for specialized telecommunications equipment, shall be provided by a licensed physician and surgeon acting within the scope of practice of his or her license, or by a qualified state or federal agency as determined by the commission. The commission shall, in this connection, study the feasibility of, and implement if determined to be feasible, personal income criteria, in addition to the certification of disability, for determining a subscriber's eligibility under this subdivision.

(d) The commission shall establish a rate recovery mechanism through a surcharge not to exceed one-half of 1 percent uniformly applied to a subscriber's intrastate telephone service, other than one-way radio paging service and universal telephone service, both within a service area and between service areas, to allow telephone corporations to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 2001. The commission shall require that the programs implemented under this section be identified on subscribers' bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

(e) The commission shall determine and specify those statewide organizations representing the deaf or hearing impaired which shall receive a telecommunications device pursuant to subdivision (a) or a dual-party relay system pursuant to subdivision (b), or both, and in which offices the equipment shall be installed in the case of an organization having more than one office. The commission shall direct the telephone corporations subject to its jurisdiction to comply with its determinations and specifications in this regard.

(f) The commission shall annually review the surcharge level and the balances in the funds established pursuant to subdivision (d). Until January 1, 2001, the commission shall be authorized to make, within the limits set by subdivision (d), any necessary adjustments to the surcharge to ensure that the programs supported thereby are adequately funded and that the fund balances are not excessive. A fund balance which is projected to exceed six months' worth of projected expenses at the end of the fiscal year is excessive.

(g) The commission shall prepare and submit to the Legislature, on or before December 31, 1988, and annually thereafter, a report on the fiscal status of the programs established and funded pursuant to this section and Sections 2881.1 and 2881.2. The report shall include a statement of the surcharge level established pursuant to subdivision (d) and revenues produced by the surcharge, an accounting of program expenses, and an evaluation of options for controlling those expenses and increasing program efficiency, including, but not limited to, all of the following proposals:

(1) The establishment of a means test for persons to qualify for program equipment or free or reduced charges for the use of telecommunication services.

(2) If and to the extent not prohibited under Section 401 of the Americans with Disabilities Act of 1990 (Public Law 101-336), the imposition of limits or other restrictions on maximum usage levels for the relay service, which shall include the development of a program to provide basic communications requirements to all relay users at discounted rates, including discounted toll call rates, and, for usage in excess of those basic requirements, at rates which recover the full costs of service.

(3) More efficient means for obtaining and distributing equipment to qualified subscribers.

(4) The establishment of quality standards for increasing the efficiency of the relay system.

(h) In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech and interpretation of information, the commission shall perform ongoing assessment of, and if appropriate, expand the scope of the program to allow for additional access capability consistent with evolving telecommunications technology.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 449

An act to amend Section 1597.40 of the Health and Safety Code, relating to child day care facilities.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. It is the intent of the Legislature that, except for the requirement of notice and the authorization for an increased security provided for in subdivision (d) of Section 1597.40, nothing in this act

shall alter or amend existing law forbidding restrictions or prohibitions as to the use or occupancy of real property as a family day care home. It is further the intent of the Legislature that this act shall only apply to family day care for which a license is required, and shall not apply to any child day care facility that is exempt from licensure under Section 1596.792.

SEC. 2. Section 1597.40 of the Health and Safety Code is amended to read:

1597.40. (a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

(c) Except as provided in subdivision (d), every restriction or prohibition entered into, whether by way of covenant, condition upon use or occupancy, or upon transfer of title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.

(d) (1) A prospective family day care home provider, who resides in a rental property, shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home.

(2) For family day care home providers who have relocated an existing licensed family day care home program to a rental property on or after January 1, 1997, less than 30 days' written notice may be provided in cases where the department approves the operation of the new location of the family day care home in less than 30 days, or the home is licensed in less than 30 days, in order that service to the children served in the former location not be interrupted.

(3) A family day care home provider in operation on rental or leased property as of January 1, 1997, shall notify the landlord or

property owner in writing at the time of the annual license fee renewal, or by March 31, 1997, whichever occurs later.

(4) Notwithstanding any other provision of law, upon commencement of, or knowledge of, the operation of a family day care home on his or her property, the landlord or property owner may require the family day care home provider to pay an increased security deposit for operation of the family day care home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family day care homes. In no event, however, shall the total security deposit charged exceed the maximum allowable under existing law.

(5) Section 1596.890 shall not apply to this subdivision.

CHAPTER 450

An act to amend and repeal Sections 5505, 9255.2, and 11519 of the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 5505 of the Vehicle Code, as added by Section 2 of Chapter 684 of the Statutes of 1995, is amended to read:

5505. (a) This section applies to any vehicle reported to be a total loss salvage vehicle pursuant to Section 11515 and to any vehicle reported to have been dismantled pursuant to Section 5500 or 11520.

(b) Whenever an application is made to the Department of Motor Vehicles to register a vehicle described in subdivision (a), that department shall inspect the vehicle to determine its proper identity or request that the inspection be performed by the Department of the California Highway Patrol.

(c) The Department of the California Highway Patrol shall inspect, on a random basis, those vehicles described in subdivision (a) that have been presented to the Department of Motor Vehicles for registration after completion of the reconstruction process to determine the proper identity of those vehicles. The inspection conducted pursuant to this subdivision shall be a comprehensive, vehicle identification number inspection.

(d) An individual in possession of a vehicle described in subdivision (a), who is submitting the vehicle for registration as described in subdivision (b), shall have available, and shall present upon demand of the Department of the California Highway Patrol, bills of sale, invoices, or other acceptable proof of ownership of component parts, and invoices for minor component parts.

Additionally, bills of sale and invoices shall include the year, make, model, and the vehicle identification number of the vehicle from which the parts were removed or sold, the name and signature of the person from whom the parts were acquired, and his or her address, and telephone number. To assist in the identification of the seller of new or used parts, the number of the seller's driver's license, identification card, social security card, or Federal Employer Identification Number shall be provided by the seller to the buyer on the bills of sale and invoice. The seller of a salvage vehicle, or the agent of the seller, shall inform the purchaser of the vehicle that ownership documentation for certain replacement parts used in the repair of the vehicle will be required in the inspection required under this section.

(e) As used in this section, the term "component parts for passenger motor vehicles" includes the cowl or firewall, front-end assembly, rear clip, including the roof panel, the roof panel when installed separately, and the frame or any portion thereof, or in the case of a unitized body, the supporting structure that serves as the frame, each door, the hood, each fender or quarter panel, deck lid or hatchback, each bumper, both T-tops, replacement transmissions or transaxles, and a replacement motor.

(1) As used in this subdivision, "front-end assembly" includes all of the following: hood, fenders, bumper, and radiator supporting members for these items. For vehicles with a unitized body, the front-end assembly also includes the frame support members.

(2) As used in this subdivision, "rear clip" includes the roof, quarter panels, trunk lid, floor pan, and the support members for each item.

(f) As used in this section, "major component parts for trucks, truck-type or bus-type vehicles" includes the cab, the frame or any portion thereof, and, in the case of a unitized body, the supporting structure which serves as a frame, the cargo compartment floor panel or passenger compartment floor pan, roof panel, and replacement transmissions or transaxles, and replacement motors, each door, hood, each fender or quarter panel, each bumper, and the tailgate. All component parts identified in subdivision (e), common to a truck, truck-type or bus-type vehicle, not listed in this section, shall be considered as included in this section if the part is replaced.

(1) "Major component parts for motorcycles" includes the engine or motor, transmission or transaxle, frame, front fork, and crankcase.

(2) "Minor component parts for motorcycles" includes the fairing and any other body molding.

(g) If the vehicle identification number, year, make, or model required under subdivision (d) cannot be determined, the Department of the California Highway Patrol may accept, in lieu of that information, a certification on a form provided by that department, signed by the person submitting the vehicle for inspection, that the part was not obtained by means of theft or fraud.

(h) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2003, deletes or extends that date.

SEC. 2. Section 9255.2 of the Vehicle Code is amended to read:

9255.2. (a) In addition to any other fees specified in this code and the Revenue and Taxation Code, a fee of not more than fifty dollars ($50), as determined by the Department of the California Highway Patrol to cover the costs of implementing and conducting the inspection program required under Section 5505, shall be paid to the Department of Motor Vehicles at the time inspection is made for initial registration or transfer of ownership of a vehicle included in paragraphs (1) and (2) of subdivision (b) of Section 4453.

(b) The fees collected pursuant to subdivision (a) shall be deposited in the Motor Vehicle Account in the State Transportation Fund. The money deposited in the account shall be available, upon appropriation by the Legislature, for distribution as follows:

(1) Not more than three dollars ($3) of each fee collected under subdivision (a) to the Department of Motor Vehicles.

(2) The remainder to the Department of the California Highway Patrol.

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2003, deletes or extends that date.

SEC. 3. Section 11519 of the Vehicle Code, as added by Section 4 of Chapter 684 of the Statutes of 1995, is amended to read:

11519. (a) No vehicle that has been reported dismantled may be subsequently registered until there is submitted to the department with the prescribed bill of sale an appropriate application, official lamp and brake adjustment certificates issued by an official lamp and brake adjusting station licensed by the Department of Consumer Affairs, except that fleet owners of motor trucks of three or more axles which are more than 6,000 pounds unladen weight and truck tractors may instead submit an official lamp and brake certification for their rebuilt vehicle if they operate an inspection and maintenance station licensed by the commissioner pursuant to subdivision (b) of Section 2525, other documents and fees required, and, with respect to any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that the vehicle is properly equipped with a motor vehicle pollution control device or devices which are in proper operating condition and which are in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.

(b) The department shall not register a vehicle that has been referred to the Department of the California Highway Patrol under subdivision (b) of Section 5505 or that has been selected for inspection by that department under subdivision (c) of that section,

until the applicant for registration submits to the department a certification of inspection issued by the Department of the California Highway Patrol and all of the documents required under subdivision (a).

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2003, deletes or extends that date.

SEC. 4. The sum of six hundred forty-one thousand dollars ($641,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department of the California Highway Patrol for purposes of administering the inspection program under Section 5505 of the Vehicle Code for the 1996–97 fiscal year.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 451

An act to amend Section 5752 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 5752 of the Vehicle Code is amended to read:

5752. (a) When the required certificate of ownership is lost, stolen, damaged, or mutilated, the application for transfer may be made upon a form provided by the department for a duplicate certificate of ownership. The transferor shall write his or her signature and address in the appropriate spaces provided upon the application and file the same together with the proper fees for duplicate certificate of ownership and transfer. The application shall also include, if applicable, the notorized signature of the lienholder.

(b) An insurance company or its agent is exempt from the notarized signature requirement of subdivision (a) and may apply, upon a form provided by the department, for a duplicate certificate of ownership and transfer of ownership to the insurance company, if all of the following occur:

(1) The insurance company or its agent obtains from the lienholder a document to verify satisfaction of the lien.

(2) The insurance company has paid a total loss claim for the vehicle.

(3) A lienholder is indicated on the department's records.

(4) The certificate of ownership is lost, stolen, damaged, or mutilated.

CHAPTER 452

An act relating to public social services.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. The State Department of Social Services shall provide a copy of the initial data report on the implementation of Section 11274 of the Welfare and Institutions Code, that would be provided to the United States Department of Health and Human Services as part of the demonstration project reporting process, to the appropriate committees of the Legislature.

CHAPTER 453

An act to repeal and add Section 400 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. The Legislature finds and declares that a vehicle described in subdivision (e) of Section 400 of the Vehicle Code, as added by this act, is a parking control vehicle that is operated under unique conditions by local agencies for the enforcement of parking provisions. The Legislature further finds and declares that the exemption from the definition of "motorcycle" provided for that

vehicle in that subdivision (e) is established at the request of local parking control agencies and, therefore, any costs or liabilities arising from that exemption shall be borne by the affected local jurisdiction, and not the state.

SEC. 2. Section 400 of the Vehicle Code, as amended by Section 2 of Chapter 675 of the Statutes of 1994, is repealed.

SEC. 3. Section 400 of the Vehicle Code, as added by Section 3 of Chapter 584 of the Statutes of 1993, is repealed.

SEC. 4. Section 400 is added to the Vehicle Code, to read:

400. (a) A "motorcycle" is any motor vehicle having a seat or saddle for the use of the rider, designed to travel on not more than three wheels in contact with the ground, and weighing less than 1,500 pounds.

(b) A motor vehicle that has four wheels in contact with the ground, two of which are a functional part of a sidecar, is a motorcycle if the vehicle otherwise comes within the definition of subdivision (a).

(c) A motor vehicle that is electrically powered, has a maximum speed of 45 miles per hour, and weighs less than 2,500 pounds, is a motorcycle if the vehicle otherwise comes within the definition of subdivision (a).

(d) A farm tractor is not a motorcycle.

(e) A three-wheeled motor vehicle that otherwise meets the requirements of subdivision (a), has a partially or completely enclosed seating area for the driver and passenger, is used by local public agencies for the enforcement of parking control provisions, and is operated at slow speeds on public streets, is not a motorcycle. However, a motor vehicle described in this subdivision shall comply with the applicable sections of this code imposing equipment installation requirements on motorcycles.

CHAPTER 454

An act to amend Sections 3500, 3502, and 3503 of the Business and Professions Code, relating to medicine.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 3500 of the Business and Professions Code is amended to read:

3500. In its concern with the growing shortage and geographic maldistribution of health care services in California, the Legislature intends to establish in this chapter a framework for development of a new category of health manpower—the physician assistant.

The purpose of this chapter is to encourage the more effective utilization of the skills of physicians, and physicians and podiatrists practicing in the same medical group practice, by enabling them to delegate health care tasks to qualified physician assistants where this delegation is consistent with the patient's health and welfare and with the laws and regulations relating to physician assistants.

This chapter is established to encourage the utilization of physician assistants by physicians, and by physicians and podiatrists practicing in the same medical group, and to provide that existing legal constraints should not be an unnecessary hindrance to the more effective provision of health care services. It is also the purpose of this chapter to allow for innovative development of programs for the education, training, and utilization of physician assistants.

SEC. 2. Section 3502 of the Business and Professions Code is amended to read:

3502. (a) Notwithstanding any other provision of law, a physician assistant may perform those medical services as set forth by the regulations of the board when the services are rendered under the supervision of a licensed physician and surgeon or of physicians and surgeons approved by the board, except as provided in Section 3502.5.

(b) Notwithstanding any other provision of law, a physician assistant performing medical services under the supervision of a physician and surgeon may assist a doctor of podiatric medicine who is a partner, shareholder, or employee in the same medical group as the supervising physician. A physician assistant who assists a doctor of podiatric medicine pursuant to this subdivision shall do so only according to patient-specific orders from the supervising physician and surgeon.

The supervising physician and surgeon shall be physically available to the physician assistant for consultation when such assistance is rendered. A physician assistant assisting a doctor of podiatric medicine shall be limited to performing those duties included within the scope of practice of a doctor of podiatric medicine.

(c) No medical services may be performed under this chapter in any of the following areas:

(1) The determination of the refractive states of the human eye, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) The practice of dentistry or dental hygiene or the work of a dental auxiliary as defined in Chapter 4 (commencing with Section 1600).

(d) This section shall not be construed in a manner that shall preclude the performance of routine visual screening as defined in Section 3501.

SEC. 3. Section 3503 of the Business and Professions Code is amended to read:

3503. No person other than one who has been licensed to practice as a physician assistant or authorized to practice on interim approval under Section 3517 shall practice as a physician assistant or in a similar capacity to a physician and surgeon or podiatrist or hold himself or herself out as a "physician assistant," or shall use any other term indicating or implying that he or she is a physician assistant.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 455

An act to amend Section 2836.1 of the Business and Professions Code, relating to nursing, and making an appropriation therefor.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 2836.1 of the Business and Professions Code is amended to read:

2836.1. Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing drugs or devices when all of the following apply:

(a) The drugs or devices are furnished by a nurse practitioner in accordance with standardized procedures or protocols developed by the nurse practitioner and his or her supervising physician and surgeon under any of the following circumstances:

(1) When furnished incidental to the provision of family planning services.

(2) When furnished incidental to the provision of routine health care or prenatal care.

(3) When rendered to essentially healthy persons.

(b) The nurse practitioner is functioning pursuant to standardized procedure, as defined by Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or his or her designee.

(c) The standardized procedure or protocol covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish drugs or devices, which drugs or devices may be furnished, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.

(d) The furnishing of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.

(e) For purposes of this section, no physician and surgeon shall supervise more than four nurse practitioners at one time.

(f) Drugs or devices furnished by a nurse practitioner may include Schedule III through Schedule V controlled substances under the California Uniform Controlled Substances Act, (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the nurse practitioner and physician and surgeon and specified in the standardized procedure. When Schedule III controlled substances, as defined in Section 11056 of the Health and Safety Code, are furnished by a nurse practitioner, the controlled substances shall be furnished in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the nurse practitioner's standardized procedure relating to controlled substances shall be provided upon request, to any licensed pharmacist who dispenses drugs or devices, when there is uncertainty about the nurse practitioner furnishing the order.

(g) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed (1) at least six month's physician and surgeon-supervised experience in the furnishing of drugs or devices and (2) a course in pharmacology covering the drugs or devices to be furnished under this section. The board shall establish the requirements for satisfactory completion of this subdivision.

(h) Use of the term "furnishing" in this section, in health facilities defined in subdivisions (b), (c), (d), (e), and (i) of Section 1250 of the Health and Safety Code, shall include (1) the ordering of a drug

or device in accordance with the standardized procedure and (2) transmitting an order of a supervising physician and surgeon.

(i) Nothing in this section, nor any other provision of law, shall be construed to authorize a nurse practitioner in solo practice to furnish drugs or devices, under any circumstances.

CHAPTER 456

An act to amend Section 42030 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 42030 of the Vehicle Code is amended to read:

42030. (a) Every person convicted of a violation of any weight limitation provision of Division 15 (commencing with Section 35000), and every person convicted of a violation of Section 21461 with respect to signs provided pursuant to Section 35654 or 35752, and every person convicted of a violation of Section 40001 for requiring the operation of a vehicle upon a highway in violation of any provision referred to in this section shall be punished by a fine which equals the amounts specified in the following table:

Pounds of excess weight	Fine
0– 1,000	$ 20
1,001– 1,500	30
1,501– 2,000	40
2,001– 2,500	55
2,501– 3,000	85
3,001– 3,500	105
3,501– 4,000	125
4,001– 4,500	145
4,501– 5,000	175
5,001– 6,000	.04 each lb.
6,001– 7,000	.06 each lb.
7,001– 8,000	.08 each lb.
8,001–10,000	.15 each lb.
10,001 and over	.20 each lb.

(b) No part of the penalties prescribed by this section shall be suspended for a conviction of any of the following:

(1) Section 40001 for requiring operation of a vehicle upon a highway in violation of any provision referred to in this section.

(2) Any provision referred to in this section when the amount of the weight exceeds 4,000 pounds.

(3) Any provision referred to in this section when a second or subsequent conviction of a violation thereof occurs within three years immediately preceding the violation charged.

(c) However, notwithstanding any other provision of this section, the court shall exercise discretion with respect to the imposition of the fine under this section for excess weight not exceeding 1,000 pounds if the load of the vehicle cited consisted entirely of field-loaded, unprocessed bulk agricultural or forest products or livestock being transported from the field to the first point of processing or handling.

(d) Notwithstanding any other provision of this section, the court may exercise discretion with respect to the imposition of the fine under this section if any applicable local permit was obtained prior to the court hearing and, at the time of issuance of the notice to appear, the motor carrier was transporting construction equipment or materials and a valid extra-legal load permit from the Department of Transportation was in effect.

CHAPTER 457

An act to add Part 6 (commencing with Section 60000) to Division 10 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Part 6 (commencing with Section 60000) is added to Division 10 of the Public Utilities Code, to read:

PART 6. YOLO COUNTY TRANSPORTATION DISTRICT

CHAPTER 1. GENERAL PROVISIONS

60000. This part shall be known and may be cited as the Yolo County Transportation District Act.

60002. As used in this part, the following terms have the following meanings:

(a) "Authority" means the Yolo County Transit Authority, a joint exercise of powers agency.

(b) "Board of directors" means the Board of Directors of the Yolo County Transportation District.

(c) "Board of supervisors" means the Yolo County Board of Supervisors.

(d) "County" means the County of Yolo.

(e) "District" means the Yolo County Transportation District created by Section 60004.

60004. There is hereby created the Yolo County Transportation District. The jurisdiction of the district extends throughout the county, including all of the incorporated and unincorporated territory.

60006. On and after July 1, 1997, the authority is dissolved and the district succeeds to, and is vested with, all of the rights, powers, duties, and obligations of the authority. The district is the successor to the authority's interests in any property, its rights and obligations under any contract, any outstanding indebtedness of the authority, and its rights under any grants, without the necessity of any further action.

60008. (a) The district shall be governed by a five-member board of directors representing the county and cities in the county in the district, appointed as follows:

(1) One member representing the County of Yolo, appointed by the board of supervisors.

(2) One member representing the City of Davis, appointed by the city council of that city.

(3) One member representing the City of West Sacramento, appointed by the city council of that city.

(4) One member representing the City of Woodland, appointed by the city council of that city.

(5) One member representing the City of Winters, appointed by the city council of that city.

(b) An appointing authority shall appoint one of its members to serve as a member and one member to serve as an alternate member of the board of directors. The alternate member shall serve only in the absence of the regular member.

(c) The University of California at Davis shall appoint a person to serve as a nonvoting ex officio member.

(d) The Department of Transportation shall appoint a person to serve as a nonvoting ex officio member.

(e) Voting members of the board of directors will receive a stipend per meeting to be established by the board in its bylaws.

60010. Upon dissolution of the authority, employees of the authority shall be deemed to be employees of the district without any break in service nor any loss or reduction of compensation or benefits, except as may be imposed by express action of the district governing board.

60012. (a) The district shall assume the duties of public transit provider performed by the authority. On and after July 1, 1997, the

Cities of West Sacramento, Davis, Woodland, and Winters are included within the district.

(b) Additionally, the district is deemed to be each of the following agencies, with all of the powers and duties attendant thereto:

(1) The consolidated transportation services agency for the county, with the concurrence of the Regional Transportation Planning Agency.

(2) The congestion management agency for the county.

60014. The district, at its first meeting, and thereafter annually at the meeting designated by the district, shall elect a chairperson who shall preside at all meetings, and a vice chairperson who shall preside in the absence of the chairperson. In the event of their absence or inability to act, the members present, by an order entered in the minutes, shall select one of their members to act as chairperson pro tempore, who, while so acting, shall have all the authority of the chairperson.

60016. The district shall adopt rules for its proceedings consistent with the laws of the state.

60018. A majority of the board of directors entitled to vote constitutes a quorum for the transaction of business. All official acts of the district require the affirmative vote of a majority of the board of directors entitled to vote.

60020. The acts of the district shall be expressed by motion, resolution, or ordinance.

60022. All meetings of the district shall be conducted pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

60024. The district shall do all the following:

(a) Adopt an annual budget.

(b) Adopt an administrative code, by ordinance, which prescribes the powers and duties of the district officers, the method of appointment of the district employees, and methods, procedures, and systems of operation and management of the district.

(c) Cause a postaudit of the financial transactions and records of the district to be made at least annually by a certified public accountant.

(d) Do any and all things necessary to carry out the purposes of this part.

60026. (a) The district may hire an independent staff of its own or contract with any department or agency of the United States or with any public agency to implement this part.

(b) The district may contract with private entities in conformance with applicable procurement procedures for the procurement of engineering, project management, and contract management services.

(c) The district shall rely, to the extent possible, on existing state, regional, and local transportation planning and programming data and expertise, rather than on a large duplicative staff and set of plans.

60028. The board of directors shall fix the compensation of the district's officers and employees.

60030. (a) Notice of the time and place of a public hearing on the adoption of the annual budget shall be published pursuant to Section 6061 of the Government Code not less than 15 days prior to the day of the hearing.

(b) The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

60032. The district may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

60034. All claims for money or damages against the district are governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, except as provided therein, or by other statutes or regulations expressly applicable thereto.

60036. The district may make contracts and enter into stipulations of any nature whatsoever, either in connection with eminent domain proceedings or otherwise, including, but not limited to, contracts and stipulations to indemnify and hold harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this part.

60038. The district may contract with any department or agency of the United States, with any public agency, including, but not limited to, the Department of Transportation, any county, city, or district, or with any person or a private entity upon the terms and conditions that the district finds in its best interest for the procurement of engineering, project management, and contract management services.

60040. (a) Contracts for the purchase of services, supplies, equipment, and materials in excess of ten thousand dollars ($10,000) shall be awarded to the lowest responsible bidder after competitive bidding, except in an emergency declared by the district or by an executive committee to which the district has delegated responsibility to make that declaration.

(b) If, after rejecting bids received under subdivision (a), the district determines and declares that, in its opinion, the services, supplies, equipment, or materials may be purchased at a lower price on the open market, the district may proceed to purchase these services, supplies, equipment, or materials in the open market without further observance of the provisions regarding contracts, bids, or advertisements.

(c) Notwithstanding subdivision (a), the district shall comply with Federal Transit Administration Circular 4220.1 (d), as amended, relative to third-party contracting.

60042. (a) The district has no authority to impose property, sales, or special taxes, but may, with the concurrence of a majority of the member jurisdictions represented on the board of directors, cause to

be submitted to voters of the district a ballot measure for the imposition of those taxes.

(b) If approved as required by law, the district may impose and administer fees and other funding sources secured for transportation system maintenance and improvement.

(c) The board of directors may set fares for public transit service by resolution or minute order.

60046. Notwithstanding any other provision of law which relates to the functioning of the district as the Yolo County Congestion Management Agency District, the district may not exercise any authority over the land use decisions of a local governmental agency.

60048. The district shall include in its bylaws a process for assuring that member jurisdictions of the district may reasonably determine to what extent their share of Mills-Alquist-Deddeh Act funds and other local state or federal revenue sources are used by the district. The district does not replace nor supplant the role of the Regional Transportation Planning Agency to allocate Mills-Alquist-Deddeh Act funds. Each member jurisdiction shall be financially responsible for its share of obligations incurred by the district on that member jurisdiction's behalf. The district's bylaws shall include a budget conflict resolution process.

60050. The district may advocate and act on behalf of all district member jurisdictions with their concurrence to further Yolo County transportation system interests, funding, projects, and priorities.

60052. The district shall act as a countywide forum for the coordination of transportation system planning, programming, and prioritization of significant projects.

60054. The district may promulgate a plan for funding transportation projects within its jurisdiction.

60056. The board of directors shall adopt priorities reflecting the district's goals, including consideration of being designated as the federal Designated Recipient for Yolo County, consideration of additional transportation funding sources, examining the feasibility of Yolo County becoming a self-help county, and examining possible agency consolidations within Yolo County.

60058. The district bylaws shall establish an advisory committee structure, which shall include a Technical Advisory Committee and a Citizen's Advisory Committee and other advisory committees as it deems necessary, and shall establish a process for appealing decisions of the board of directors.

60060. Transportation funding and project prioritization decisions made by the board of directors shall endeavor to be mode neutral, not biased in favor of any one transportation mode with the district seeking local concurrence when appropriate. Those decisions shall take into account the needs of the local jurisdictions, the overall county needs relative to streets, roads, transit, pedestrian, bicycle, telecommuting, light rail, heavy rail, and other alternative transportation mode projects, shall consider the movement of

information and freight as well as people, and shall attempt to balance all transportation choices in order to most effectively utilize limited funding sources to the best advantage of Yolo County residents and others in the region.

60062. The district shall act as the coordinating agency for all state and federal funding applications where appropriate.

CHAPTER 2. TRANSACTIONS AND USE TAX

60100. A retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of the county may be imposed by the district in accordance with this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, if the tax ordinance is adopted by a majority of the board of directors and by a majority of the governing bodies of the appointing authorities listed in subdivision (a) of Section 60008, and imposition of the tax is subsequently approved by two-thirds of the voters voting on the measure at a special election called for that purpose by the board of supervisors, at the request of the district, and a county transportation expenditure plan is adopted pursuant to Section 60106.

A retail transactions and use tax approved by the voters shall remain in effect for not longer than 20 years, or any lesser period of time specified in the tax ordinance. The tax may be continued in effect, or reimposed, by a tax ordinance adopted by the district and the reimposition of the tax is approved by two-thirds of the voters.

60102. (a) The district, in the ordinance, shall do all of the following:

(1) State the nature of the tax to be imposed.

(2) Establish the tax rate, which may be in $^1/_4$ percent increments and shall not exceed a maximum tax rate of 1 percent.

(3) Specify the period during which the tax will be imposed.

(4) Specify the purposes for which the revenue derived from the tax will be used.

(b) The proposition shall include an appropriations limit for that entity pursuant to Section 4 of Article XIII B of the California Constitution.

60103. (a) The county shall conduct the special election called by the board of supervisors pursuant to Section 60100. If the measure is approved, the district shall reimburse the county for its cost in conducting the special election.

(b) The special election shall be called and conducted in the same manner as provided by law for the conduct of special elections by a county.

(c) The sample ballot to be mailed to the voters, pursuant to Section 13303 of the Elections Code, shall be the full proposition, as set forth in the ordinance calling the election, and the voter

information handbook shall include the entire adopted county transportation expenditure plan.

60104. (a) Any transactions and use tax ordinance adopted pursuant to this chapter shall be operative on the first day of the first calendar quarter commencing more than 120 days after adoption of the ordinance.

(b) Prior to the operative date of the ordinance, the district shall contract with the State Board of Equalization to perform all functions incidental to the administration and operation of the ordinance.

60105. The revenues from the taxes imposed pursuant to this chapter may be allocated by the district for the construction and improvement of state highways, the construction, maintenance, improvement, and operation of local streets, roads, and highways, and the construction, improvement, and operation of public transit systems. For purposes of this section, "public transit systems" includes paratransit services.

60106. (a) A county transportation expenditure plan shall be prepared for the expenditure of the revenues expected to be derived from the tax imposed pursuant to this chapter, together with other federal, state, and local funds expected to be available for transportation improvements, for the period during which the tax is to be imposed.

(b) A county transportation expenditure plan shall not be adopted unless it has been approved by a majority of the governing bodies of the appointing authorities listed in subdivision (a) of Section 60008 at the time those bodies approve the ordinance described in Section 60100.

(c) The plan shall be adopted prior to the call of the election provided for in Section 60100.

60107. (a) The district may annually review and propose amendments to the county transportation expenditure plan adopted pursuant to Section 60106 to provide for the use of additional federal, state, and local funds, to account for unexpected revenues, or to take into consideration unforeseen circumstances.

(b) The district shall notify the board of supervisors and the city council of each city in the county and provide them with a copy of the proposed amendments.

(c) The proposed amendments shall become effective 45 days after notice is given.

CHAPTER 3. BONDS

60150. (a) As part of the ballot proposition to approve the imposition of a retail transactions and use tax, authorization may be sought to issue bonds to finance capital outlay expenditures as may be provided for in the adopted county transportation expenditure plan, payable from the proceeds of the tax.

(b) The maximum bonded indebtedness that may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax, as determined by the plan. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds, or bond anticipation notes for which funds necessary for the payment thereof have been set aside for that purpose in a trust or escrow account.

60151. (a) The bonds authorized by the voters concurrently with the approval of the retail transactions and use tax may be issued at any time by the district and shall be payable from the proceeds of the tax. The bonds shall be referred to as "limited tax bonds." The bonds may be secured by a pledge of revenues from the proceeds of the tax.

(b) The pledge of the tax to the limited tax bonds authorized under this chapter shall have priority over the use of any of the tax for "pay-as-you-go" financing, except to the extent that that priority is expressly restricted in the resolution authorizing the issuance of the bonds.

60152. Limited tax bonds shall be issued pursuant to a resolution adopted at any time by a two-thirds vote of the district. Each resolution shall provide for the issuance of bonds in the amounts as may be necessary, until the full amount of bonds authorized have been issued. The full amount of bonds may be divided into two or more series and different dates of payment fixed for the bonds of each series. A bond need not mature on its anniversary date.

60153. (a) A resolution authorizing the issuance of bonds shall state all of the following:

(1) The purposes for which the proposed debt is to be incurred, which may include all costs and estimated costs incidental to, or connected with, the accomplishment of those purposes, including, without limitation, engineering, inspection, legal, fiscal agents, financial consultant and other fees, bond and other reserve funds, working capital, bond interest estimated to accrue during the construction period and for a period not to exceed three years thereafter, and expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(2) The estimated cost of accomplishing those purposes.

(3) The amount of the principal of the indebtedness.

(4) The maximum term the bonds proposed to be issued shall run before maturity, which shall not be beyond the date of termination of the imposition of the retail transactions and use tax.

(5) The maximum rate of interest to be paid, which shall not exceed the maximum allowable by law.

(6) The denomination or denominations of the bonds, which shall not be less than five thousand dollars ($5,000).

(7) The form of the bonds, including, without limitation, registered bonds and coupon bonds, to the extent permitted by federal law, and the form of any coupons to be attached thereto, the

registration, conversion, and exchange privileges, if any, pertaining thereto, and the time when all of, or any part of, the principal becomes due and payable.

(b) The resolution may also contain any other matters authorized by this chapter or any other provision of law.

60154. The bonds shall bear interest at a rate or rates not exceeding the maximum allowable by law, payable at intervals determined by the commission.

60155. In the resolution authorizing the issuance of the bonds, the district may also provide for the call and redemption of the bonds prior to maturity at the times and prices and upon other terms as specified. However, no bond is subject to call or redemption prior to maturity, unless it contains a recital to that effect or unless a statement to that effect is printed.

60156. The principal of, and interest on, the bonds shall be payable in lawful money of the United States at the office of the treasurer of the district, or at other places as may be designated, or at both the office and other places at the option of the holders of the bonds.

60157. The bonds, or each series thereof, shall be dated and numbered consecutively and shall be signed by the chairperson or vice chairperson of the district and the auditor-controller of the district, and the official seal, if any, of the district shall be attached.

The interest coupons of the bonds shall be signed by the auditor-controller of the district. All of the signatures and seal may be printed, lithographed, or mechanically reproduced.

If any officer whose signature appears on the bonds or coupons ceases to be that officer before the delivery of the bonds, the officer's signature is as effective as if the officer had remained in office.

60158. The bonds may be sold as the district determines by resolution, and the bonds may be sold at a price below par, whether by negotiated or public sale.

60159. Delivery of any bonds may be made at any place either inside or outside the state, and the purchase price may be received in cash or bank credits.

60160. All accrued interest and premiums received on the sale of the bonds shall be placed in the fund to be used for the payment of the principal of, and interest on, the bonds, and the remainder of the proceeds of the bonds shall be placed in the treasury of the district and applied to secure the bonds or for the purposes for which the debt was incurred. However, when the purposes have been accomplished, any money remaining shall be either (a) transferred to the fund to be used for the payment of principal of, and interest on, the bonds or (b) placed in a fund to be used for the purchase of the outstanding bonds in the open market at prices and in the manner, either at public or private sale or otherwise, as determined by the district. Bonds so purchased shall be canceled immediately.

60161. (a) The district may provide for the issuance, sale, or exchange of refunding bonds to redeem or retire any bonds issued by the district upon the terms, at the times and in the manner which it determines.

(b) Refunding bonds may be issued in a principal amount sufficient to pay all, or any part of, the principal of the outstanding bonds, the premiums, if any, due upon call and redemption thereof prior to maturity, all expenses of the refunding, and either of the following:

(1) The interest upon the refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded out of the proceeds of the sale of the refunding bonds or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holders of the bonds.

(2) The interest upon the bonds to be refunded from the date of sale of the refunding bonds to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to call or agreement with the holder of the bonds.

(c) The provisions of this chapter for the issuance and sale of bonds apply to the issuance and sale of refunding bonds.

60162. (a) The district may borrow money in anticipation of the sale of bonds which have been authorized pursuant to this chapter, but which have not been sold or delivered, and may issue negotiable bond anticipation notes therefor and may renew the bond anticipation notes from time to time. However, the maximum maturity of any bond anticipation notes, including the renewals thereof, shall not exceed five years from the date of delivery of the original bond anticipation notes.

(b) The bond anticipation notes, and the interest thereon, may be paid from any money of the district available therefor, including the revenues from the tax. If not previously otherwise paid, the bond anticipation notes, or any portion thereof, or the interest thereon, shall be paid from the proceeds of the next sale of the bonds of the agency in anticipation of which the notes were issued.

(c) The bond anticipation notes shall not be issued in any amount in excess of the aggregate amount of the bonds which the district has been authorized to issue, less the amount of any bonds of the authorized issue previously sold, and also less the amount of other bond anticipation notes therefor issued and then outstanding. The bond anticipation notes shall be issued and sold in the same manner as the bonds.

(d) The bond anticipation notes and the resolutions authorizing them may contain any provisions, conditions, or limitations which a resolution of the district may contain.

60163. Any bonds issued under this chapter are legal investment for all trust funds; for the funds of insurance companies, commercial and savings banks, and trust companies; and for state school funds; and whenever any money or funds may, by any law now or hereafter

enacted, be invested in bonds of cities, counties, school districts, or other districts within the state, that money or funds may be invested in the bonds issued under this chapter, and whenever bonds of cities, counties, school districts, or other districts within the state may, by any law now or hereafter enacted, be used as security for the performance of any act or the deposit of any public money, the bonds issued under this chapter may be so used. The provisions of this chapter are in addition to all other laws relating to legal investments and shall be controlling as the latest expression of the Legislature with respect thereto.

60164. Any action or proceedings wherein the validity of the adoption of the retail transactions and use tax ordinance provided for in this chapter or the issuance of any bonds thereunder or any of the proceedings in relation thereto is contested, questioned, or denied, shall be commenced within six months from the date of the election at which the ordinance is approved; otherwise, the bonds and all proceedings in relation thereto, including the adoption and approval of the ordinance, shall be held to be valid and in every respect legal and incontestable.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs because a 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, within the meaning of Section 17556 of the Government Code.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 458

An act to amend Sections 27001, 27002, and 27200 of, to amend and renumber Sections 27007 and 27200.1 of, to amend the heading of Chapter 3 (commencing with Section 27200) of Division 2 of Title 4 of, to repeal Sections 27003, 27004, 27005, 27006, 27201, and 27203 of, to repeal and add Section 27202 of, and to repeal and add Chapter 2

(commencing with Section 27100) of Division 2 of Title 4 of, the Corporations Code, relating to corporations.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 27001 of the Corporations Code is amended to read:

27001. As used in this division "security" includes all of the things enumerated in Section 25019 and also includes shares, stock, and investment certificates as defined in the Savings Association Law.

SEC. 2. Section 27002 of the Corporations Code is amended to read:

27002. (a) As used in this division, "individual" includes every natural person, domestic or foreign private corporation, nonprofit corporation, unincorporated association, company, partnership of whatever kind, syndicate, joint stock company, trustee, protective committee, depositors' league, and other similar organization however described.

(b) As used in this division, "individual" does not include any of the following persons:

(1) Any licensed practicing attorney rendering or performing services in connection with the practice of law.

(2) Any person holding a broker-dealer's or investment adviser's certificate then in effect issued by the commissioner, rendering or performing services as such.

(3) Any holder of a permit then in effect, granted by the commissioner under the Corporate Securities Law, permitting the issue of certificates of deposit.

(4) Any securities depository as defined in Section 30004 of the Financial Code, which is licensed under Section 30200 of the Financial Code or exempted from licensing thereunder by Section 30005 or 30006 of the Financial Code.

(5) Any broker licensed by the Real Estate Commissioner of this state rendering or performing services with respect to securities, if the person would not be subject to the broker-dealer certification requirements for effecting transactions in the securities.

(6) Any security owner or holder who, without compensation of any kind, induces or attempts to induce, other security holders or owners of the same issuer into entering into agreements with persons who are excluded from "individual" by virtue of paragraphs (1) to (5), inclusive.

SEC. 3. Section 27003 of the Corporations Code is repealed.

SEC. 4. Section 27004 of the Corporations Code is repealed.

SEC. 5. Section 27005 of the Corporations Code is repealed.

SEC. 6. Section 27006 of the Corporations Code is repealed.

SEC. 7. Section 27007 of the Corporations Code is amended and renumbered to read:

27003. If any provision of this division, or the application thereof to any person or circumstance, is held invalid, the remainder of this division, or the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 8. Chapter 2 (commencing with Section 27100) of Division 2 of Title 4 of the Corporations Code is repealed.

SEC. 9. Chapter 2 (commencing with Section 27100) is added to Division 2 of Title 4 of the Corporations Code, to read:

CHAPTER 2. UNLAWFUL AND FRAUDULENT CONDUCT

27100. Any individual who, within this state, solicits, receives, collects, or solicits any subscription or contract to pay, any contributions, fees, funds, or compensation of any kind, from any owner or holder of any security, for the purpose of protecting, enforcing, or representing the rights of the security owners or holders evidenced by the security, shall be subject to the provisions of this division.

27101. It is unlawful for any individual, directly or indirectly, in connection with the solicitation, receipt, or collection of, or solicitation of any subscription or contract to pay any contributions, fees, funds, or compensation of any kind, from any owner or holder of any security, for the purpose of protecting, enforcing, or representing the rights of the security owners or holders evidenced by the security, to do any of the following:

(a) Employ any device, scheme, or artifice to defraud.

(b) By means of any written or oral communication, make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

(c) Engage in any transaction, act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(d) Misappropriate or convert the funds, security, or property of any other person.

SEC. 10. The heading of Chapter 3 (commencing with Section 27200) of Division 2 of Title 4 of the Corporations Code is amended to read:

CHAPTER 3. CIVIL LIABILITY AND CRIMES

SEC. 11. Section 27200 of the Corporations Code is amended to read:

27200. Every individual who solicits, receives, collects, or contracts for the payment of, any contributions, fees, funds, or compensation of any kind, in violation of this division, is civilly liable

for the return of the full amount of that contribution, fee, or fund, together with reasonable attorney's fees. This liability is both joint and several.

SEC. 12. Section 27200.1 of the Corporations Code is amended and renumbered to read:

27201. No action shall be maintained to enforce any liability created under Section 27200 unless brought before the expiration of two years after the violation upon which it is based or the expiration of one year after the discovery by the plaintiff of the facts constituting the violation, whichever shall first expire.

SEC. 13. Section 27201 of the Corporations Code is repealed.

SEC. 14. Section 27202 of the Corporations Code is repealed.

SEC. 15. Section 27202 is added to the Corporations Code, to read:

27202. Every individual who willfully violates Section 27101 is guilty of a public offense punishable by a fine not exceeding two hundred fifty thousand dollars ($250,000), or by imprisonment in the state prison for two, three, or four years, or by both fine and imprisonment.

SEC. 16. Section 27203 of the Corporations Code is repealed.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 459

An act to amend Sections 17210.2 and 17346 of the Financial Code, relating to escrow.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 17210.2 of the Financial Code is amended to read:

17210.2. (a) No escrow agent shall disseminate, or cause or permit to be disseminated, in any manner whatsoever, any statement or representation which is false, misleading, or deceptive, or which omits to state material information, or which refers to the supervision

of that agent by the State of California or any department or official thereof.

(b) A licensed escrow agent, in referring to the corporation's licensure under this law in any written or printed communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communications media, shall include the following statement: "This escrow company holds Department of Corporations Escrow License No. _____."

(c) The commissioner may order any person to desist from any conduct which the commissioner finds to be a violation of this section.

SEC. 2. Section 17346 of the Financial Code is amended to read:

17346. (a) Fidelity Corporation and its members shall not advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to a guarantee of trust obligations in their advertisements that is false or misleading or calculated to deceive or misinform the public. Any statement or representation with regard to a guarantee of trust obligations, except the statement set forth in subdivision (b), shall be reviewed and approved by the commissioner prior to its use.

(b) Any advertising referring to Fidelity Corporation shall state in a clear and conspicuous manner, the following statement:

"MEMBER OF ESCROW AGENTS' FIDELITY CORPORATION (EAFC), A PRIVATE CORPORATION THAT PROVIDES FIDELITY COVERAGE TO ITS MEMBERS. EAFC IS NOT AN AGENCY OR INSTRUMENTALITY OF, AND THERE IS NO GUARANTEE OF PAYMENT OF ANY CLAIM BY, THE STATE OF CALIFORNIA."

(c) Neither Fidelity Corporation nor its members shall advertise that trust obligations of escrow agents are "protected," "guaranteed," "insured," or use words to that effect.

CHAPTER 460

An act to amend Section 273ab of the Penal Code, relating to crimes.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. This act shall be known and may be cited as the Tyler Jaeger Act.

SEC. 2. Section 273ab of the Penal Code is amended to read:

273ab. Any person who, having the care or custody of a child who is under eight years of age, assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child's death, shall be punished by imprisonment in the state prison for 25 years to life. Nothing in this section shall be construed as affecting the applicability of subdivision (a) of Section 187 or Section 189.

CHAPTER 461

An act to amend Section 290.5 of the Penal Code, and to add Section 6600.1 to the Welfare and Institutions Code, relating to sex offenders.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 290.5 of the Penal Code is amended to read:

290.5. A person required to register under Section 290 may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of this code, and upon obtaining a certificate of rehabilitation, shall be relieved of any further duty to register under Section 290 if not in custody, on parole, or on probation. This certificate shall not relieve a petitioner of the duty to register under Section 290 for any offense subject to that section of which he or she is convicted in the future.

SEC. 2. Section 290.5 of the Penal Code is amended to read:

290.5. (a) A person required to register under Section 290 may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, and, except persons described in paragraph (1) of subdivision (a) of Section 290.4 or paragraph (2) of subdivision (g) of Section 290, upon obtaining a certificate of rehabilitation, shall be relieved of any further duty to register under Section 290 if not in custody, on parole, or on probation. This certificate shall not relieve persons described in paragraph (1) of subdivision (a) of Section 290.4 or paragraph (2) of subdivision (g) of Section 290 of the duty to register under Section 290 and shall not relieve a petitioner of the duty to register under Section 290 for any offense subject to that section of which he or she is convicted in the future.

(b) (1) Except as provided in paragraphs (2) and (3), a person described in paragraph (1) of subdivision (a) of Section 290.4 or paragraph (2) of subdivision (g) of Section 290 shall not be relieved of the duty to register until that person has obtained a full pardon as provided in Chapter 1 (commencing with Section 4800) or Chapter 3 (commencing with Section 4850) of Title 6 of Part 3.

(2) This subdivision does not apply to misdemeanor violations of Section 647.6.

(3) The court, upon granting a petition for a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3, may relieve a person of the duty to register under Section 290 for a violation of Section 288 or 288.5, provided that the person was granted probation pursuant to subdivision (c) of Section 1203.066, has complied with the provisions of Section 290 for a continuous period of at least 10 years immediately preceding the filing of the petition, and has not been convicted of a felony during that period.

SEC. 3. Section 6600.1 is added to the Welfare and Institutions Code, to read:

6600.1. (a) If the victim of an underlying offense that is specified in subdivision (b) of Section 6600 is a child under the age of 14 and the offending act or acts involved substantial sexual conduct, the offense shall constitute a "sexually violent offense" for purposes of Section 6600.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

SEC. 4. Section 2 of this bill incorporates amendments to Section 290.5 of the Penal Code proposed by both this bill and AB 1901. It shall become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 290.5 of the Penal Code, and (3) this bill is enacted after AB 1901, in which case Section 290.5 of the Penal Code, as amended by AB 1901, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 462

An act to amend Sections 1600, 1618, and 3000 of the Penal Code, and to amend Sections 6600, 6601, and 6601.5 of, and to add Sections 6609, 6609.1, 6609.2, and 6609.3 to, the Welfare and Institutions Code, relating to sexually violent predators, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 1600 of the Penal Code is amended to read:

1600. Any person committed to a state hospital or other treatment facility under the provisions of Section 1026, or Chapter 6 (commencing with Section 1367) of Title 10 of this code, or Section 6316 or 6321 of the Welfare and Institutions Code may be placed on outpatient status from that commitment subject to the procedures and provisions of this title, except that a developmentally disabled person may be placed on outpatient status from that commitment under the provisions of this title as modified by Section 1370.4. Any person committed as a sexually violent predator under the provisions of Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code may be placed on outpatient status from that commitment in accordance with the procedures described in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

SEC. 2. Section 1618 of the Penal Code is amended to read:

1618. The administrators and the supervision and treatment staff of the Forensic Conditional Release Program shall not be held criminally or civilly liable for any criminal acts committed by the persons on parole or judicial commitment status who receive supervision or treatment. This waiver of liability shall apply to employees of the State Department of Mental Health, the Board of Prison Terms, and the agencies or persons under contract to those agencies, who provide screening, clinical evaluation, supervision, or treatment to mentally ill parolees or persons under judicial commitment or considered for placement under a hold by the Board of Prison Terms.

SEC. 3. Section 3000 of the Penal Code is amended to read:

3000. (a) (1) The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section.

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections for parole functions for which the department is responsible. It is also not the intent of this section to diminish the

resources allocated to the Board of Prison Terms to execute its duties with respect to parole functions for which the board is responsible.

(3) The Legislature finds and declares that diligent effort must be made to ensure that parolees are held accountable for their criminal behavior, including, but not limited to, the satisfaction of restitution fines and orders.

(4) Any finding made pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, that a person is a sexually violent predator shall not toll, discharge, or otherwise affect that person's period of parole.

(b) Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter, the following shall apply:

(1) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931, if applicable, the inmate shall be released on parole for a period not exceeding three years, unless the parole authority for good cause waives parole and discharges the inmate from custody of the department.

(2) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the parole authority for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall be also applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(3) The parole authority shall consider the request of any inmate regarding the length of his or her parole and the conditions thereof.

(4) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1) or (2), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1) and (2) shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, in no case, except as provided in Section 3064, may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial parole, and, except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his or her initial parole.

(5) The Department of Corrections shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the parole authority. The Department of Corrections or the Board of Prison Terms may impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(6) For purposes of this chapter, the Board of Prison Terms shall be considered the parole authority.

(7) The sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the Board of Prison Terms, except for any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody, and Section 3060 shall apply.

SEC. 4. Section 6600 of the Welfare and Institutions Code is amended to read:

6600. As used in this article, the following terms have the following meanings:

(a) "Sexually violent predator" means a person who has been convicted of a sexually violent offense against two or more victims for which he or she received a determinate sentence and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

For purposes of this subdivision, a prior finding of not guilty by reason of insanity for an offense described in subdivision (b), a conviction prior to July 1, 1977, for an offense described in subdivision (b), a conviction resulting in a finding that the person was a mentally disordered sex offender, or a conviction in another state for an offense that includes all the elements of an offense described in subdivision (b), shall also be deemed to be a sexually violent offense even if the offender did not receive a determinate sentence for that prior offense.

Conviction of one or more of the crimes enumerated in this section shall constitute evidence that may support a court or jury determination that a person is a sexually violent predator, but shall not be the sole basis for the determination. The existence of any prior convictions may be shown with documentary evidence. The details underlying the commission of an offense that led to a prior conviction, including a predatory relationship with the victim, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by the State Department of

Mental Health. Jurors shall be admonished that they may not find a person a sexually violent predator based on prior offenses absent relevant evidence of a currently diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(b) "Sexually violent offense" means the following acts when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as provided in subdivision (a): a felony violation of paragraph (2) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262, Section 264.1, subdivision (a) or (b) of Section 288, or subdivision (a) of Section 289 of the Penal Code, or sodomy or oral copulation in violation of Section 286 or 288a of the Penal Code.

(c) "Diagnosed mental disorder" includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

(d) "Danger to the health and safety of others" does not require proof of a recent overt act while the offender is in custody.

(e) "Predatory" means an act is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

(f) "Recent overt act" means any criminal act that manifests a likelihood that the actor may engage in sexually violent predatory criminal behavior.

SEC. 5. Section 6601 of the Welfare and Institutions Code, as amended by Chapter 4 of the Statutes of 1996, is amended to read:

6601. (a) Whenever the Director of Corrections determines that an individual who is in custody under the jurisdiction of the Department of Corrections, and who is either serving a determinate prison sentence or whose parole has been revoked, may be a sexually violent predator, the director shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of his or her sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the director may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date.

(b) The person shall be screened by the Department of Corrections and the Board of Prison Terms based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This

screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of Mental Health in consultation with the Department of Corrections. If as a result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections shall refer the person to the State Department of Mental Health for a full evaluation of whether the person meets the criteria in Section 6600.

(c) The State Department of Mental Health shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of Mental Health, to determine whether the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

(d) Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of Mental Health. If both evaluators concur that the person has a diagnosed mental disorder such that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of Mental Health shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

(e) If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person meets those criteria, the Director of Mental Health shall arrange for further examination of the person by two independent professionals selected in accordance with subdivision (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) Any independent professional who is designated by the Director of Corrections or the Director of Mental Health for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to any professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) If the State Department of Mental Health determines that the person is a sexually violent predator as defined in this article, the Director of Mental Health shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted of the offense for which he or she was committed to the jurisdiction of the Department of Corrections. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) The time limits set forth in this section shall not apply during the first year that this article is operative.

(k) If the person is otherwise subject to parole, a finding or placement made pursuant to this article shall not toll, discharge, or otherwise affect the term of parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.

SEC. 6. Section 6601.5 of the Welfare and Institutions Code, as added by Chapter 4 of the Statutes of 1996, is amended to read:

6601.5. (a) In cases where an inmate's parole or temporary parole hold pursuant to Section 6601.3 will expire before a probable cause hearing is conducted pursuant to Section 6602, the agency bringing the petition may request an urgency review pursuant to this section. Upon that request, a judge of the superior court shall review the petition and determine whether the petition states or contains sufficient facts that, if true, would constitute probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon his or her release. If the judge determines that the petition, on its face, supports a finding of probable cause, the judge shall order that the person be detained in a secure facility until a hearing can be held pursuant to Section 6602. The probable cause hearing provided for in Section

6602 shall be held within 10 calendar days of the date of the order issued by the judge pursuant to this section.

(b) This section shall remain in effect only until January 1, 1998, and as of that date is repealed.

SEC. 7. Section 6609 is added to the Welfare and Institutions Code, to read:

6609. Within 10 days of a request made by the chief of police of a city or the sheriff of a county, the State Department of Mental Health shall provide the following information concerning each person committed as a sexually violent predator who is receiving outpatient care in a conditional release program in that city or county: name, address, date of commitment, county from which committed, date of placement in the conditional release program, fingerprints, and a glossy photograph no smaller than $3^1/_8 \times 3^1/_8$ inches in size, or clear copies of the fingerprints and photograph.

SEC. 8. Section 6609.1 is added to the Welfare and Institutions Code, to read:

6609.1. (a) When any person committed as a sexually violent predator is going to be unconditionally released, the State Department of Mental Health shall notify the sheriff or chief of police, or both, and the district attorney, who has jurisdiction over the community in which the person is scheduled to be released. Except as provided in subdivision (b), the notice shall be given at least 15 days prior to the scheduled release date and shall include the name of the person who is scheduled to be released, whether or not the person is required to register with law enforcement, and the community in which the person will reside.

(b) When a person committed as a sexually violent predator is scheduled to be released to a county other than the county from which he or she was committed, the State Department of Mental Health shall provide written notice of that release to the sheriff or police chief, or both, and to the district attorney, who has jurisdiction over the community in which the inmate is scheduled to be released. The notice shall be made at least 45 days prior to the scheduled release date and shall include the name of the person who is scheduled to be released, whether or not the person is required to register with local law enforcement, and the community in which the person will reside.

Those agencies receiving the notice referred to in this subdivision shall have 15 days from receipt of the notice to provide written comment to the department regarding the impending release. Those comments shall be considered by the department, which may modify its decision regarding the community in which the person is scheduled to be released, based on those comments.

(c) If the court orders the immediate release of a sexually violent predator, the department shall notify the sheriff or chief of police, or both, and the district attorney, who has jurisdiction over the

community in which the person is scheduled to be released at the time of release.

(d) The notice required by this section shall be made whether or not a request has been made pursuant to Section 6609.

(e) The time limits imposed by this section are not applicable where the release date of a sexually violent predator has been advanced by a judicial or administrative process or procedure that could not have reasonably been anticipated by the State Department of Mental Health and where, as the result of the time adjustments, there is less than 30 days remaining on the commitment before the inmate's release, but notice shall be given as soon as practicable. In no case shall notice required by this section to the appropriate agency be later than the day of release. If, after the 45-day notice is given to law enforcement and to the district attorney relating to an out-of-county placement, there is change of county placement, notice to the ultimate county of placement shall be made upon the determination of the county of placement.

SEC. 9. Section 6609.2 is added to the Welfare and Institutions Code, to read:

6609.2. (a) When any sheriff or chief of police is notified of the pending release of a person committed as a sexually violent predator, that sheriff or chief of police may notify any person designated by the sheriff or chief of police as an appropriate recipient of the notice.

(b) A law enforcement official authorized to provide notice pursuant to this section, and the public agency or entity employing the law enforcement official, shall not be liable for providing or failing to provide notice pursuant to this section.

SEC. 10. Section 6609.3 is added to the Welfare and Institutions Code, to read:

6609.3. At the time a notice is sent pursuant to subdivision (a) of Section 6609.1, the sheriff, chief of police, or district attorney notified of the release shall also send a notice to persons described in Section 679.03 of the Penal Code who have requested a notice, informing those persons of the fact that the person who committed the sexually violent offense is scheduled to be released and specifying the proposed date of release. Notice of the community in which the person is scheduled to reside shall also be given only if it is (1) in the county of residence of a witness, victim, or family member of a victim who has requested notice, or (2) within 25 miles of the actual residence of a witness, victim, or family member of a victim who has requested notice. If, after providing the witness, victim, or next of kin with the notice, there is any change in the release date or the community in which the person is to reside, the board shall provide the witness, victim, or next of kin with the revised information.

In order to be entitled to receive the notice set forth in this section, the requesting party shall keep the sheriff, chief of police, and district attorney who were notified under Section 679.03 of the Penal Code, informed of his or her current mailing address.

SEC. 11. 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, 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 provide immediate protection to the public from persons who may be sexually violent predators and may be subject to commitment in the near future, it is necessary that this act take effect immediately.

CHAPTER 463

An act to amend Section 93011 of the Government Code, relating to transportation.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 93011 of the Government Code is amended to read:

93011. The authority shall be governed by a board of directors, composed as follows:

(a) Two persons appointed by each of the boards of supervisors of the Counties of Humboldt and Mendocino. If the County of Marin or the County of Sonoma elects to join the authority, the board of supervisors of the county so joining shall appoint two persons to the board of directors.

(b) A city representative, selected by the cities served by the rail line.

(c) A board member of the Golden Gate Bridge, Highway and Transportation District, who shall serve as a nonvoting, ex officio director of the authority.

All directors, except the ex officio director, shall serve for terms of two years and until their successors have qualified.

CHAPTER 464

An act to amend Sections 35781 and 35795 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 35781 of the Vehicle Code is amended to read:

35781. The Department of Transportation shall develop a standard application form and a standard permit form for the application for, and the issuance of, a permit. The standard permit form may be used as the standard application form. The application for a permit shall specifically describe the vehicle and load to be operated or moved and the particular highways over which permit to operate is requested, and whether the permit is requested for a single trip or for continuous operation. Local authorities shall use the standard application form and the standard permit form developed by the Department of Transportation. The standard application form and the standard permit form shall be developed in cooperation with representatives of local government and the commercial trucking industry.

SEC. 2. Section 35795 of the Vehicle Code is amended to read:

35795. (a) The Department of Transportation may charge a fee for the issuance of permits pursuant to this article.

The fee established by the Department of Transportation pursuant to this section shall be established by a regulation adopted pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be calculated to produce a total estimated revenue that is not more than the estimated total cost to that department for administering this article. Special services necessitated by unusually large or heavy loads requiring engineering investigations, or other services, may be billed separately for each permit.

The funds collected by the Department of Transportation pursuant to this section shall be deposited in the State Highway Account in the State Transportation Fund.

(b) Local authorities may charge a fee for the issuance of permits pursuant to this article. However, the fee established by a local authority pursuant to this section shall be established by ordinance or resolution adopted after notice and hearing. The fee shall be

calculated to produce a total estimated revenue that is not more than the estimated total cost incurred by the local authority in administering its authority under this article and shall not exceed the fee developed by the Department of Transportation pursuant to subdivision (a). The fee for the issuance of permits shall be developed in consultation with representatives of local government and the commercial trucking industry. Notice of the hearing shall be by publication as provided in Section 6064 of the Government Code. The hearing shall be held before the legislative body of the local authority. All objections shall be considered and interested parties shall be afforded an adequate opportunity to be heard in respect to their objections. Special services necessitated by unusually large or heavy loads requiring engineering investigations, escorts, tree trimming, or other services shall be billed separately for each permit.

Nothing in this section shall limit or restrict the application of Section 35782.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 465

An act to amend Section 2602 of the Streets and Highways Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 2602 of the Streets and Highways Code is amended to read:

2602. The state-local transportation partnership program shall be implemented by the department and the applicants under the following procedures:

(a) Applicants shall submit applications for eligible projects to the department not later than June 30.

(b) The department shall review the applications for consistency with the requirements of this chapter and shall compile a preliminary list of all eligible projects not later than September 30 of the year in which the application was submitted.

(c) (1) If the total state share for eligible projects exceeds the amount specified in the Governor's proposed budget, the department shall compute the preliminary pro rata share of state funds to be available so that each eligible project would receive the same ratio of state share to local share. Not later than April 1 of the following year, the department shall advise the applicants of the preliminary pro rata share of state funds to be available.

(2) Not later than June 15 of the following year, each applicant shall inform the department whether or not it can proceed with the project with the lower state share and meet the project development completion requirements specified in paragraph (4) of subdivision (b) of Section 2601.

(3) Upon the enactment of the annual Budget Act, the department shall compile a new list of eligible projects consisting of those projects that were included in the original list that the applicant has indicated it can proceed with a lower state share and for which the applicant has indicated it can still meet the delivery requirements pursuant to paragraph (4) of subdivision (b) of Section 2601.

(4) Based on the amount of the appropriation contained in the annual Budget Act, the department shall compute the final pro rata state share so that each project on the new list would receive the same ratio of state share to local share.

(5) Within 30 days of the enactment of the annual Budget Act, the department shall report to the Legislature on the projects being funded through this program and the ratio of state share to local share.

(d) The Legislature intends to appropriate two hundred fifty million dollars ($250,000,000) by June 30, 1990, two hundred fifty million dollars ($250,000,000) by June 30, 1991, and two hundred million dollars ($200,000,000) by June 30 of each year thereafter for this program.

(e) Construction contracts for projects on the eligibility list established pursuant to subdivision (b) or (c) shall be let not later than June 30 of the fiscal year for which funds are appropriated pursuant to subdivision (d).

(f) Beginning with projects funded through appropriations made by the Budget Act of 1992, applications shall not be accepted for any project within the boundaries of a project subject to, but for which contracts were not let in accordance with, subdivision (e), for a period of three fiscal years following the fiscal year in which the applicant's notification of intent to proceed under paragraph (2) of subdivision (c) was submitted.

(g) The funds appropriated shall be expended not later than June 30 of the fourth year following the appropriation.

(h) Notwithstanding subdivisions (e) and (f), any project in Orange County for which a construction contract would otherwise have been required to be let by June 30, 1995, may be let until, but not later than, June 30, 1996.

(i) Notwithstanding subdivisions (e) and (f), any project in Santa Barbara County for which a construction contract would otherwise have been required to be let by June 30, 1995, may be let until, but not later than, December 31, 1996.

(j) The Lakeville Highway widening project (State Route 116 from Caulfield Lane to the Petaluma city limit), and the Mare Island Way/Wilson Avenue Cycle 6 improvement project in the City of Vallejo, for which a construction contract would otherwise have been required to be let by June 30, 1996, may be let until, but not later than, June 30, 1997.

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

Because the unprecedented severity of storms in the winter of 1994–95 prevented Santa Barbara County from meeting the statutory deadline for awarding contracts for planned road projects, thus making the county ineligible to receive state reimbursement for those projects, and because of unavoidable delays experienced with respect to a project in the City of Petaluma that prevented compliance with a statutory deadline, thus precluding the state's contribution for the project, it is necessary for this act, which provides flexibility with regard to the time for awarding contracts for those projects, to go into effect immediately.

CHAPTER 466

An act to amend Sections 29544 and 29550 of, to add Section 29567 to, and to repeal Chapter 8 (commencing with Section 29570) of Division 4.5 of Title 4 of, the Corporations Code, relating to corporations.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 29544 of the Corporations Code is amended to read:

29544. (a) Any person who willfully violates any provision of this law, or who willfully violates any rule or order under this law, shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and

recovered in a civil action brought in the name of the people of the State of California by the commissioner in any court of competent jurisdiction.

The penalty collected shall be paid to the State Corporations Fund to be used for the support of this division.

(b) As applied to the penalties for acts in violation of this division, the remedies provided by this section and by other sections of this division are not exclusive, and may be sought and employed in any combination to enforce this division.

(c) No action shall be maintained to enforce any liability created under subdivision (a) unless brought before the expiration of four years after the act or transaction constituting the violation.

SEC. 2. Section 29550 of the Corporations Code is amended to read:

29550. (a) Except as provided in subdivision (b), any person who willfully violates any provision of this law, or who willfully violates any rule or order under this law, shall upon conviction be fined not more than two hundred fifty thousand dollars ($250,000) or imprisoned in the state prison or in a county jail for not more than one year, or be punished by both a fine and imprisonment; but no person may be imprisoned for the violation of any rule or order if that person proves that he or she had no knowledge of the rule or order.

(b) Any person who willfully violates Section 29536 shall upon conviction be fined not more than two hundred fifty thousand dollars ($250,000), or imprisoned in the state prison for two, three, or four years, or be punished by both a fine and imprisonment.

(c) One-half of the fines collected under this section shall be paid to the State Corporations Fund to be used for the support of this division. The remainder of the fines collected under this section shall be paid to the state or local agency which brought the criminal prosecution.

SEC. 3. Section 29567 is added to the Corporations Code, to read:

29567. (a) The program established by this division shall be supported from funds appropriated by the Legislature from the State Corporations Fund.

(b) The funds appropriated from the State Corporations Fund and made available for expenditure under subdivision (a) of this section shall come from securities application filing fees collected under subdivisions (e), (f), (h), and (i) of Section 25608 of the Corporations Code.

SEC. 4. Chapter 8 (commencing with Section 29570) of Division 4.5 of Title 4 of the Corporations Code is repealed.

CHAPTER 467

An act to amend Section 18427 of, and to add Section 18011.1 to, the Financial Code, relating to industrial loan companies.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 18011.1 is added to the Financial Code, to read:

18011.1. "Affiliate" means an affiliated company or a person who, directly or indirectly, controls over 10 percent of the voting stock of an industrial loan company.

SEC. 2. Section 18427 of the Financial Code is amended to read:

18427. (a) Except as provided for under subdivision (c), it is unlawful for any industrial loan company to offer or sell any security (other than an investment certificate when authorized by the commissioner as provided in this division) in an issuer transaction, whether or not by or through underwriters, unless the sale has been qualified under Section 25111, 25112, 25113, or 25121 of the Corporations Code (and no order under Section 25140 or subdivision (a) of Section 25143 of the Corporations Code or Section 18427.2 of this code is in effect with respect to that qualification).

(b) Subject to subdivision (c) and Section 18427.4, the security and transaction exemptions under Chapter 1 (commencing with Section 25100) of Part 2 of Division 1 of Title 4 of the Corporations Code, or the security and transaction exemptions adopted by rule of the commissioner under that chapter, do not apply to the offer or sale of any security, or to any security, of an industrial loan company in an issuer transaction.

(c) The requirement of subdivision (a) that an industrial loan company qualify the sale of a security prior to its offer or sale does not apply to any of the following:

(1) The offer or sale of a nonrecourse participation interest, in whole or in part, in a note or obligation, or notes or obligations, that are a receivable of the industrial loan company issuing the participation interest to (A) a company authorized by the commissioner to engage in the industrial loan business under this division, (B) a person who is described in or meets the requirements of subdivision (i) of Section 25102 of the Corporations Code or any rule promulgated thereunder, or (C) a purchaser in a transaction involving the offer and sale of the company's nonrecourse participation interests, which transaction is exempt from qualification by virtue of meeting all of the requirements of subdivision (f) of Section 25102 of the Corporations Code and the rules promulgated thereunder, provided further that a purchaser

may not satisfy the requirement of a preexisting personal or business relationship with the offeror under subdivision (f) of Section 25102 of the Corporations Code and the rules promulgated thereunder by virtue of the fact of being a holder of an investment certificate or thrift obligation of an industrial loan company, irrespective in the case of (A), (B), or (C), of whether servicing rights under the note or obligation, or notes or obligations, are retained or released by that company.

(2) The offer or sale of a security to an affiliate meeting the requirements of subdivision (f) of Section 25102 of the Corporations Code and the rules promulgated thereunder, providing that written notice of the sale is provided to the commissioner within five days of the offer or sale in the manner prescribed by rule or order of the commissioner under this division.

(3) The offer or sale of a security meeting the requirements of subdivision (i) of Section 25102 of the Corporations Code or any rule promulgated thereunder.

CHAPTER 468

An act to amend Section 110805 of the Health and Safety Code, relating to food labeling.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 110805 of the Health and Safety Code is amended to read:

110805. (a) Except as otherwise provided in this section, no chopped or ground beef or hamburger that is offered for sale in any retail food production and marketing establishment or frozen food locker plant shall be advertised, labeled, or otherwise held out in any manner to describe or suggest its quality or relative leanness or fat content unless the label, advertisement, or other representation accurately discloses the maximum fat content thereof by the designation "Does not exceed ____ percent fat". However, in no case shall the fat content of any chopped or ground beef or hamburger exceed 30 percent fat, except in no case shall the fat content exceed 26 percent in the case of chopped or ground beef or hamburger processed from the primal cut of chuck when the primal cut designation is being used.

(b) No designation such as, but not limited to, "lean," "super lean," "premium," "deluxe" or similar terms descriptive of quality, leanness, or fat content shall be included on the label unless the label also contains a fat-weight designation as specified in subdivision (a).

However, as an alternative to including the fat-weight designation on the label, the fat-weight designation required by this section may be disclosed by means of a sign placed immediately adjacent to the counter on which the chopped or ground beef or hamburger is displayed. This sign shall be within plain view of prospective purchasers and shall display the appropriate designation specified in subdivision (a) in boldface print.

(c) Chopped or ground beef or hamburger that is processed from primal cuts of round or sirloin shall not be required to disclose the maximum fat content if there is no reference to leanness or other quality designation relating to fat content other than the primal cut from which the product is derived. If there is a reference to leanness or any other quality designation relating to fat content, the maximum fat designation shall be a fat-weight designation as specified in subdivision (a).

(d) It is unlawful and constitutes misbranding for any person to sell or offer for sale in a retail food production and marketing establishment or frozen food locker plant any chopped or ground beef or hamburger that is labeled in violation of this section.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 469

An act to amend Section 10026 of the Business and Professions Code, relating to real estate.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 10026 of the Business and Professions Code is amended to read:

10026. The term "advance fee" as used in this part is a fee claimed, demanded, charged, received, collected or contracted from a principal for a listing, advertisement or offer to sell or lease

property, other than in a newspaper of general circulation, issued primarily for the purpose of promoting the sale or lease of business opportunities or real estate or for referral to real estate brokers or salesmen, or soliciting borrowers or lenders for, or to negotiate loans on, business opportunities or real estate. As used in this section, "advance fee" does not include "security" as that term is used in Section 1950.5 of the Civil Code, or a "screening fee" as that term is used in Section 1950.6 of the Civil Code. This section does not exempt from regulation the charging or collecting of a fee under Section 1950.5 or 1950.6 of the Civil Code, but instead regulates fees that are not subject to those sections.

SEC. 2. This bill shall become operative only if Assembly Bill 2263 of the 1995–96 Regular Session is enacted and becomes operative.

CHAPTER 470

An act to add Section 17742.9 to the Education Code, relating to education.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 17742.9 is added to the Education Code, to read:

17742.9. (a) Notwithstanding any other provision of law, a school district that complies with the requirements of subdivision (b) may replace a portable classroom, as defined in Section 17742.5, that has been leased or owned by the district for 20 years or more, with a permanent building if the resulting area of new building construction is no greater than the area that would be authorized under this chapter for the lease or purchase of a portable classroom.

(b) A school district that utilizes subdivision (a) shall fund its expenses incurred thereby through the issuance of general obligation bonds by the district or by the issuance of bonds 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) or by any other financing mechanism that does not encumber the school district's general fund.

CHAPTER 471

An act to add Section 1268.6 to the Health and Safety Code, relating to health facilities.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 1268.6 is added to the Health and Safety Code, to read:

1268.6. Commencing July 1, 1997, it shall be a requirement of initial licensure of an intermediate care facility/developmentally disabled-habilitative or an intermediate care facility/developmentally disabled-nursing that the applicant or designee of the applicant attend an eight-hour orientation program approved by the State Department of Developmental Services.

(a) The eight-hour orientation program shall outline the role, requirements, and regulations of each of the following:

(1) The scope of responsibility for operation including regulatory requirements and statutes governing the facility type.

(2) Cost reporting.

(3) Local planning.

(4) Regional center and other community support services.

(5) All federal and state agencies responsible for licensing and certification, and data collection.

(6) Government and private agencies responsible for ensuring the rights of the developmentally disabled.

(b) The orientation shall be conducted by relevant community services and provider organizations. Organizations conducting the orientation class shall be responsible for keeping a record of all attendees and shall provide the department with the information within 15 working days or upon request. Instructors of the orientation must have knowledge or experience in the subject area to be taught, and shall meet any of the following criteria:

(1) Possession of a four-year college degree relevant to the course or courses to be taught.

(2) Be a health professional with a valid and current license to practice in California.

(3) Have at least two years experience in California as an administrator of a long-term health care facility that provides services to persons with developmental disabilities within the last eight years.

(c) If the licensee can demonstrate to the satisfaction of the department that the licensee or a representative of the licensee has taken the orientation program within a two-year period prior to opening a new facility, the licensee shall not be required to repeat the program to open the facility. This subdivision shall become inoperative on July 1, 2001.

(d) On or after July 1, 2001, if the licensee can demonstrate to the satisfaction of the department that the licensee, or a representative of the licensee, has taken the orientation program any year prior to

opening a new facility, the licensee shall not be required to repeat the program to open the facility.

CHAPTER 472

An act to amend Section 89539 of the Education Code, and to amend Sections 18671.2, 18676, 19582, 19586, and 19803 of the Government Code, relating to public employees.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 89539 of the Education Code is amended to read:

89539. Any employee dismissed, suspended, or demoted for cause may request a hearing by the State Personnel Board by filing such a request, in writing, with the board within 20 days of being served with the notice. The request may be on the grounds that the required procedure was not followed; that there is no ground for dismissal, suspension, or demotion; that the penalty is excessive, unreasonable, or discriminatory; that the employee did not do the acts or omissions alleged as the events or transactions upon which the causes are based; or that the acts or omissions alleged as the events or transactions upon which the causes are based were justified.

The State Personnel Board shall hold a hearing, following the same procedure as in state civil service proceedings and shall render a decision affirming, modifying or revoking the action taken. In a hearing, the burden of proof shall be on the party taking the dismissal action.

An administrative employee reassigned pursuant to Section 66609 may request a hearing by the trustees by filing a request for a hearing, in writing, with the trustees within 20 days of being served with the notice. The request may be on the grounds that the required procedure was not followed or that the position to which the employee is reassigned is not commensurate with his or her qualifications. The trustees shall hold a hearing, and shall render a decision affirming, modifying, or revoking the action taken.

The State Personnel Board may bill the California State University for the costs incurred in conducting hearings involving employees of the California State University pursuant to Sections 89535 to 89542, inclusive.

SEC. 2. Section 18671.2 of the Government Code is amended to read:

18671.2. (a) The total cost to the state of maintaining and operating the hearing office of the board shall be determined by the

board, in advance or upon any other basis as it may determine, utilizing information from the state agencies for which services are provided by the hearing office.

(b) The board shall be reimbursed for the entire cost of hearings conducted by the hearing office pursuant to statutes administered by the board, or by interagency agreement. The board may bill the appropriate state agencies for the costs incurred in conducting hearings involving employees of those state agencies, and employees of the California State University pursuant to Sections 89535 to 89542, inclusive, of the Education Code, and may bill the state departments having responsibility for the overall administration of grant-in-aid programs for the costs incurred in conducting hearings involving employees not administering their own merit systems pursuant to Chapter 1 (commencing with Section 19800) of Part 2.5. All costs collected by the board pursuant to this section shall only be used for purposes of maintaining and operating the hearing office of the board.

SEC. 3. Section 18676 of the Government Code is amended to read:

18676. When ordered to do so, a witness shall not be excused from testifying or from producing any documentary evidence in that investigation or hearing upon the ground that the testimony or documentary evidence required of the witness may tend to incriminate or subject the witness to penalty or forfeiture, provided the witness is granted use and derivative use immunity.

SEC. 4. Section 19582 of the Government Code is amended to read:

19582. (a) Hearings may be held by the board, or by any authorized representative, but the board shall render the decision that in its judgment is just and proper.

During a hearing, after the appointing authority has completed the opening statement or the presentation of evidence, the employee, without waiving his or her right to offer evidence in the event the motion is not granted, may move for a dismissal of the charges.

If it appears that the evidence presented supports the granting of the motion as to some but not all of the issues involved in the action, the board or the authorized representative shall grant the motion as to those issues and the action shall proceed as to the issues remaining. Despite the granting of the motion, no judgment shall be entered prior to a final determination of the action on the remaining issues, and shall be subject to final review and approval by the board.

(b) If a contested case is heard by an authorized representative, he or she shall prepare a proposed decision in a form that may be adopted as the decision in the case. A copy of the proposed decision shall be filed by the board as a public record and furnished to each party within 10 days after the proposed decision is filed with the board. The board itself may adopt the proposed decision in its entirety, may remand the proposed decision, or may reduce the

adverse action set forth therein and adopt the balance of the proposed decision.

(c) If the proposed decision is not remanded or adopted as provided in subdivision (b), each party shall be notified of the action, and the board itself may decide the case upon the record, including the transcript, with or without taking any additional evidence, or may refer the case to the same or another authorized representative to take additional evidence. If the case is so assigned to an authorized representative, he or she shall prepare a proposed decision as provided in subdivision (b) upon the additional evidence and the transcript and other papers that are part of the record of the prior hearing. A copy of the proposed decision shall be furnished to each party. The board itself shall decide no case provided for in this subdivision without affording the parties the opportunity to present oral and written argument before the board itself. If additional oral evidence is introduced before the board itself, no board member may vote unless he or she heard the additional oral evidence.

(d) In arriving at a decision or a proposed decision, the board or its authorized representative may consider any prior suspension or suspensions of the appellant by authority of any appointing power, or any prior proceedings under this article.

(e) The decision shall be in writing and contain findings of fact and the adverse action, if any. The findings may be stated in the language of the pleadings or by reference thereto. Copies of the decision shall be served on the parties personally or by mail.

SEC. 5. Section 19586 of the Government Code is amended to read:

19586. Within 30 days after the day a copy of the decision rendered by the board in a proceeding under this article is served by the board upon the parties to the decision, either party may petition the board for rehearing of the decision. The petition for rehearing shall be in writing and shall contain all of the grounds upon which a rehearing should be granted.

Within 30 days after the filing of a petition for rehearing with the board, the board shall cause notice thereof to be served upon the other parties to the proceeding by mailing to each a copy of the petition for rehearing. The other parties to the proceeding shall have 20 calendar days from the date of service of a copy of the petition for rehearing to file with the board and serve upon the petitioner a response to the petition for rehearing.

Within 60 days after service of notice of filing of a petition for rehearing, the board shall either grant or deny the petition in whole or in part. Failure to act upon a petition for rehearing within this 60-day period is a denial of the petition.

SEC. 6. Section 19803 of the Government Code is amended to read:

19803. The merit system for employees engaged in administering programs under Section 19800 in a local agency not administering its

own merit system approved under this chapter shall be administered by the board. This may include, but is not limited to, recruitment, examination, certification, appointment and other transactions, position classification, compensation standards, and disciplinary actions. As part of such administration, the board shall hear and decide appeals of any applicant for employment or officer or employee from the decision of a local agency or the board's executive officer affecting the employment rights of such persons. Any decision rendered in such an appeal shall be binding upon the local agency.

The board may bill the state departments having responsibility for the overall administration of grant-in-aid programs for the costs incurred in conducting hearings involving employees of local agencies not administering their own merit systems pursuant to this chapter.

CHAPTER 473

An act to add Section 17203 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 17203 is added to the Revenue and Taxation Code, to read:

17203. For purposes of applying limitations on the deductions described in this section, any reference to "compensation" or "earned income" shall be a reference to the amount required to be used for purposes of limiting the deduction in computing federal income tax for the same taxable year.

(a) The deduction allowed by Section 219 of the Internal Revenue Code.

(b) The deductions allowed by Sections 162 (*l*) and 404 of the Internal Revenue Code in the case of an individual who is an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 474

An act to amend Sections 3, 5, 6, 7, 7.5, 12.5, 13, 15.1, 16, 20, 22, and 24 of Chapter 52 of the Statutes of 1941, relating to airport districts.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 3 of Chapter 52 of the Statutes of 1941, as amended by Chapter 199 of the Statutes of 1987, is amended to read:

Sec. 3. Corporate Powers. The Monterey Peninsula Airport District is hereby declared to be, and established as, a body corporate and politic, and, in addition to other powers herein granted, shall have and is hereby granted the following powers, namely:

(a) Perpetual Succession. To have perpetual succession.

(b) Lawsuits. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) Seal. To adopt a seal and alter it at pleasure.

(d) Property. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of, real or personal property of every kind within or without the district necessary to the full exercise of its power.

(e) Improvements. To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve, any works or improvements acquired by it as herein authorized.

(f) Eminent Domain. To exercise the right of eminent domain to take any property necessary to carry out any of the objects or purposes of this act.

(g) Indebtedness.

(1) To incur indebtedness and to issue bonds pursuant to bond provisions of the Community Services District Law, Chapter 4 (commencing with Section 61650) of Part 5 of Division 3 of Title 6 of the Government Code or 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, or both, except that the total amount of outstanding bonds issued under this paragraph shall not exceed fifteen million dollars ($15,000,000) at any one time.

(2) To incur indebtedness and to issue negotiable promissory notes pursuant to a resolution adopted by vote of a majority of the members of the district's board of directors. The amount of indebtedness under this paragraph shall not exceed one million dollars ($1,000,000) and shall be repaid within 10 years from the date on which it is incurred.

(3) To borrow money from the United States of America or any federal agency or department for the acquisition or improvement of land for district purposes. The district may borrow this money

pursuant to a resolution adopted by vote of a majority of the members of the district's board of directors. The resolution shall specify the particular project being undertaken and the amount, term, and method of repayment of the loan. When received, the money shall be deposited in a special fund and spent only for the purposes for which the loan was approved. If a surplus remains after the completion of the project, the surplus shall be applied to repaying the loan.

(4) Notwithstanding any other provision of law, the maximum rate of interest on indebtedness issued pursuant to this subdivision shall not exceed the rate prescribed by Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code. The interest may be fixed or variable and may be simple or compound. The interest shall be payable at the time or times determined by the district.

(h) Taxes. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner herein provided.

(i) Exercise of Powers—Contracts. To make contracts, and to employ persons and labor, and to do all acts necessary for the full exercise of all powers vested in said district, or in any of the officers thereof, by this act.

(j) Disposal of Property. To lease, sell or dispose of any property (or any interest therein) acquired in fee, or otherwise, whenever in the judgment of said board of directors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased for any purpose without interfering with the use of the same for the purposes of said district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act.

(k) Operation and Concession Agreements. To make contracts for the operation, or operation maintenance, of any airport of said district, or for any concession thereupon necessary or convenient thereto.

(*l*) Police Powers of District. To equip and maintain a police department; to adopt ordinances and resolutions and make regulations for the protection of the public peace, health, or safety, in or upon any airport of the district, or in or upon any approach thereto, owned or controlled by the district and to prescribe penalties for the violation thereof; provided, that the police powers of said district, hereby granted, shall be limited strictly to the provisions of the subsection.

Violation of any such ordinance, resolution or regulation shall constitute a misdemeanor.

(m) General Powers. To possess and exercise all powers necessary or appropriate to a public airport district which are not prohibited by the Constitution, including all powers granted by, or which may be hereafter granted by, any general law of the state to any public

airport district therein, and all powers incidental to, and necessary or convenient in connection with, the exercise of the powers generally or specifically granted to the district by the provisions of this act.

SEC. 2. Section 5 of Chapter 52 of the Statutes of 1941, as amended by Chapter 282 of the Statutes of 1995, is amended to read:

Sec. 5. General District Elections. A general district election shall be held therein on the first Tuesday after the first Monday in November in each even-numbered year. At each such election members of the board of directors equal in number to the members whose terms on said board are expiring thereat, and upon the qualification of their successors, shall be elected for the term of four years each and until each of their successors have been elected and have qualified for such office. All such elections shall be noticed, held, the returns thereof canvassed and the results thereof declared in the manner prescribed by law for general municipal elections in general law cities and by the general laws so far as applicable; provided, however, that the powers and duties vested in governing bodies and city clerks, respectively, of general law cities, shall be vested in the board of directors and secretary thereof of the district.

At least 10 days prior to the date that candidates may be nominated for the office of director, the board shall publish in a newspaper of general circulation, which is circulated in the district, a notice stating the manner in which candidates may be nominated, the last date on which nominations for director will be accepted, and that, if not more than one person is nominated for each open office of director, directors will be appointed by the board of supervisors pursuant to this section.

If, on the 54th day prior to the day fixed for the district general election, only one person has been nominated for each office of the board of directors to be filled at that election, or no one has been nominated for such office, and if on the 44th day prior to the day fixed for the election, a petition signed by 5 percent of the qualified electors in the district, requesting that the district general election be held, has not been presented to the board of directors of the district, the board of directors shall by resolution entered in its minutes order that an election shall not be held and shall immediately request that the Board of Supervisors of the County of Monterey, at a regular or special meeting held prior to the day fixed for the election, appoint, and the board of supervisors shall thereupon appoint, to the office or offices the person or persons, if any, who have been nominated. If no person has been nominated for any office, the board of supervisors shall appoint any qualified person to the office prior to the date when the election would have been held. The person appointed shall qualify and take office and serve exactly as if elected at a district general election.

In such instances, notices shall be posted in three public places in the district at least 10 days before the date fixed for the election, which notices shall state that no election is to be held and that the

board of supervisors will appoint or has appointed a person or persons to serve for the ensuing term on the board of directors.

SEC. 3. Section 6 of Chapter 52 of the Statutes of 1941, as amended by Chapter 985 of the Statutes of 1985, is amended to read:

Sec. 6. Legislation.

(a) The board of directors shall act in legislative matters only by ordinance or resolution. Other actions of the board of directors, unless otherwise provided by this act, may be taken by resolution, motion, or order.

The votes shall be counted upon the passage of all ordinances and resolutions and entered upon the record of the proceedings of the board of directors. Upon the request of any member of the board of directors, the vote on any matter shall be recorded. All members present at any meeting shall vote.

No ordinance or resolution shall be passed without receiving the votes of at least three members of the board of directors.

(b) Each ordinance shall be headed by a brief title which shall indicate its purpose.

The ordaining clause of all ordinances adopted by the board of directors shall be, "The Board of Directors of Monterey Peninsula Airport District do ordain as follows:". The ordaining clause of all ordinances passed by initiative shall be, "The People of the Monterey Peninsula Airport District do ordain as follows:".

(c) No ordinance shall be passed by the board of directors until at least five days after its introduction or until publication at least once in the official newspaper of the district at least three days before its adoption. When an ordinance is amended before its final adoption, and after it's publication, it shall be republished in full as amended at least one day before its adoption as amended, except that, where the amendment is only for the correction of clerical errors or omissions of form, the ordinance need not be given a first reading or a republication as corrected.

(d) Except as otherwise provided by law, no action providing for any expenditure exceeding ten thousand dollars ($10,000), the acquisition or disposition of real property or any interest therein (other than the renting, leasing or hiring of real property on a month-to-month basis or for a term of one year or less), the levying of any tax or assessment, the granting of any franchise, or the imposing of any penalty, shall be taken except by ordinance.

(e) No ordinance shall be amended or repealed except by ordinance. No ordinance shall be amended by reference to its title only.

All ordinances shall be signed by the chairperson of the board of directors and attested by the secretary.

All ordinances shall take effect 30 days after final passage and approval, except that any ordinance determined and declared by the board of directors to be necessary for the immediate preservation of the public peace, health, or safety, of the district shall take effect

immediately upon final passage, and a statement of facts constituting the urgency shall be set forth in the ordinance.

SEC. 4. Section 7 of Chapter 52 of the Statutes of 1941, as amended by Chapter 282 of the Statutes of 1995, is amended to read:

Sec. 7. Officers. The officers of the district shall comprise the members of the board of directors, the secretary of the board, a general manager, an assistant manager, an auditor, and district counsel. No member of the board of directors shall be qualified for election or appointment as a member unless he or she has been a registered voter of the district for at least 30 days immediately preceding the deadline for filing nomination documents. Each member of the board of directors shall reside in the district during his or her incumbency. The board of directors shall, by ordinance, prescribe the powers, duties, and compensation, of all officers, except where the same are prescribed by the provisions of this act and in those cases, may by ordinance, prescribe additional powers and duties for any officer consistent with the provisions of this act.

SEC. 5. Section 7.5 of Chapter 52 of the Statutes of 1941, as added by Chapter 160 of the Statutes of 1990, is amended to read:

Sec. 7.5. Compensation. Each member of the board of directors shall receive compensation in an amount not to exceed the amount set forth in Section 22407 of the Public Utilities Code for attendance at each regular or special meeting of the board held within the district, which amount shall be fixed by the board from time to time. However, no director shall receive compensation for more than four meetings in any calendar month. Each director shall also be allowed, with the approval of the board, all travel and other expenses necessarily incurred by the member in the actual performance of the member's duties.

SEC. 6. Section 12.5 of Chapter 52 of the Statutes of 1941, as added by Chapter 456 of the Statutes of 1968, is amended to read:

Sec. 12.5. Collection of Fines. Notwithstanding any other provision of law, 50 percent of all fines or forfeitures collected for violations of district ordinances shall be transferred, once a month, by the county treasurer to the account of the district.

SEC. 7. Section 13 of Chapter 52 of the Statutes of 1941, as amended by Chapter 662 of the Statutes of 1967, is amended to read:

Sec. 13. Collection of Property Taxes by County. In addition to the powers and duties vested in the board of supervisors of the County of Monterey by other provisions of this act, said board of supervisors is hereby vested with the following additional powers and duties relative to said district: Except as otherwise herein provided, the board of supervisors, at the time and in the manner provided by general law for the levy and equalization of county taxes, shall levy annually upon the property in said district the district taxes as formally directed by the board of directors of the district, and as limited by the provisions of this act, and shall sit and act as a board of equalization for the purpose of equalizing such district taxes at the

time and in the form and manner prescribed by general law for the equalization of county taxes. The county clerk, the county assessor, the county tax collector and the county auditor of said Monterey County shall, without additional compensation, be vested with like powers and duties with relation, respectively, to the assessment, equalization and collection of district taxes as they are vested and charged with relation to county taxes of said Monterey County. The proceeds of the taxes collected shall be paid to the district.

SEC. 8. Section 15.1 of Chapter 52 of the Statutes of 1941, as amended by Chapter 1715 of the Statutes of 1963, is amended to read:

Sec. 15.1. Claims. All claims for money or damages against the district are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

SEC. 9. Section 16 of Chapter 52 of the Statutes of 1941, as amended by Chapter 154 of the Statutes of 1990, is amended to read:

Sec. 16. Construction Projects. In the erection, construction, improvement, and repair of all public buildings, structures, and airports of the district, and in supplying materials for those activities, when the expenditure in that case exceeds the sum of five thousand dollars ($5,000), the contract shall be awarded by the board of directors to the lowest responsible bidder after notice by publication in a newspaper of general circulation printed, published, and circulated in the district under conditions that the board may specify. The detailed procedure for carrying out this section shall be prescribed by ordinance.

The board of directors may reject any and all bids presented, and may readvertise for other bids.

The board of directors may determine and declare by a four-fifths vote of all its members that the work or improvement in question may be more economically or satisfactorily performed as a project of the Works Projects Administration, or other agency of the federal or state government, and after the adoption of a resolution to that effect, it may proceed to have the work or improvement made through that administration or agency and need not follow the requirements imposed by this section.

This section shall not apply if the board elects to become subject to the Uniform Public Construction Cost Accounting Act (Chapter 2 (commencing with Section 22000) of Part 3 of Division 2 of the Public Contract Code).

SEC. 10. Section 20 of Chapter 52 of the Statutes of 1941 is amended to read:

Sec. 20. Levy of Special Tax. A special tax, in addition to other taxes or assessments herein authorized, may be levied upon the taxable property within the district; provided, the same is authorized by a two-thirds vote of the voters voting on such proposition at a regular or special district election, for airport district purposes,

including the acquisition of lands for a public airport or airports and/or the improvement thereof. The detailed procedure for carrying out this section shall be prescribed by ordinance.

SEC. 11. Section 22 of Chapter 52 of the Statutes of 1941 is amended to read:

Sec. 22. Temporary Borrowing of Money by District on Anticipated Revenue From Taxes. Article 7 (commencing with Section 53820) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code relative to temporary borrowing of money by counties, cities and regional park and school districts, in anticipation of the receipt of income through taxes, shall be applicable to the Monterey Peninsula Airport District, and the powers and duties vested in the board of supervisors, the legislative body of each city, the board of directors of each regional park district, and the governing board of each school district, by Article 7 are hereby vested in the board of directors of the airport district.

SEC. 12. Section 24 of Chapter 52 of the Statutes of 1941, as amended by Chapter 2043 of the Statutes of 1965, is amended to read:

Sec. 24. Alteration of Boundaries, Annexation of Contiguous Territory; Changes of Organization. The boundaries of the district may be altered and contiguous territory in the same county annexed thereto and other changes of organization or reorganizations made, all in the manner and as provided in the Cortese-Knox Local Government Reorganization Act of 1985, Division 3 (commencing with Section 56000) of Title 5 of the Government Code.

CHAPTER 475

An act to amend Section 14490 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 14490 of the Welfare and Institutions Code is amended to read:

14490. In providing benefits under this chapter and Chapter 7 (commencing with Section 14000), the director shall aggressively seek the development of alternative forms of financing and delivering health care services. In carrying out the intent of this article, the director shall contract with institutional providers, counties, or other organizations to establish pilot programs that demonstrate the value, or lack thereof, of such a program in delivering or financing health care services in such a manner. Each

pilot program shall be for a specified duration not to exceed five years and each pilot program shall be evaluated annually for its efficiency, effectiveness, and quality.

Upon a finding by the director that a pilot program contributes substantially to the availability of high quality health services and that those services are cost effective, the director shall enter into a contract for a period of up to five years.

Where the director recommends implementation of a pilot program on a permanent basis but finds that he or she is not able to implement on a permanent basis that program immediately upon conclusion of the program's term, he or she may extend the duration of the pilot program until the evaluation or permanent implementation can be accomplished. The extension shall be for a term not in excess of one year, but may be renewed for additional one-year terms, provided that the director has completed an evaluation to include findings that would qualify an extension.

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

In order to permit the continuation of specified pilot programs under the Medi-Cal program during the entire 1996–97 fiscal year, it is necessary that this act go into immediate effect.

CHAPTER 476

An act to amend Section 2079.12 of the Civil Code, relating to real property transactions.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 2079.12 of the Civil Code is amended to read:

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

(1) That the imprecision of terms in the opinion rendered in Easton v. Strassburger, 152 Cal. App. 3d 90, and the absence of a comprehensive declaration of duties, standards, and exceptions, has caused insurers to modify professional liability coverage of real estate licensees and has caused confusion among real estate licensees as to the manner of performing the duty ascribed to them by the court.

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

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

(4) That Sections 2079 to 2079.6, inclusive, of this article should be construed as a definition of the duty of care found to exist by the holding of Easton v. Strassburger, 152 Cal. App. 3d 90, and the manner of its discharge, and is declarative of the common law regarding this duty. However, nothing in this section is intended to affect the court's ability to interpret Sections 2079 to 2079.6, inclusive.

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

CHAPTER 477

An act to amend Sections 403, 25116, 25117, and 31125 of, and to add Sections 31105, 31106, and 31107 to, the Corporations Code, relating to corporations.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 403 of the Corporations Code is amended to read:

403. (a) When so provided in the articles, a corporation may issue shares convertible within the time or upon the happening of one or more specified events and upon the terms and conditions that are stated in the articles if any of the following conditions apply:

(1) At the option of the holder or automatically upon either the vote of at least a majority of the outstanding shares of the class or series to be converted or upon the happening of one or more specified events, into shares of any class or series.

(2) If it is a corporation which has a license or franchise from a governmental agency to conduct its business or a member corporation of a national securities exchange registered under the United States Securities Exchange Act of 1934, the license, franchise or membership of which is conditioned upon some or all of the holders of its stock possessing prescribed qualifications, to the extent necessary to prevent the loss of such license, franchise or membership or to reinstate it, at the option of the corporation, into shares of any class or series or into any other security of the corporation.

(3) If the corporation is a "listed corporation" as defined in subdivision (d) of Section 301.5, both at the time of the original issuance of the convertible shares and at the time of the conversion,

at the option of the corporation into shares of any class or series or into any other security of the corporation, provided that any such securities received upon conversion are listed or qualified for trading on a stock exchange or market system defined in subdivision (d) of Section 301.5.

(b) Unless otherwise provided in the articles, a corporation may issue its debt securities convertible into other debt securities or into shares of the corporation within such time or upon the happening of one or more specified events and upon such terms and conditions as are fixed by the board.

SEC. 2. Section 25116 of the Corporations Code is amended to read:

25116. (a) An evidence of indebtedness issued pursuant to a qualification under this chapter or Chapter 3 (commencing with Section 25120), and the purchasers or holders thereof, shall be exempt from the usury provisions of the Constitution, subject to compliance by the issuer and purchaser with the terms and requirements that may be imposed by the commissioner as a condition of the qualification. This section creates and authorizes a class of transactions and persons pursuant to Section 1 of Article XV of the Constitution.

(b) Any evidence of indebtedness issued in compliance with this section shall be entitled to the benefits of the usury exemption contained in this section regardless of whether subsequent to its issuance the evidence of indebtedness is determined by a court of competent jurisdiction to be a "security."

SEC. 3. Section 25117 of the Corporations Code is amended to read:

25117. (a) An evidence of indebtedness, and the purchasers or holders thereof, shall be exempt from the usury provisions of Section 1 of Article XV of the California Constitution if (1) the evidence of indebtedness is rated or provisionally rated by Standard & Poor's Corporation as AAA, AA, A, BBB, or investment grade commercial paper, or by Moody's Investors Service, Inc. as Aaa, Aa, A, Baa, or investment grade commercial paper, including any such ratings with "+" or "—" designation or other variations that occur within these ratings, or has a rating or a provisional rating by another nationally recognized rating agency or system, which rating and agency or system have been certified by rule or order of the commissioner, or (2) the issuer thereof either (A) has any security listed or approved for listing upon notice of issuance on a national securities exchange or designated or approved for designation upon notice of issuance as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, if the exchange or interdealer quotation system has been certified by the commissioner, pursuant to subdivision (o) of Section 25100, or (B) meets each of the following requirements:

(i) The issuer is a corporation which is subject to Section 13 of the Securities Exchange Act of 1934.

(ii) The issuer had total shareholders' equity of at least one million dollars ($1,000,000) at the end of its most recent fiscal year, and had consolidated net income, after all charges, including taxes and extraordinary losses, and excluding extraordinary gains, of at least five hundred thousand dollars ($500,000) for three of its last four fiscal years, including its most recent fiscal year. The determination of total shareholders' equity and net income shall be determined in conformity with generally accepted accounting principles applicable to that fiscal year or years, on a consolidated basis, or (3) the evidence of indebtedness is issued by any corporation all of the outstanding shares of which are owned by an issuer which meets the requirements of subparagraph (A) or (B) of paragraph (2).

(b) This section creates and authorizes a class of transactions and persons pursuant to Section 1 of Article XV of the California Constitution.

(c) Any evidence of indebtedness issued in compliance with this section shall be entitled to the benefits of the usury exemption contained in this section regardless of whether subsequent to its issuance the evidence of indebtedness is determined by a court of competent jurisdiction to be a "security."

SEC. 4. Section 31105 is added to the Corporations Code, to read:

31105. Any offer, sale, or other transfer of a franchise, or any interest in a franchise, to a resident of another state or any territory or foreign country, shall be exempted from the provisions of Chapter 2 (commencing with Section 31110) of this part, if all locations from which sales, leases or other transactions between the franchised business and its customers are made, or goods or services are distributed, are physically located outside this state.

SEC. 5. Section 31106 is added to the Corporations Code, to read:

31106. There shall be exempted from the provisions of Chapter 2 (commencing with Section 31110) of this part, any offer, sale, or other transfer of a franchise or any interest in a franchise, provided that the offer, sale or transfer meets the requirements in subdivisions (a) and (b):

(a) Any of the following conditions apply:

(1) One or more of the owners of the prospective franchisee owning at least a 50 percent interest in the prospective franchisee meet both of the following:

(A) The owner or owners have had, within the seven years before the date of the sale or other transaction, at least 24 months' experience being responsible for the financial and operational aspects of a business offering products or services substantially similar to those offered by the franchised business.

(B) The owner or owners are not controlled by the franchisor.

(2) One or more of the owners of the prospective franchisee owning at least a 50 percent interest in the prospective franchisee meet both of the following:

(A) The owner or owners are, or have been within 60 days prior to the sale or other transaction, an officer, director, managing agent, or an owner of at least a 25 percent interest in the franchisor for at least 24 months.

(B) The owner or owners are not controlled by the franchisor.

(3) The offer, sale, or other transfer is of an additional franchise to an existing franchisee of the franchisor, or to an entity, one or more of the officers, directors, managing agents or owners of at least a 25 percent interest of which is an existing franchisee of the franchisor; provided that, in either case, for 24 months or more the franchisee, or the qualifying person, has been engaged in a business offering products or services substantially similar to those to be offered by the franchise being sold, or otherwise transferred.

(b) The franchisor files with the commissioner a notice of exemption and pays the fee prescribed in subdivision (f) of Section 31500 no later than 15 calendar days after the sale of a franchise in this state pursuant to this section.

SEC. 6. Section 31107 is added to the Corporations Code, to read:

31107. There shall be exempted from the provisions of Chapter 2 (commencing with Section 31110) of this part, any offer (but not the sale) by a franchisor of a franchise while an application for renewal or amendment is pending if the prospective franchisee receives all of the following:

(a) The offering circular and its exhibits as filed with the commissioner with the application for renewal or amendment.

(b) A written statement from the franchisor that (1) the filing has been made but is not effective, (2) the information in the offering circular and exhibits has not been reviewed by the commissioner, and (3) the franchisor will deliver to the prospective franchisee an effective offering circular and exhibits at least 10 business days prior to execution by the prospective franchisee of a binding agreement or payment of any consideration to the franchisor, or any person affiliated with the franchisor, whichever occurs first, showing all material changes from the offering circular and exhibits received by the prospective franchisee under subdivision (a) of this section.

(c) The offering circular and exhibits in accordance with paragraph (3) of subdivision (b) of this section.

SEC. 7. Section 31125 of the Corporations Code is amended to read:

31125. (a) An application for registration of a material modification of an existing franchise or of existing franchises shall be in such form and contain such information as the commissioner may by rule prescribe, and shall be accompanied by a proposed disclosure form as specified in subdivision (b). Such an application may be included with an application pursuant to Section 31111 or 31121.

(b) Except as provided in subdivision (c), it is unlawful to solicit the agreement of a franchisee to a proposed material modification of an existing franchise without first delivering to the franchisee a written disclosure, in a form and containing such information as the commissioner may by rule or order require, identifying the proposed modification, either five business days prior to the execution of any binding agreement by the franchisee to such modification or containing a statement that the franchisee may, by written notice mailed or delivered to the franchisor or a specified agent of the franchisor within not less than five business days following the execution of such agreement, rescind such agreement to the material modification.

(c) Any modification of a franchise agreement with an existing franchisee of a franchisor shall be exempted from the provisions of Chapter 2 (commencing with Section 31110) of this part, if all of the following occur:

(1) The modification is in connection with the resolution of a bona fide dispute between the franchisor and the franchisee or the resolution of a franchisee default.

(2) The franchisee receives the complete written modification at least five business days prior to the execution of a binding agreement; provided (A) the agreement is not executed within 12 months after the date of the franchise agreement, and (B) the modification does not waive any right of the franchisee under the California Franchise Relations Act (Chapter 5.5 (commencing with Section 20000) of Division 8 of the Business and Professions Code), but the modification may include a general release of all known and unknown claims by a party to the modification.

(3) The modification is not applied on a franchise systemwide basis at or about the time the modification becomes a binding agreement.

SEC. 8. The amendments to Sections 25116 and 25117 of the Corporations Code made by this act are declaratory of and do not change existing law.

CHAPTER 478

An act to add Section 17701.5 to the Education Code, relating to schools.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 17701.5 is added to the Education Code, to read:

17701.5. (a) The Legislature hereby finds and declares the following:

(1) Some believe that the school facilities construction requirements set forth in this chapter have become lengthy, complex, and heavily controlled by the various state agencies involved in the review and approval process. As a result, some believe that school facilities are often overcrowded and construction costs are higher than necessary.

(2) Some believe that a streamlining of the approval process set forth in this chapter is necessary to efficiently provide the children of the state with needed classrooms in the most expeditious and cost-effective manner. Some expect that other savings can be achieved by increased standardization of plans for school design and construction and the appropriate use of portable classrooms.

(b) Not later than July 1, 1997, the Joint Committee on School Facilities shall complete and submit a report to the Governor and the Legislature containing recommendations for doing the following:

(1) Increasing privatization and standardization, and other measures for streamlining the approval process set forth in this chapter.

(2) Reducing the costs of school construction.

(3) Increasing the local authority over the approval of site acquisition and of plans and specifications for school facilities construction.

CHAPTER 479

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time wherein actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. This act may be cited as the Second Validating Act of 1996.

SEC. 2. As used in this act:

(a) "Public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means all counties, cities and counties, cities, districts, authorities, agencies, boards, commissions, and other entities, whether created by a general statute or a special act, including, but not limited to, the following:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts of any kind.

Air quality management districts.

Airport districts.

Assessment districts, benefit assessment districts, and special assessment districts of any public body.

Bridge and highway districts.

California water districts.

Citrus pest control districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community redevelopment agencies.

Community rehabilitation districts.

Community services districts.

Conservancy districts.

Cotton pest abatement districts.

County boards of education.

County drainage districts.

County flood control and water districts.

County free library systems.

County maintenance districts.

County sanitation districts.

County service areas.

County transportation commissions.

County water agencies.

County water authorities.

County water districts.

County waterworks districts.

Department of Water Resources and other agencies acting pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.

Distribution districts of any public body.

Drainage districts.

Fire protection districts.

Flood control and water conservation districts.

Flood control districts.

Garbage and refuse disposal districts.

Garbage disposal districts.

Geologic hazard abatement districts.

Harbor districts.

Harbor improvement districts.

Harbor, recreation, and conservation districts.

Health care authorities.

Highway districts.

Highway interchange districts.
Highway lighting districts.
Housing authorities.
Improvement districts or improvement areas of any public body.
Industrial development authorities.
Infrastructure financing districts.
Integrated financing districts.
Irrigation districts.
Joint highway districts.
Levee districts.
Library districts.
Library districts in unincorporated towns and villages.
Local agency formation commissions.
Local health care districts.
Local health districts.
Local hospital districts.
Local transportation authorities or commissions.
Maintenance districts.
Memorial districts.
Metropolitan transportation commissions.
Metropolitan water districts.
Mosquito abatement or vector control districts.
Municipal improvement districts.
Municipal utility districts.
Municipal water districts.
Nonprofit corporations.
Nonprofit public benefit corporations.
Open-space maintenance districts.
Parking authorities.
Parking districts.
Permanent road divisions.
Pest abatement districts.
Police protection districts.
Port districts.
Project areas of community redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility districts.
Rapid transit districts.
Reclamation districts.
Recreation and park districts.
Regional justice facility financing agencies.
Regional park and open-space districts.
Regional planning districts.
Regional transportation commissions.
Resort improvement districts.
Resource conservation districts.
River port districts.

Road maintenance districts.
Sanitary districts.
School districts of any kind or class.
Separation of grade districts.
Service authorities for freeway emergencies.
Sewer districts.
Sewer maintenance districts.
Small craft harbor districts.
Stone and pome fruit pest control districts.
Storm drain maintenance districts.
Storm drainage districts.
Storm drainage maintenance districts.
Storm water districts.
Toll tunnel authorities.
Traffic authorities.
Transit development boards.
Transit districts.
Unified and union school districts public libraries.
Vehicle parking districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage districts.
Wine grape pest and disease control districts.
Zones, improvement zones, or service zones of any public body.

(b) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements wherein the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of that body, all instruments payable from revenues or special funds of those public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law, are hereby declared to have been legally organized and to be legally functioning as those public bodies. Every public body, heretofore described, shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of those public bodies regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into those public bodies or for the annexation of those public bodies to any other public body or for the withdrawal or exclusion of territory from any public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of territory or the consolidation, merger, or dissolution of those public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of public bodies and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with that authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, those bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with that authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply legislative authorization as may be necessary to authorize, confirm, and validate any acts and proceedings heretofore taken pursuant to authority the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent that the same can be effectuated under the state and federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter being legally contested or inquired into in any legal proceeding now pending and undetermined or that is pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches shall be commenced within six months of the effective date of this act; otherwise each and all of those matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period allowed for legal action beyond the period that it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any public body, or any change in the boundaries of any public body, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, is filed within the time and substantially in the manner required by those sections.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 480

An act to amend Sections 18, 20, 72.5, 75, and 82 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), relating to the San Diego Unified Port District.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 18 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 673 of the Statutes of 1963, is amended to read:

Sec. 18. Immediately after their appointment, the commissioners shall enter upon the performance of their duties. The board shall annually elect one of its members as chairperson and another as vice chairperson, and shall also elect annually a secretary, who may or may not be a member of the board. A majority shall constitute a quorum for the transaction of business. The board shall make rules and regulations for its own government and procedure, shall hold at least one regular meeting each month, and may hold any special meetings it deems necessary.

The commissioners shall be officers of the district and shall receive no salaries but shall be reimbursed for necessary traveling and other expenses incurred while engaged in the performance of their duties.

SEC. 2. Section 20 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 20. The board shall establish a fiscal year for its operations and shall at the end of each fiscal year, or as soon as possible after the end of each fiscal year, make a complete report of the affairs and financial condition of the district for the preceding fiscal year, which shall show the sources of all receipts and the purposes of all disbursements during the year. The report shall be verified by the chairperson of the board and the secretary thereof. The board shall draw up a budget for each fiscal year.

SEC. 3. Section 72.5 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 171 of the Statutes of 1982, is amended to read:

Sec. 72.5. Unclassified and classified services.

(a) Employment in the district shall be divided into the unclassified and classified service.

(b) The unclassified service shall include all of the following:

(1) All officers of the district.

(2) All department and division heads.

(3) The principal assistant or deputy of all officers and department and division heads.

(4) All assistant and deputy attorneys.

(5) Management employees having significant responsibilities for formulating or administering district policies and programs. Each of these positions shall be exempted from the classified service, by ordinance, upon recommendation of the executive director.

(6) Employees who are required to develop or present management positions with respect to employer-employee relations, who, in the regular course of their duties, have access to confidential information concerning employer-employee relations, or who contribute significantly to the development of management positions.

(7) Persons employed for temporary expert professional services for a specified period.

(c) The board shall establish a classified civil service that shall include all positions not specifically included in the unclassified service.

(d) Officers and employees appointed by the board may be removed from office by the affirmative vote of the majority of the members of the board.

(e) All persons in the classified service shall be appointed by and may be removed by the executive director subject to the civil service regulations of the district.

SEC. 4. Section 75 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), as amended by Chapter 349 of the Statutes of 1965, is amended to read:

Sec. 75. The board may adopt civil service regulations in accordance with the following provisions:

(a) The civil service regulations shall provide for all of the following:

(1) The qualifications and examination of all applicants for employment and the employment of persons on probation.

(2) The registration of persons, other than unskilled laborers, in the classified civil service, in accordance with their general average standing upon examination.

(3) Promotions on the basis of ascertained merit and seniority in service and examination, and competitive examinations for promotions.

(4) Leaves of absence.

(5) The transfer from one position to a similar position of the same class.

(6) The reinstatement to the list of eligibles on recommendation of the executive director of persons who have become separated from service or have been reduced in rank, other than persons who have been removed for cause.

(7) The reassignment of persons injured in the service of the district who were at the time of injury actually engaged in the discharge of the duties of their positions.

(8) The keeping of service records for all employees in the civil service, and for their use as one of the bases for the promotion, removal, suspension, layoff, or transfer of any employee.

(9) The procedure for the removal, discharge, or suspension of employees, the investigation by the board of the grounds thereof, and the reinstatement or restoration to duty of persons found to have been removed, discharged, or suspended for insufficient grounds, or for reasons that are not sustained by investigation.

(10) Generally for any other purpose that may be necessary or appropriate to carry out the objects and purposes of the civil service system and the regulations herein specifically authorized.

(b) The following persons may be exempted by the board, by ordinance, from the civil service:

(1) Persons employed to render professional, scientific, technical, or expert service of a temporary or exceptional character.

(2) Persons employed on the construction of district works, improvements, buildings, or structures.

(3) Persons receiving a salary not exceeding fifty dollars ($50) per month.

Any exemption made pursuant to this subdivision may be terminated at any time by resolution of the board.

SEC. 5. Section 82 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 82. The money in the fund also may be used for advertising the commercial and other advantages and facilities of any harbor in the district, for encouraging and promoting commerce, navigation, and transportation in and through that harbor, and for encouraging and promoting the region's commercial airport.

CHAPTER 481

An act to amend Sections 603 and 604 of the Welfare and Institutions Code, relating to juvenile offenders.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 603 of the Welfare and Institutions Code is amended to read:

603. (a) No court shall have jurisdiction to conduct a preliminary examination or to try the case of any person upon an accusatory pleading charging that person with the commission of a public offense or crime when the person was under the age of 18 years at the time of the alleged commission thereof unless the matter has first been submitted to the juvenile court by petition as provided in Article 7 (commencing with Section 650), and the juvenile court has made an order directing that the person be prosecuted under the general law.

(b) This section shall not apply in any case involving a minor against whom a complaint may be filed directly in a court of criminal jurisdiction pursuant to Section 707.01.

SEC. 2. Section 604 of the Welfare and Institutions Code is amended to read:

604. (a) Whenever a case is before any court upon an accusatory pleading and it is suggested or appears to the judge before whom the person is brought that the person charged was, at the date the offense is alleged to have been committed, under the age of 18 years, the judge shall immediately suspend all proceedings against the person on the charge. The judge shall examine into the age of the person, and if, from the examination, it appears to his or her satisfaction that the person was at the date the offense is alleged to have been committed under the age of 18 years, he or she shall immediately certify all of the following to the juvenile court of the county:

(1) That the person (naming him or her) is charged with a crime (briefly stating its nature).

(2) That the person appears to have been under the age of 18 years at the date the offense is alleged to have been committed, giving the date of birth of the person when known.

(3) That proceedings have been suspended against the person on the charge by reason of his or her age, with the date of the suspension.

The judge shall attach a copy of the accusatory pleading to the certification.

(b) When a court certifies a case to the juvenile court pursuant to subdivision (a), it shall be deemed that jeopardy has not attached by reason of the proceedings prior to certification, but the court may not resume proceedings in the case, nor may a new proceeding under the general law be commenced in any court with respect to the same matter unless the juvenile court has found that the minor is not a fit subject for consideration under the juvenile court law and has ordered that proceedings under the general law resume or be commenced.

(c) The certification and accusatory pleading shall be promptly transmitted to the clerk of the juvenile court. Upon receipt thereof,

the clerk of the juvenile court shall immediately notify the probation officer who shall immediately proceed in accordance with Article 16 (commencing with Section 650).

(d) This section does not apply to any minor who may have a complaint filed directly against him or her in a court of criminal jurisdiction pursuant to Section 707.01.

CHAPTER 482

An act to amend Section 22816.31, 75521, and 75551 of the Government Code, relating to judges.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 22816.31 of the Government Code is amended to read:

22816.31. Any judge who retires under the Judges' Retirement System II, pursuant to subdivision (b) of Section 75521, and who has not attained the age of 65 years shall be entitled to have his or her coverage and the coverage of any family members continued upon assuming payment of the contributions otherwise required of the employer on account of his or her enrollment. Any election to continue coverage under this section shall be made within 60 days of permanent separation. The judge shall also pay an additional 2 percent of the contribution payments required to be paid by the judge to cover the administrative costs incurred by the system in administering the program provided by this section. A retired judge who cancels that coverage may not reenroll. Upon attaining the age of 65 years a retired judge who has participated in this program and has continuous and uninterrupted coverage shall be entitled to the applicable employer contribution.

SEC. 2. Section 75521 of the Government Code is amended to read:

75521. (a) A judge who leaves judicial office before accruing at least five years of service shall be paid the amount of his or her contributions to the system, and no other amount.

(b) A judge who leaves judicial office after accruing five or more years of service and who is not eligible to elect to retire under Section 75522 shall be paid the amount of his or her monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution, and no other amount.

(c) Judges who leave office as described in subdivision (b) are "retired judges" for purposes of assignment pursuant to Article 2

(commencing with Section 66540) of Chapter 2 of this division and are eligible for benefits provided under Section 22816.31.

(d) After a judge has withdrawn his or her accumulated contributions or the amount of his or her monetary credits upon leaving judicial office, the service shall not count in the event he or she later becomes a judge again, until he or she pays into the Judges' Retirement System II Fund the amount withdrawn, plus interest thereon at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20654 from the date of withdrawal to the date of payment.

SEC. 3. Section 75551 of the Government Code is amended to read:

75551. (a) If a member's marriage is dissolved or a member and his or her spouse are legally separated while the member is an active judge, the court shall make the following determinations:

(1) The number of years of service that accrued during the marriage of the member and nonmember, down to the date of their separation.

(2) The date of the parties' separation.

(3) If the member had been a judge for fewer than five years on the date of separation, the court shall determine the member's and nonmember's shares of the judge's contributions to the fund, based on Section 2610 of the Family Code, and on the law generally applicable to property earned during marriage.

(4) If the member had been a judge for five years or more on the date of separation, the court shall determine the member's and nonmember's shares of the judge's monetary credits that have accrued pursuant to Section 75520, based on Section 2610 of the Family Code, and on the law generally applicable to property earned during marriage. The monetary credits include the credits computed pursuant to subdivision (b) of Section 75520 computed to the date the court finds appropriate.

(b) The determinations made pursuant to paragraphs (1) and (2) and pursuant to paragraph (3) or (4) of subdivision (a) shall be included in the judgment of dissolution or separation. The system shall deem any portion of the judge's contributions or of the judge's monetary credits that were not allocated by the judgment to the nonmember, to be allocated to the member.

(c) Promptly after receiving a certified copy of a judgment dissolving the marriage of a member or legally separating a member and nonmember and allocating shares of the member's contributions pursuant to paragraph (3) of subdivision (a), the fund shall pay to the nonmember the amount allocated to him or her in the judgment. The nonmember shall have no further interest in the fund.

(d) Promptly after receiving a certified copy of a judgment dissolving the marriage of a member or legally separating a member and nonmember and allocating shares of the member's monetary credits pursuant to paragraph (4) of subdivision (a), the fund shall

pay to the nonmember the amount allocated to him or her in the judgment. The nonmember shall have no further interest in the fund.

(e) The amount of the payment pursuant to subdivision (c) or (d) shall be subtracted from the member's monetary credits as computed pursuant to Section 75520. Until the amount is redeposited pursuant to Section 75552, the additional credits accorded pursuant to subdivision (b) of Section 75520 shall be computed on the amount so reduced.

CHAPTER 483

An act to amend Sections 2924 and 2924c of the Civil Code, relating to mortgages.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 2924 of the Civil Code is amended to read:

2924. Every transfer of an interest in property, other than in trust, made only as a security for the performance of another act, is to be deemed a mortgage, except when in the case of personal property it is accompanied by actual change of possession, in which case it is to be deemed a pledge. Where, by a mortgage created after July 27, 1917, of any estate in real property, other than an estate at will or for years, less than two, or in any transfer in trust made after July 27, 1917, of a like estate to secure the performance of an obligation, a power of sale is conferred upon the mortgagee, trustee, or any other person, to be exercised after a breach of the obligation for which that mortgage or transfer is a security, the power shall not be exercised except where the mortgage or transfer is made pursuant to an order, judgment, or decree of a court of record, or to secure the payment of bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations, or is made by a public utility subject to the provisions of the Public Utilities Act, until (a) the trustee, mortgagee, or beneficiary, or any of their authorized agents shall first file for record, in the office of the recorder of each county wherein the mortgaged or trust property or some part or parcel thereof is situated, a notice of default, identifying the mortgage or deed of trust by stating the name or names of the trustor or trustors and giving the book and page, or instrument number, if applicable, where the same is recorded or a description of the mortgaged or trust property and containing a statement that a breach of the obligation for which the mortgage or transfer in trust is security has occurred, and setting forth the nature of each breach actually known to the beneficiary and of his or her election to sell or

cause to be sold the property to satisfy that obligation and any other obligation secured by the deed of trust or mortgage that is in default, and where the default is curable pursuant to Section 2924c, containing the statement specified in paragraph (1) of subdivision (b) of Section 2924c; (b) not less than three months shall thereafter elapse; and (c) after the lapse of the three months the mortgagee, trustee or other person authorized to take the sale shall give notice of sale, stating the time and place thereof, in the manner and for a time not less than that set forth in Section 2924f. A recital in the deed executed pursuant to the power of sale of compliance with all requirements of law regarding the mailing of copies of notices or the publication of a copy of the notice of default or the personal delivery of the copy of the notice of default or the posting of copies of the notice of sale or the publication of a copy thereof shall constitute prima facie evidence of compliance with these requirements and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value and without notice. The mailing, publication, and delivery of notices as required herein, and the performance of the procedures set forth in this article, shall constitute privileged communications within Section 47. There is a rebuttable presumption that the beneficiary actually knew of all unpaid loan payments on the obligation owed to the beneficiary and secured by the deed of trust or mortgage subject to the notice of default. However, the failure to include an actually known default shall not invalidate the notice of sale and the beneficiary shall not be precluded from asserting a claim to this omitted default or defaults in a separate notice of default.

SEC. 2. Section 2924c of the Civil Code is amended to read:

2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property or an estate for years therein hereafter executed has, prior to the maturity date fixed in that obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of that obligation or of the deed of trust or mortgage, taxes, assessments, premiums for insurance, or advances made by beneficiary or mortgagee in accordance with the terms of that obligation or of the deed of trust or mortgage, the trustor or mortgagor or his or her successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within the period specified in subdivision (e), if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount due, at the time payment is tendered, with respect to (A) all amounts of principal, interest, taxes, assessments, insurance premiums, or

advances actually known by the beneficiary to be, and that are, in default and shown in the notice of default, under the terms of the deed of trust or mortgage and the obligation secured thereby, (B) all amounts in default on recurring obligations not shown in the notice of default, and (C) all reasonable costs and expenses, subject to subdivision (c), which are actually incurred in enforcing the terms of the obligation, deed of trust, or mortgage, and trustee's or attorney's fees, subject to subdivision (d), other than the portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if the acceleration had not occurred. This section does not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the Public Utilities Code. For the purposes of this subdivision, the term "recurring obligation" means all amounts of principal and interest on the loan, or rents, subject to the deed of trust or mortgage in default due after the notice of default is recorded; all amounts of principal and interest or rents advanced on senior liens or leaseholds which are advanced after the recordation of the notice of default; and payments of taxes, assessments, and hazard insurance advanced after recordation of the notice of default. Where the beneficiary or mortgagee has made no advances on defaults which would constitute recurring obligations, the beneficiary or mortgagee may require the trustor or mortgagor to provide reliable written evidence that the amounts have been paid prior to reinstatement.

(2) If the trustor, mortgagor, or other person authorized to cure the default pursuant to this subdivision does cure the default, the beneficiary or mortgagee or the agent for the beneficiary or mortgagee shall, within 21 days following the reinstatement, execute and deliver to the trustee a notice of rescission which rescinds the declaration of default and demand for sale and advises the trustee of the date of reinstatement. The trustee shall cause the notice of rescission to be recorded within 30 days of receipt of the notice of rescission and of all allowable fees and costs.

No charge, except for the recording fee, shall be made against the trustor or mortgagor for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five business days prior to the date set for the sale of your property. No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice).

This amount is _____ as of _____,
(Date)

and will increase until your account becomes current.

While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the note and deed of trust or mortgage, the beneficiary or mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the beneficiary or mortgagee may require as a condition to reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon your written request, the beneficiary or mortgagee will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, 1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

_____

(Name of beneficiary or mortgagee)

_____

(Mailing address)

_____

(Telephone)

If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan.

Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure.

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type if printed or in capital letters if typed]"

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of the contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or the assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (c) of Section 2924b shall be in English.

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(c) Costs and expenses which may be charged pursuant to Sections 2924 to 2924i, inclusive, shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by Sections 2924 to 2924i, inclusive, postponement pursuant to Section 2924g made to either the beneficiary or trustee not to exceed fifty dollars ($50) per postponement and a fee for a trustee's sale guarantee or, in the event of judicial foreclosure, a litigation guarantee.

(d) Trustee's or attorney's fees which may be charged pursuant to subdivision (a), or until the notice of sale is deposited in the mail to the trustor as provided in Section 2924b, if the sale is by power of sale contained in the deed of trust or mortgage, or, otherwise at any time prior to the decree of foreclosure, are hereby authorized to be in an amount which does not exceed two hundred forty dollars ($240) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where the charge does not exceed the amounts authorized herein.

(e) Reinstatement of a monetary default under the terms of an obligation secured by a deed of trust, or mortgage may be made at any time within the period commencing with the date of recordation of the notice of default until five business days prior to the date of sale set forth in the initial recorded notice of sale.

In the event the sale does not take place on the date set forth in the initial recorded notice of sale or a subsequent recorded notice of sale is required to be given, the right of reinstatement shall be revived as of the date of recordation of the subsequent notice of sale, and shall continue from that date until five business days prior to the date of sale set forth in the subsequently recorded notice of sale.

In the event the date of sale is postponed on the date of sale set forth in either an initial or any subsequent notice of sale, or is postponed on the date declared for sale at an immediately preceding postponement of sale, and, the postponement is for a period which exceeds five business days from the date set forth in the notice of sale, or declared at the time of postponement, then the right of reinstatement is revived as of the date of postponement and shall continue from that date until five business days prior to the date of sale declared at the time of the postponement.

Nothing contained herein shall give rise to a right of reinstatement during the period of five business days prior to the date of sale,

whether the date of sale is noticed in a notice of sale or declared at a postponement of sale.

Pursuant to the terms of this subdivision, no beneficiary, trustee, mortgagee, or their agents or successors shall be liable in any manner to a trustor, mortgagor, their agents or successors for the failure to allow a reinstatement of the obligation secured by a deed of trust or mortgage during the period of five business days prior to the sale of the security property, and no such right of reinstatement during this period is created by this section. Any right of reinstatement created by this section is terminated five business days prior to the date of sale set forth in the initial date of sale, and is revived only as prescribed herein and only as of the date set forth herein.

As used in this subdivision, the term "business day" has the same meaning as specified in Section 9.

CHAPTER 484

An act to repeal Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, relating to insurance.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code is repealed.

SEC. 2. It is the intent of the Legislature that whenever the term nonprofit hospital service plan is used in any code section, or a reference to that term is used in any code section, it shall be deleted by amendment to that section at any time the code section is contained in other legislation.

CHAPTER 485

An act to amend Section 628.2 of the Penal Code, relating to crime.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 628.2 of the Penal Code is amended to read:

628.2. (a) On forms prepared and supplied by the State Department of Education, each principal of a school in a school

district and each principal or director of a school, program, or camp under the jurisdiction of the county superintendent of schools shall forward a completed report of crimes committed on school or camp grounds at the end of each reporting period to the district superintendent or county superintendent of schools, as the case may be.

(b) The district superintendent, or, as appropriate, the county superintendent of schools, shall compile the school data and submit the aggregated data to the State Department of Education not later than February 1 for the reporting period of July 1 through December 31, and not later than August 1 for the reporting period of January 1 through June 30.

(c) The superintendent of any school district that maintains a police department pursuant to Section 39670 of the Education Code may direct the chief of police or other administrator of that department to prepare the completed report of crimes for one or more schools in the district, to compile the school data for the district, and to submit the aggregated data to the State Department of Education in accordance with this section. If the chief of police or other designated administrator completes the report of crimes, the chief of police or other designated administrator shall provide information to each school principal about the school crime reporting program, the crime descriptions included in the reporting program, the reporting guidelines, and the required documentation identified by the State Department of Education for each crime description.

(d) The State Department of Education shall distribute, upon request, to each school district governing board, each office of the county superintendent of schools, each county probation department, the Attorney General, the Fair Employment and Housing Commission, county human relations commissions, civil rights organizations, and private organizations, a summary of the statewide aggregated data. The department also shall distribute, upon request, to each office of the county superintendent of schools, each county sheriff, and each county probation department, a summary of that county's school district reports and county reports. This information shall be supplied not later than March 1 of each year for the previous school year. The department shall also submit to the Legislature a summary of the statewide aggregated data not later than March 1 of each year for the previous school year. In addition, commencing with the second annual report, the department shall identify trends in school crime and evaluate school district and county school crime prevention programs by comparing the numbers and rates of crimes and the resulting economic losses for each year against those of previous years.

(e) All school district, county, and statewide reports prepared under this chapter shall be deemed public documents and shall be

made available to the public at a price not to exceed the actual cost of duplication and distribution.

CHAPTER 486

An act to amend Section 831.5 of the Penal Code, relating to custodial officers.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. 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, Kern County, Stanislaus County, Riverside 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 487

An act making an appropriation for the payment of claims against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. (a) The sum of three million two hundred fifty thousand one hundred forty-nine dollars and fifty-one cents ($3,250,149.51) is hereby appropriated to the Executive Officer of the State Board of Control to pay claims accepted by the State Board of Control in accordance with the schedule set forth in subdivision (b). Those payments shall be made from the funds and accounts identified in that schedule. In the case of Budget Act item schedules identified in the schedule set forth in subdivision (b), those payments shall be made from the funds appropriated in the item schedule.

(b) Pursuant to subdivision (a), claims accepted by the State Board of Control shall be paid in accordance with the following schedule:

Total for Fund: Bank and Corporation Tax Fund	$2,764.02
Total for Fund: Employment Development Department Contingent Fund	$4,918.21
Total for Fund: General Fund	$546,019.69
Total for Fund: Health Care Deposit Fund	$757.98
Total for Fund: Inheritance Tax Fund	$340.00
Total for Fund: Item 0250−001−0001(c), Budget Act 1996	$42.65
Total for Fund: Item 0690−001−0001(c), Budget Act 1996	$2,294.55
Total for Fund: Item 0820−001−0001(a), Budget Act 1996	$274.00
Total for Fund: Item 0820−001−0001(d), Budget Act 1996	$358.36
Total for Fund: Item 0845−001−0217(a), Budget Act 1996	$250.00
Total for Fund: Item 0860−001−0001(a), Budget Act 1996	$685.00
Total for Fund: Item 1111−010−0702, Budget Act 1996	$8,456.61
Total for Fund: Item 1760−001−0001, Budget Act 1996	$625.00
Total for Fund: Item 1760−001−0666(a), Budget Act 1996	$822.00
Total for Fund: Item 1900−001−0001(a), Budget Act 1996	$3,318.57
Total for Fund: Item 2660−001−0041, Budget Act 1996	$230.00
Total for Fund: Item 2660−001−0042(b), Budget Act 1996	$2,395,750.45
Total for Fund: Item 2720−001−0042, Budget Act 1996	$6,240.00
Total for Fund: Item 2720−001−0044(a), Budget Act 1996	$2,164.15
Total for Fund: Item 2740−001−0001, Budget Act 1996	$2,372.35
Total for Fund: Item 2740−001−0044(a), Budget Act 1996	$8,543.00

Total for Fund: Item 3340−001−0001(a), Budget Act 1996	$8,526.55
Total for Fund: Item 3480−001−0001(a), Budget Act 1996	$11,048.28
Total for Fund: Item 3540−001−0001(a), Budget Act 1996	$2,500.00
Total for Fund: Item 3600−001−0001(a), Budget Act 1996	$488.74
Total for Fund: Item 3600−001−0200(a), Budget Act 1966	$4,095.00
Total for Fund: Item 3600−001−0200(e), Budget Act 1966	$100.00
Total for Fund: Item 3680−001−0516(a), Budget Act 1966	$1,134.94
Total for Fund: Item 3790−001−0001(a), Budget Act 1996	$788.22
Total for Fund: Item 3860−001−0001(a), Budget Act 1996	$3,100.00
Total for Fund: Item 3960−001−0001, Budget Act 1996	$5,000.00
Total for Fund: Item 4260−001−0001(10), Budget Act 1996	$887.00
Total for Fund: Item 4300−001−0001(c), Budget Act 1996	$2,498.96
Total for Fund: Item 4300−003−0001(a), Budget Act 1996	$22,964.63
Total for Fund: Item 4440−001−0001(a), Budget Act 1996	$589.92
Total for Fund: Item 4700−001−0890(a), Budget Act 1996	$380.00
Total for Fund: Item 5100−001−0588(a), Budget Act 1996	$1,797.00
Total for Fund: Item 5100−001−0870(a), Budget Act 1996	$55.93
Total for Fund: Item 5100−001−0870(b), Budget Act 1996	$10,696.06
Total for Fund: Item 5100−001−0890(a), Budget Act 1996	$1,375.00
Total for Fund: Item 5100−101−0871, Budget Act 1996	$424.00
Total for Fund: Item 5160−001−0001(a), Budget Act 1996	$11,311.72

Total for Fund: Item 5160−001−0001(d), Budget Act 1966	$2,000.00
Total for Fund: Item 5180−001−0001(a), Budget Act 1966	$173.34
Total for Fund: Item 5180−001−0001(b), Budget Act 1966	$304.83
Total for Fund: Item 5180−001−0001(d), Budget Act 1996	$626.00
Total for Fund: Item 5180−151−0001(a), Budget Act 1966	$1,252.65
Total for Fund: Item 5240−001−0001(a), Budget Act 1996	$56,143.57
Total for Fund: Item 6120−011−0001(a), Budget Act 1996	$195.00
Total for Fund: Item 6610−001−0001(a), Budget Act 1996	$46,286.08
Total for Fund: Item 8440−001−0001(a), Budget Act 1996	$86.00
Total for Fund: Item 8570−001−0001(a), Budget Act 1996	$470.74
Total for Fund: Motor Vehicle Account	$80.00
Total for Fund: Personal Income Tax Fund	$62.00
Total for Fund: Petroleum Violation Escrow Account, Federal Trust Fund	$6,676.00
Total for Fund: Restitution Fund	$87.83
Total for Fund: Retail Sales Tax Fund	$3,271.23
Total for Fund: Special Deposit Fund	$951.88
Total for Fund: State Lottery Fund	$81.64
Total for Fund: Tax Relief and Refund Account	$47,248.73
Total for Fund: Transportation Fund, State Highway Account	$1,125.00
Total for Fund: Transportation Fund, Transportation Revolving Account	$500.00
Total for Fund: Unclaimed Property Fund	$129.40
Total for Fund: Unemployment Fund	$5,050.85
Total for Fund: Welfare Advance Fund	$358.20

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

In order to pay claims against the state and end hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 488

An act to amend Section 97 of the Streets and Highways Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 97 of the Streets and Highways Code is amended to read:

97. (a) The department, in consultation with the Department of the California Highway Patrol, shall develop five pilot projects, three in northern California and two in southern California. The portions of the highways involved in the projects shall be designated and identified as "Safety Enhancement-Double Fine Zones" and shall be in the following locations:

(1) On Route 37, between the intersection with Route 121 and the intersection with Route 29.

(2) On Route 4, between the intersection with the Cummings Skyway and the intersection with Route 80.

(3) On Route 74, between the intersection with Route 5 and the intersection with the Riverside-Orange County line.

(4) On Route 46, between the intersection with Route 101 and the junction with Route 41.

(5) On the Golden Gate Bridge.

(b) (1) The department shall adopt rules and regulations prescribing uniform standards for warning signs to notify motorists that, pursuant to Section 42010 of the Vehicle Code, increased penalties apply for traffic violations that are committed within Safety Enhancement-Double Fine Zones. The rules and regulations adopted by the department shall include, but not be limited to, a requirement that Safety Enhancement-Double Fine Zones be identified with signs stating: "Special Driving Zone Begins Here" and "Special Driving Zone Ends Here."

(2) The department or local authorities, with respect to highways under their respective jurisdictions, shall place and maintain the warning signs specified in paragraph (1) in areas that have been designated pursuant to subdivision (a).

(3) The department shall report to the Legislature on January 1, 1998, on the results of these pilot projects, including a determination

of whether the projects were successful. In its report, the department shall provide a detailed analysis on the impact of the pilot projects on highway safety, including, but not limited to, the number of accidents, traffic injuries, and fatalities in the project areas. A determination that the projects were successful shall be based upon a showing that a statistically significant decrease in the number of accidents, traffic injuries, and fatalities has occurred in the project areas.

(c) Designation of a highway as a Safety Enhancement-Double Fine Zone does not increase the civil liability of the state under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code or any other provision of law relating to civil liability.

(d) The pilot projects specified in subdivision (a) shall not be elevated in priority for state funding purposes.

(e) This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 1998, deletes or extends that date.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

Because of the high number of fatal accidents occurring on that portion of Route 46 and other routes to which this act applies, it is essential that they be included in the pilot projects relating to traffic safety established by Chapter 841 of the Statutes of 1995 at the earliest possible time.

CHAPTER 489

An act to amend Sections 13440 and 13651 of the Business and Professions Code, relating to business regulation.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 13440 of the Business and Professions Code is amended to read:

13440. (a) The department shall establish specifications for automotive spark-ignition engine fuels. The department shall adopt by reference the latest standards established by a recognized consensus organization or standards writing organization such as the American Society for Testing and Materials (ASTM) or the Society of Automotive Engineers (SAE), for automotive spark-ignition engine fuel, except that no specification shall be less stringent than required by any California state law.

(b) Any gasoline-oxygenate blend containing methanol shall also contain an alcohol cosolvent (butanol or higher molecular weight alcohol) in an amount equal to or greater than the volume percentage of methanol except those blends previously granted a waiver by the Environmental Protection Agency.

(c) Any gasoline-oxygenate blend containing ethanol that complies with Section 2258 of Title 13 of the California Code of Regulations, as it reads on the effective date of the act amending this section during the 1993–94 Regular Session, or as amended, may exceed the Reid vapor pressure limits of ASTM D 4814 for the area and season in which the blend is sold at retail by not more than 6.9 kilopascals (1.0 pounds per square inch), except the total Reid vapor pressure shall not exceed 103 kilopascals (15 pounds per square inch).

(d) The antiknock index as defined in Section 13403 for gasoline and gasoline-oxygenate blends shall not be less than 87.

(e) Gasoline and gasoline-oxygenate blends shall meet the latest specifications set forth in ASTM D 4814, except that no specification shall be less stringent than required by any California state law.

(f) Notwithstanding any other provision of this section, gasoline sold for use in Inyo or Mono County, or the portion of Kern County lying east of the Los Angeles County Aqueduct, shall comply with the latest specification set forth in ASTM D 4814 relating to volatility class standards for the season during which the gasoline is sold for either the interior region or the southeast region of California, except that no specification shall be less stringent than is required by any California state law.

SEC. 2. Section 13651 of the Business and Professions Code is amended to read:

13651. (a) On and after January 1, 1985, every service station in this state shall provide, during operating hours, water, compressed air, and a gauge for measuring air pressure, to the public for use in servicing any passenger vehicle, as defined in Section 465 of the Vehicle Code, or any commercial vehicle, as defined in Section 260 of the Vehicle Code, with an unladen weight of 6,000 pounds or less.

(b) (1) On and after January 1, 1990, every service station in this state located within 660 feet of an accessible right-of-way of any

interstate or primary highway, as defined in Sections 5215 and 5220, shall provide, during business hours, public restrooms for use by its customers. Service stations shall not charge customers separately for the use of restroom facilities.

(2) The public restroom shall not be temporary or portable but shall be permanent and shall include separate facilities for men and women, each with toilets and sinks suitable for use by disabled persons in accordance with Section 19955.5 of the Health and Safety Code and Title 24 of the California Code of Regulations. However, a service station not located along an interstate highway and in a rural area, as defined by Section 101 of Title 23 of the United States Code, and where the annualized average daily traffic count is 2,500 vehicles or less, is only required to provide a single restroom to be used by both men and women unless the local legislative body or, upon designation by the local legislative body, the local building official, determines and finds, based upon traffic studies and local or seasonal tourist patterns, that a single restroom would be inadequate to serve the public. In that event, the single restroom exemption shall not apply. The single restroom shall contain a toilet, urinal, and sink suitable for use by disabled persons as required by the Americans With Disabilities Act and Title 24 of the California Code of Regulations. The single restroom shall be equipped with a locking mechanism to be operated by the user of the restroom and the restroom shall be maintained in a clean and sanitary manner.

(3) This subdivision does not apply to service stations which are operational prior to January 1, 1990, and which would be obligated to construct permanent restroom facilities to comply with this subdivision.

(4) For the purposes of this subdivision, "customer" means a person who purchases any product available for sale on the premises of the service station, including items not related to the repairing or servicing of a motor vehicle.

(c) On and after July 1, 1991, every service station in this state shall display, at a conspicuous place on, at, or near the dispensing apparatus or at or near the point of sale, at least one clearly visible sign showing a list of applicable state and federal fuel taxes per gallon of motor vehicle fuel sold from the dispensing apparatus.

CHAPTER 490

An act to add Section 3558 to the Family Code, relating to family law.

[Approved by Governor September 12, 1996. Filed with Secretary of State September 13, 1996.]

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

SECTION 1. Section 3558 is added to the Family Code, to read:

3558. In a proceeding involving child or family support, a court may require either parent to attend job training, job placement and vocational rehabilitation, and work programs, as designated by the court, at regular intervals and times and for durations specified by the court, and provide documentation of participation in the programs, in a format that is acceptable to the court, in order to enable the court to make a finding that good faith attempts at job training and placement have been undertaken by the parent.

CHAPTER 491

An act making an appropriation for the payment of claims against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

I have signed on this date Assembly Bill No. 2179. However, I am reducing item 3790-001-001(a) by $88,562.85.

This claim is to pay for attorney fees to an individual who received a $283,447 payment for his merit award suggestion. Regulations covering the merit award program do not allow for the payment of either interest or attorney fees. This individual received a substantial award and chose, on his own, to hire legal counsel in order to receive interest on the award amount.

The Merit Award Board Program is a voluntary program which monetarily rewards state employees for suggestions that save the state, and taxpayers, money. Retention of counsel was a decision made by an individual in an effort to compensate for what he considered to be an unreasonably long reimbursement process. Paying this claim will set a troublesome precedent with respect to attorney fees and/or interest payments, neither of which belong in a voluntary program of rewarding cost-efficient suggestions.

PETE WILSON, Governor

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

SECTION 1. (a) The sum of one million one hundred ninety-four thousand eight hundred forty-one dollars and thirty-one cents ($1,194,841.31) is hereby appropriated to the Executive Officer of the State Board of Control to pay claims accepted by the State Board of Control in accordance with the schedule set forth in subdivision (b). Those payments shall be made from the funds and accounts identified in that schedule. In the case of Budget Act item schedules identified in the schedule set forth in subdivision (b), those payments shall be made from the funds appropriated in the item schedule.

(b) Pursuant to subdivision (a), claims accepted by the State Board of Control shall be paid in accordance with the following schedule:

Total for Fund: Bank and Corporation Tax Fund	$1,475.29
Total for Fund: California Housing Finance Fund	$960.00
Total for Fund: Employment Development Department Contingent Fund	$19,241.93
Total for Fund: Energy Resources Programs Account	$63,094.61
Total for Fund: Federal Trust Fund	$85.97
Total for Fund: General Fund	$41,729.17
Total for Fund: Health Care Deposit Fund	$3,138.63
Total for Fund: Item 0820−001−001(a), Budget Act 1995	$548.00
Total for Fund: Item 0820−001−0001(d), Budget Act 1996	$159.01
Total for Fund: Item 0840−001−0001(a), Budget Act 1996	$4,073.04
Total for Fund: Item 0860−001−0001(b), Budget Act 1996	$701.76
Total for Fund: Item 1100−001−0001(a), Budget Act 1996	$3,230.00
Total for Fund: Item 1111−010−0702(a), Budget Act 1996	$1,667.47
Total for Fund: Item 1760−001−0666(a), Budget Act 1996	$282,133.00
Total for Fund: Item 1920−001−0835(a), Budget Act 1996	$880.41
Total for Fund: Item 2100−001−0081(a), Budget Act 1996	$1,075.25
Total for Fund: Item 2660−001−0042(b), Budget Act 1996	$127,412.24
Total for Fund: Item 2720−001−0044(a), Budget Act 1996	$4,536.12
Total for Fund: Item 2740−001−0044(a), Budget Act 1996	$21,615.62
Total for Fund: Item 3360−001−0465(b), Budget Act 1996	$1,274.05

Total for Fund: Item 3480−001−0001(f), Budget Act 1996	$48,964.69
Total for Fund: Item 3540−001−0001(b), Budget Act 1996	$45.00
Total for Fund: Item 3790−001−0001(a), Budget Act 1996	$103,044.35
Total for Fund: Item 3790−490−0786(17), Budget Act 1996	$13,298.65
Total for Fund: Item 3860−001−0001(a), Budget Act 1996	$970.13
Total for Fund: Item 3900−001−0044(a), Budget Act 1996	$32,863.15
Total for Fund: Item 3910−001−0387, Budget Act 1996	$146.00
Total for Fund: Item 3940−001−0001(a), Budget Act 1996	$1,963.98
Total for Fund: Item 3960−001−0001, Budget Act 1996	$6,838.00
Total for Fund: Item 3960−001−0014(a), Budget Act 1996	$8,071.69
Total for Fund: Item 3980−001−0001(a), Budget Act 1996	$17,864.41
Total for Fund: Item 4260−001−0001(1), Budget Act 1996	$899.00
Total for Fund: Item 4260−001−0001(2), Budget Act 1996	$1,521.82
Total for Fund: Item 4260−001−0001(10), Budget Act 1996	$3,416.80
Total for Fund: Item 4300−001−0001(b), Budget Act 1996	$1,539.79
Total for Fund: Item 4300−003−0001(a), Budget Act 1996	$2,105.79
Total for Fund: Item 4300−101−0001(b), Budget Act 1996	$16,183.42
Total for Fund: Item 4440−011−0001(a), Budget Act 1996	$7,879.35
Total for Fund: Item 5100−001−0185, Budget Act 1996	$113.37
Total for Fund: Item 5100−001−0588, Budget Act 1996	$1,316.71

Total for Fund: Item 5100−001−0870(a), Budget Act 1996	$1,950.00
Total for Fund: Item 5100−001−0870(b), Budget Act 1996	$408.00
Total for Fund: Item 5100−101−0871, Budget Act 1996	$435.00
Total for Fund: Item 5160−001−0001(a), Budget Act 1996	$7,120.82
Total for Fund: Item 5180−001−0001(d), Budget Act 1996	$15,304.83
Total for Fund: Item 5240−001−0001(a), Budget Act 1996	$129,387.26
Total for Fund: Item 5430−001−0001(a), Budget Act 1996	$255.00
Total for Fund: Item 6110−001−0001(a), Budget Act 1996	$1,892.94
Total for Fund: Item 6420−001−0001(a), Budget Act 1996	$145.00
Total for Fund: Item 6610−001−0001(a), Budget Act 1996	$5,947.97
Total for Fund: Item 8350−001−0001(3), Budget Act 1996	$11,515.12
Total for Fund: Item 8550−001−0191(a), Budget Act 1996	$414.72
Total for Fund: Item 8570−001−0001(a), Budget Act 1996	$804.00
Total for Fund: Item 8660−001−0042, Budget Act 1996	$548.00
Total for Fund: Item 8860−001−0001(a), Budget Act 1996	$8,442.70
Total for Fund: Item 8940−001−0001(a), Budget Act 1996	$4,940.07
Total for Fund: 830−1900−96−508(D) (Controller's Account)	$227.00
Total for Fund: Consumer Affairs Fund	$91.16
Total for Fund: Litigation Deposit Fund	$5.22
Total for Fund: Motor Vehicle Fuel Account Fund	$4,619.68
Total for Fund: Personal Income Tax Fund	$39,008.79

Total for Fund: Petroleum Violation Escrow Account, Federal Trust Fund	$72.52
Total for Fund: Prison Industries Revolving Fund	$274.00
Total for Fund: Public Employees' Health Care Fund	$188.00
Total for Fund: Retail Sales Tax Fund	$36.00
Total for Fund: Special Deposit Fund	$203.00
Total for Fund: State Lottery Fund	$3,552.30
Total for Fund: Tax Relief and Refund Account	$87,024.69
Total for Fund: Teachers' Retirement Fund	$394.01
Total for Fund: Transportation Fund, State Highway Account	$4,634.45
Total for Fund: Unclaimed Property Fund	$10,724.83
Total for Fund: Unemployment Compensation Disability Fund	$3,175.00
Total for Fund: Unemployment Fund	$2,845.00
Total for Fund: Welfare Advance Fund	$176.56

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

In order to settle claims against the state and end hardship to claimants as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 492

An act to amend Sections 1628.5, 1629, 1680, 1686, and 1700 of, and to add Section 1628.7 to, the Business and Professions Code, and to add Section 1367.05 to the Health and Safety Code, relating to dentistry.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 1628.5 of the Business and Professions Code is amended to read:

1628.5. The board may deny an application to take an examination for licensure as a dentist or dental auxiliary or an

application for registration as a dental corporation, or, at any time prior to licensure, the board may deny the issuance of a license to an applicant for licensure as a dentist or dental auxiliary, if the applicant has done any of the following:

(a) Committed any act which would be grounds for the suspension or revocation of a license issued pursuant to this code.

(b) Committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under Section 480.

(c) While unlicensed, committed, or aided and abetted the commission of, any act for which a license is required by this chapter.

(d) Suspension or revocation of a license issued by another state or territory on grounds which would constitute a basis for suspension or revocation of licensure in this state.

The proceedings 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.

SEC. 2. Section 1628.7 is added to the Business and Professions Code, to read:

1628.7. (a) The board may, upon an applicant's successful completion of the board examination, in its sole discretion, issue a probationary license to an applicant for licensure as a dentist or dental auxiliary. The board may require, as a term or condition of issuing the probationary license, the applicant to do any of the following, including, but not limited to:

(1) Successfully complete a professional competency examination.

(2) Submit to a medical or psychological evaluation.

(3) Submit to continuing medical or psychological treatment.

(4) Abstain from the use of alcohol or drugs.

(5) Submit to random fluid testing for alcohol or controlled substance abuse.

(6) Submit to continuing participation in a board approved rehabilitation program.

(7) Restrict the type or circumstances of practice.

(8) Submit to continuing education and coursework.

(9) Comply with requirements regarding notification to employer and changes of employment.

(10) Comply with probation monitoring.

(11) Comply with all laws and regulations governing the practice of dentistry.

(12) Limit practice to a supervised structured environment in which the licensee's activities shall be supervised by another dentist.

(13) Submit to total or partial restrictions on drug prescribing privileges.

(b) The probation shall be for three years and the licensee may petition the board for early termination, or modification of a

condition of, the probation in accordance with subdivision (b) of Section 1686.

(c) The proceeding under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

SEC. 3. Section 1629 of the Business and Professions Code is amended to read:

1629. (a) Any member of the board may inquire of any applicant for examination concerning his or her qualifications or experience and may take testimony of anyone in regard thereto, under oath, which he or she is hereby empowered to administer.

(b) Each applicant for licensure under this chapter shall furnish fingerprint cards for submission to state and federal criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation, in order to establish the identity of the applicant and in order to determine whether the applicant has a record of any criminal convictions in this state or in any other jurisdiction, including foreign countries. The information obtained as a result of the fingerprinting of the applicant shall be used in accordance with Section 11105 of the Penal Code, and to determine whether the applicant is subject to denial of licensure pursuant to Division 1.5 (commencing with Section 475) or Section 1628.5.

SEC. 4. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, the violation of any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of gross immorality substantially related to the practice of dentistry.

(f) The use of any false, assumed, or fictitious name, either as an individual, firm, corporation, or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions, or other services or articles supplied to patients.

(h) The making use by the licentiate or any agent of the licentiate of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising in violation of Section 651.

(*l*) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 7 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The permitting of any person to operate dental radiographic equipment who has not met the requirements of Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than six hundred dollars ($600), or by imprisonment for a term of not less than 60 days or more than 180 days, or by both a fine and imprisonment.

(q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued, or discipline imposed, by another state or territory on grounds which would be the basis of discipline in this state.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licentiate, without written notice to the patient that treatment is to be discontinued and before the patient has ample opportunity to secure the services of another dentist and provided the health of the patient is not jeopardized.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct which would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist or dental auxiliary to practice dentistry in a negligent or incompetent manner.

(z) The failure to report to the board in writing within seven days either: (1) the death of his or her patient during the performance of any dental procedure; or, (2) the discovery of the death of a patient whose death is causally related to a dental procedure performed by him or her.

(aa) Participating in or operating any group advertising and referral services which is in violation of Section 650.2.

(bb) The failure to use a fail-safe machine with an appropriate exhaust system in the administration of nitrous oxide. The board shall, by regulation, define what constitutes a fail-safe machine.

(cc) Engaging in the practice of dentistry with an expired license.

(dd) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of blood-borne infectious diseases from dentist or dental auxiliary to patient, from patient to patient, and from patient to dentist or dental auxiliary. In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Health Services developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 6300), Division 5, Labor Code) for preventing the transmission of HIV, Hepatitis B, and other blood-borne pathogens in health care settings. As necessary, the board shall consult with the California Medical Board, the Board of Podiatric Medicine, the Board of Registered Nursing, and the Board of Vocational Nurse and Psychiatric Technician Examiners, to encourage appropriate consistency in the implementation of this subdivision.

The board shall seek to ensure that licentiates and others regulated by the board are informed of the responsibility of licentiates and others to follow infection control guidelines, and of the most recent scientifically recognized safeguards for minimizing the risk of transmission of blood-borne infectious diseases.

(ee) The utilization by a licensed dentist of any person to perform the functions of a registered dental assistant, registered dental assistant in extended functions, registered dental hygienist, or registered dental hygienist in extended functions who, at the time of initial employment, does not possess a current, valid license to perform those functions.

SEC. 5. Section 1686 of the Business and Professions Code is amended to read:

1686. A person whose license, certificate, or permit has been revoked or suspended or who has been placed on probation may petition the board 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 disciplinary action:

(a) At least three years for reinstatement of a license revoked for unprofessional conduct.

(b) At least two years for early termination, or modification of a condition, of a 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, or modification of a condition, of a probation of less than three years.

The petition shall state any fact required by the board.

The petition may be heard by the board, or the board may assign the petition to an administrative law judge designated in Section 11371 of the Government Code.

In considering reinstatement or modification or penalty, the board or the administrative law judge hearing the petition may consider (1) all activities of the petitioner since the disciplinary action was taken, (2) the offense for which the petitioner was disciplined, (3) the petitioner's activities during the time the license, certificate, or permit was in good standing, and (4) the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board or the administrative law judge as designated in Section 11371 of the Government Code finds necessary.

The board or the administrative law judge may impose necessary terms and conditions on the licentiate in reinstating a license, certificate, or permit or modifying a penalty.

No petition under this section 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 board 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.

Nothing in this section shall be deemed to alter Sections 822 and 823.

SEC. 6. Section 1700 of the Business and Professions Code is amended to read:

1700. Any person, company, or association 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 one hundred dollars ($100) nor

more than one thousand five hundred dollars ($1,500), or by both fine and imprisonment, who:

(a) Assumes the degree of "doctor of dental surgery," "doctor of dental science," or "doctor of dental medicine" or appends the letters "D.D.S.," or "D.D.Sc." or "D.M.D." to his or her name without having had the right to assume the title conferred upon him or her by diploma from a recognized dental college or school legally empowered to confer the same.

(b) Assumes any title, or appends any letters to his or her name, with the intent to represent falsely that he or she has received a dental degree or license.

(c) Engages in the practice of dentistry without causing to be displayed in a conspicuous place in his or her office the name of each and every person employed there in the practice of dentistry.

(d) Within 10 days after demand is made by the executive officer of the board, fails to furnish to the board the name and address of all persons practicing or assisting in the practice of dentistry in the office of the person, company, or association, at any time within 60 days prior to the demand, together with a sworn statement showing under and by what license or authority this person, company, or association and any employees are or have been practicing dentistry. This sworn statement shall not be used in any prosecution under this section.

(e) Is under the influence of alcohol or a controlled substance while engaged in the practice of dentistry in actual attendance on patients to an extent that impairs his or her ability to conduct the practice of dentistry with safety to patients and the public.

SEC. 7. Section 1367.05 is added to the Health and Safety Code, to read:

1367.05. (a) Nothing in this chapter shall prohibit a health care service plan from entering into a contract with a dental college approved by the Board of Dental Examiners of California under which the dental college provides for or arranges for the provision of dental care to enrollees of the plan through the practice of dentistry by either of the following:

(1) Bona fide students of dentistry or dental hygiene operating under subdivision (b) of Section 1626 of the Business and Professions Code.

(2) Bona fide clinicians or instructors operating under subdivision (c) of Section 1626 of the Business and Professions Code.

(b) A plan that contracts with a dental college for the delivery of dental care pursuant to subdivision (a) shall disclose to enrollees in the disclosure form and the evidence of coverage, or the combined evidence of coverage and disclosure form, and, if the plan provides a listing of providers to the enrollees, in the listing of providers, that the dental care provided by the dental college will be provided by students of dentistry or dental hygiene and clinicians or instructors of the dental college.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 493

An act to amend Sections 31458.3, 31590, and 31725.7 of, and to add Sections 31458.4, 31485.6, 31485.7, and 31780.1 to, the Government Code, relating to county retirement systems.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 31458.3 of the Government Code is amended to read:

31458.3. A member's ex-spouse who is receiving or is entitled to receive payments from the system, including a portion of the surviving spouse's allowance, pursuant to an order of the court dividing the community property interest in the member's retirement allowance may designate one or more beneficiaries who shall receive those payments following the death of the ex-spouse. Those payments shall terminate upon the death of the member or the surviving spouse.

This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 2. Section 31458.4 is added to the Government Code, to read:

31458.4. A member's ex-spouse who is receiving or is entitled to receive payments from the system, including a portion of the surviving spouse's allowance, pursuant to an order of the court dividing the community property interest in the member's retirement allowance may designate one or more beneficiaries who shall receive those payments following the death of the ex-spouse. Those payments shall terminate upon the death of the member or the surviving spouse.

This section shall not be operative in any county until the board of supervisors, by resolution, makes this section applicable in the county.

SEC. 3. Section 31485.6 is added to the Government Code, to read:

31458.6. Notwithstanding anything to the contrary in this chapter, a member who elects to purchase retirement service credit under Section 31494.3, 31641.1, 31641.5, 31646, or 31652, or under the regulations adopted by the board pursuant to Section 31643 or 31644 shall complete that purchase within 120 days after the effective date of his or her retirement.

This section applies only to a county of the first class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961.

SEC. 4. Section 31485.7 is added to the Government Code, to read:

31485.7. Notwithstanding anything to the contrary in this chapter, a member who elects to purchase retirement service credit under Section 31494.3, 31641.1, 31641.5, 31646, or 31652, or under the regulations adopted by the board pursuant to Section 31643 or 31644 shall complete that purchase within 120 days after the effective date of his or her retirement.

This section shall not be operative in any county until the board of supervisors, by resolution, makes this section applicable in the county.

SEC. 5. Section 31590 of the Government Code is amended to read:

31590. (a) All warrants, checks, and electronic fund transfers drawn on the retirement fund shall be signed or authorized by at least two board officers or employees, designated by the board or by the treasurer if designated by the board. If the treasurer is designated by the board, the board shall also designate the auditor to sign or authorize warrants, checks, and electronic fund transfers. The authorization may be by blanket authorization of all warrants, checks, or electronic fund transfers appearing on a list or register, or may be by a standing order to draw warrants, checks, or electronic fund transfers, which shall be good until revoked. If the treasurer and auditor are designated by the board, a warrant, check, or electronic fund transfer is not valid until it is signed or authorized, numbered, and recorded by the county auditor, except as provided in subdivision (c).

(b) Any person entitled to the receipt of benefits may authorize the payment of the benefits to be directly deposited by electronic fund transfer into the person's account at the financial institution of the person's choice under a program for direct deposit by electronic transfer established by the board or treasurer if authorized by the board. The direct deposit shall discharge the system's obligation in respect to that payment.

(c) The board may, or, if authorized by the board, the treasurer shall, authorize a trust company or trust department of any state or national bank authorized to conduct the business of a trust company in this state or the Federal Reserve Bank of San Francisco or any branch thereof within this state, to process and issue payments by check or electronic fund transfer.

SEC. 6. Section 31725.7 of the Government Code is amended to read:

31725.7. At any time after filing an application for disability retirement with the board, the member may, if eligible, apply for, and the board in its discretion may grant, a service retirement allowance pending the determination of his entitlement to disability retirement. If he is found to be eligible for disability retirement, appropriate adjustments shall be made in his retirement allowance retroactive to the effective date of his disability retirement as provided in Section 31724.

This section shall not be construed to authorize a member to receive more than one type of retirement allowance for the same period of time nor to entitle any beneficiary to receive benefits which the beneficiary would not otherwise have been entitled to receive under the type of retirement which the member is finally determined to have been entitled. In the event a member retired for service is found not to be entitled to disability retirement he shall not be entitled to return to his job as provided in Section 31725.

If the retired member should die before a final determination is made concerning entitlement to disability retirement, the rights of the beneficiary shall be as selected by the member at the time of retirement for service. The optional or unmodified type of allowance selected by the member at the time of retirement for service shall also be binding as to the type of allowance the member receives if the member is awarded a disability retirement.

SEC. 7. Section 31780.1 is added to the Government Code, to read:

31780.1. A child eligible to receive a survivor benefit under Section 31760.1, 31781.1, 31786, or 31787 shall be considered unmarried if the child is not married as of the date the member dies, whether or not the child was previously married. If the child thereafter marries, eligibility for the survivor benefit shall terminate, and the benefit shall not be reinstated if the child subsequently returns to unmarried status.

CHAPTER 494

An act to amend Sections 18724 and 18766 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 18724 of the Revenue and Taxation Code is amended to read:

18724. (a) This article shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, 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 or after January 1 of that calendar year. If necessary, for years after the repeal date in subdivision (a) is deleted, 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 1992, 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. Section 18766 of the Revenue and Taxation Code is amended to read:

18766. (a) This article shall remain in effect only until January 1, 2000, and as of that date, is repealed unless a later enacted statute, which is enacted before January 1, 2000, deletes that date, in which event subdivision (b) shall apply.

(b) If the repeal date specified in subdivision (a) has been deleted and if, thereafter, 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. If necessary, for years after the repeal date in subdivision (a) is deleted, 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 1992, 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 495

An act to amend Section 5490 of, and to add Section 5274 to, the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 5274 is added to the Business and Professions Code, to read:

5274. (a) None of the provisions of this chapter, except those in Article 4 (commencing with Section 5300), Sections 5400, 5401, 5402, 5403, and 5404, and subdivision (d) of Section 5405, apply to an on-premises advertising display for a business center adjacent to or

visible from an interstate or primary highway. An advertising display is considered to be an on-premise display in a business center when placed and maintained under all of the following conditions:

(1) The display is placed within the boundaries of an individual commercial, industrial, or mixed commercial and industrial development project area, as shown on subdivision or site plans approved by a city, county, or city and county, and is developed and zoned for commercial, industrial, or commercial and industrial uses.

(2) The display identifies the name of the business center.

(3) The name or logo of any business located within the business center and on the same side of an interstate or primary highway may be placed on the display.

(4) The governing body of the city, county, or city and county has adopted ordinances for the advertising display pursuant to Sections 5230 and 5231 for the area where the advertising display will be placed, and the advertising display meets city, county, or city and county ordinances.

(5) The advertising display results in a consolidation of displays.

(b) Subdivision (a) does not apply to the placement of any display that would cause a reduction of federal aid highway funds as provided in Section 131 of Title 23 of the United States Code.

SEC. 2. Section 5490 of the Business and Professions Code is amended to read:

5490. (a) This chapter applies only to lawfully erected on-premises advertising displays.

(b) As used in this chapter, "on-premises advertising displays" means any structure, housing, sign, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which has been designed, constructed, created, intended, or engineered to have a useful life of 15 years or more, and intended or used to advertise, or to provide data or information in the nature of advertising, for any of the following purposes:

(1) To designate, identify, or indicate the name or business of the owner or occupant of the premises upon which the advertising display is located.

(2) To advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display has been lawfully erected.

(c) As used in this chapter, "introduced or adopted prior to March 12, 1983," means an ordinance or other regulation of a city or county which was officially presented before, formally read and announced by, or adopted by the legislative body prior to March 12, 1983.

(d) This chapter does not apply to advertising displays used exclusively for outdoor advertising pursuant to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200)).

(e) As used in this chapter, illegal advertising displays do not include legally erected, but nonconforming, displays for which the applicable amortization period has not expired.

(f) As used in this chapter, "abandoned advertising display" means any display remaining in place or not maintained for a period of 90 days which no longer advertises or identifies an ongoing business, product, or service available on the business premise where the display is located.

(g) (1) For the purpose of this chapter, an on-premises advertising display that is located within the boundaries of a development project, as defined by Section 65928 of the Government Code, that identifies either the name of the development project, its business logo, or the goods, wares, and services existing or available within the development project, shall continue to be deemed an on-premise advertising display regardless of any of the following occurrences:

(A) The creation or construction, in or about the project, of a common parking area, driveway, thruway, alley, passway, public or private street, roadway, overpass, divider, connector, lot split, or easement intended for ingress or egress, regardless of where or when created or constructed, and whether or not created or constructed by the project developer or its successor, or by reason of government regulation or condition.

(B) The sale, transfer, or conveyance of an individual lot, parcel, or parcels less than the whole, within the development project.

(C) The sale, transfer, conveyance, or change of name or identification of a business within the development project.

(2) This subdivision shall not be applicable in any case in which its application would result in a loss of federal highway funds by the State of California.

(3) This subdivision applies to all counties and general law or charter cities.

SEC. 3. This act 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 496

An act relating to education, and making an appropriation therefor.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Not later than December 31, 1997, the State Board of Education shall transmit to the Governor and Legislature a plan for the establishment of incentives for the improvement of pupil academic achievement. The plan shall be developed by the

Superintendent of Public Instruction and approved by the State Board of Education. In developing this plan and the recommendations for establishment of incentives, the superintendent shall establish and consult with an advisory committee consisting of public school educators, university academicians in the fields of education and management, businesspersons, parents, and other representatives as determined by the superintendent. The plan shall include, but is not to be necessarily limited to, all of the following:

(a) Financial and other positive incentives for schools and school districts that demonstrate successful academic achievement. In determining the types of positive incentives to be included in the plan, the superintendent shall consider the type of incentive program that was set forth in the California Scholars Program proposed by Senate Bill No. 292, as amended August 21, 1995, of the 1995-96 Regular Session that would have provided awards to classes of pupils and their teachers for specified performance on statewide pupil assessment testing.

(b) Intervention by a county office of education or State Department of Education official or any other negative incentives for schools and school districts that exhibit persistent or dramatic failures in academic achievement.

(c) At a minimum, academic achievement shall be determined with reference to the academic content and performance standards adopted by the State Board of Education pursuant to subdivision (a) of Section 60605 of the Education Code. Academic achievement shall be measured, at a minimum, by the tests adopted by the State Board of Education pursuant to subdivision (c) of Section 60605 of the Education Code.

(d) Both positive and negative incentives shall recognize both absolute levels of academic achievement as well as improvement or deterioration in academic achievement.

(e) A proposed budget and level of funding required to implement the incentives proposed in the plan.

(f) Recommendations for statutory changes necessary to implement the incentives proposed in the plan.

SEC. 2. The sum of forty-five thousand dollars ($45,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction to develop the plan required pursuant to Section 1 of this act.

CHAPTER 497

An act to add Section 1799.103 to the Civil Code, to amend Sections 488.450, 697.740, and 700.130 of the Code of Civil Procedure, to amend Sections 1105, 1206, 4104, 5114, 9103, 9105, 9106, 9203, 9301, 9302, 9304,

9305, 9306, 9309, 9312, 15103, and 15104 of, to add Sections 9115 and 9116 to, and to repeal and add Division 8 (commencing with Section 8101) of, the Commercial Code, to amend Sections 156.1, 166, 171.1, 174, and 191.1 of the Corporations Code, and to amend Section 7151 of the Government Code, relating to commercial law.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 1799.103 is added to the Civil Code, to read:

1799.103. No consumer credit contract or guarantee of a consumer credit contract shall provide for a security interest in any investment property, as defined in paragraph (f) of subdivision (1) of Section 9115 of the Commercial Code, that is pledged as collateral, unless (a) the contract either specifically identifies the investment property as collateral or (b) the secured party is a securities intermediary, as defined in paragraph (14) of subdivision (a) of Section 8102 of the Commercial Code, or commodity intermediary, as defined in paragraph (d) of subdivision (1) of Section 9115 of the Commercial Code, with respect to the investment property. The identification of an account shall include the name of the holder, account number, and name of the institute holding the investment property. In the event that a consumer credit contract or guarantee does not comply with this section, the security interest in the investment property is void.

SEC. 1.5. Section 488.450 of the Code of Civil Procedure is amended to read:

488.450. To attach a security, the levying officer shall comply with Section 8112 of the Commercial Code. The legal process referred to in Section 8112 of the Commercial Code means the legal process required by the state in which the chief executive office of the issuer of the security is located and, where that state is California, means personal service by the levying officer of a copy of the writ of attachment and notice of attachment on the person who is to be served.

SEC. 2. Section 697.740 of the Code of Civil Procedure is amended to read:

697.740. Except as provided in Section 9504 of the Commercial Code and in Section 701.630, if personal property subject to an execution lien is not in the custody of a levying officer and the property is transferred or encumbered, the property remains subject to the lien after the transfer or encumbrance except where the transfer or encumbrance is made to one of the following persons:

(a) A person who acquires an interest in the property under the law of this state for reasonably equivalent value without knowledge of the lien. For purposes of this subdivision, value is given for a

transfer or encumbrance if, in exchange for the transfer or encumbrance, property is transferred or an antecedent debt is secured or satisfied.

(b) A buyer in ordinary course of business (as defined in Section 1201 of the Commercial Code) who, under Section 9307 of the Commercial Code, would take free of a security interest created by the seller or encumbrancer.

(c) A lessee in ordinary course of business (as defined in paragraph (15) of subdivision (a) of Section 10103 of the Commercial Code) who, under subdivision (c) of Section 10307 of the Commercial Code, would take free of a security interest created by the lessor.

(d) A holder in due course (as defined in Section 3302 of the Commercial Code) of a negotiable instrument within the meaning of Section 3104 of the Commercial Code.

(e) A holder to whom a negotiable document of title has been duly negotiated within the meaning of Section 7501 of the Commercial Code.

(f) A protected purchaser (as defined in Section 8303 of the Commercial Code) of a security.

(g) A purchaser of chattel paper or an instrument who gives new value and takes possession of the chattel paper or instrument in the ordinary course of business.

(h) A holder of a purchase money security interest (as defined in Section 9107 of the Commercial Code).

(i) A collecting bank holding a security interest in items being collected, accompanying documents and proceeds, pursuant to Section 4210 of the Commercial Code.

(j) A person who acquires any right or interest in letters of credit, advices of credit, or money.

(k) A person who acquires any right or interest in property subject to a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate of title is required as a condition of perfection of the security interest.

SEC. 3. Section 700.130 of the Code of Civil Procedure is amended to read:

700.130. To levy upon a security, the levying officer shall comply with Section 8112 of the Commercial Code. The legal process referred to in Section 8112 of the Commercial Code means the legal process required by the state in which the chief executive office of the issuer of the security is located and, where that state is California, means personal service by the levying officer of a copy of the writ of execution and notice of levy on the person who is to be served.

SEC. 4. Section 1105 of the Commercial Code is amended to read:

1105. (1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties.

Failing such agreement this code applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this code specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 2402.

Applicability of the division on leases. Sections 10105 and 10106.

Applicability of the division on bank deposits and collections. Section 4102.

Letters of credit. Section 5116.

Bulk sales subject to the division on bulk sales. Section 6103.

Applicability of the division on investment securities. Section 8110.

Perfection provisions of the division on secured transactions. Section 9103.

SEC. 5. Section 1206 of the Commercial Code is amended to read:

1206. (1) Except in the cases described in subdivision (2) of this section a contract for the sale of personal property is not enforceable by way of action or defense beyond five thousand dollars ($5,000) in amount or value of remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter, and is signed by the party against whom enforcement is sought or by his or her authorized agent.

(2) Subdivision (1) of this section does not apply to contracts for the sale of goods (Section 2201) nor of securities (Section 8113) nor to security agreements (Section 9203).

SEC. 6. Section 4104 of the Commercial Code is amended to read:

4104. (a) In this division unless the context otherwise requires:

(1) "Account" means any deposit or credit account with a bank, including a demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit.

(2) "Afternoon" means the period of a day between noon and midnight.

(3) "Banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions.

(4) "Clearing house" means an association of banks or other payors regularly clearing items.

(5) "Customer" means a person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank.

(6) "Documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (Section 8102) or instructions for uncertificated securities (Section 8102), or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft.

(7) "Draft" means a draft as defined in Section 3104 or an item, other than an instrument, that is an order.

(8) "Drawee" means a person ordered in a draft to make payment.

(9) "Item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Division 11 (commencing with Section 11101) or a credit or debit card slip.

(10) "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later.

(11) "Settle" means to pay in cash, by clearinghouse settlement, in a charge or credit or by remittance, or otherwise as agreed. A settlement may be either provisional or final.

(12) "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(b) Other definitions applying to this division and the sections in which they appear are:

"Agreement for electronic presentment"	Section 4110
"Bank"	Section 4105
"Collecting bank"	Section 4105
"Depositary bank"	Section 4105
"Intermediary bank"	Section 4105
"Payor bank"	Section 4105
"Presenting bank"	Section 4105
"Presentment notice"	Section 4110

(c) The following definitions in other divisions apply to this division:

"Acceptance"	Section 3409
"Alteration"	Section 3407
"Cashier's check"	Section 3104
"Certificate of deposit"	Section 3104
"Certified check"	Section 3409
"Check"	Section 3104
"Good faith"	Section 3103
"Holder in due course"	Section 3302
"Instrument"	Section 3104
"Notice of dishonor"	Section 3503

"Order"	Section 3103
"Ordinary care"	Section 3103
"Person entitled to enforce"	Section 3301
"Presentment"	Section 3501
"Promise"	Section 3103
"Prove"	Section 3103
"Teller's check"	Section 3104
"Unauthorized signature"	Section 3403

(d) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 7. Section 5114 of the Commercial Code is amended to read:

5114. (1) An issuer must honor a draft or demand for payment that complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is not excused from honor of the draft or demand by reason of an additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it.

(2) Unless otherwise agreed, when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on the negotiation or transfer of a document of title (Section 7507) or of a certificated security (Section 8108) or is forged or fraudulent or there is fraud in the transaction:

(a) The issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (Section 3302) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (Section 7501) or a bona fide purchaser of a certificated security (Section 8302).

(b) In all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents.

(3) Unless otherwise agreed, an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

SEC. 8. Division 8 (commencing with Section 8101) of the Commercial Code is repealed.

SEC. 9. Division 8 (commencing with Section 8101) is added to the Commercial Code, to read:

DIVISION 8. INVESTMENT SECURITIES

CHAPTER 1. SHORT TITLE AND GENERAL MATTERS

8101. This division may be cited as Uniform Commercial Code—Investment Securities.

8102. (a) In this division:

(1) "Adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer, or deal with the financial asset.

(2) "Bearer form," as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement.

(3) "Broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity.

(4) "Certificated security" means a security that is represented by a certificate.

(5) "Clearing corporation" means any of the following:

(A) A person that is registered as a "clearing agency" under the federal securities laws.

(B) A federal reserve bank.

(C) Any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority.

(6) "Communicate" means to either:

(A) Send a signed writing.

(B) Transmit information by any mechanism agreed upon by the persons transmitting and receiving the information.

(7) "Entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of paragraph (2) or (3) of subdivision (b) of Section 8501, that person is the entitlement holder.

(8) "Entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement.

(9) "Financial asset," except as otherwise provided in Section 8103, means any of the following:

(A) A security.

(B) An obligation of a person or a share, participation, or other interest in a person or in property or an enterprise of a person, that is, or is of a type, dealt in or traded on financial markets, or that is recognized in any area in which it is issued or dealt in as a medium for investment.

(C) Any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this division. As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate, or a security entitlement.

(10) "Good faith," for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this division, means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(11) "Endorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring, or redeeming the security or granting a power to assign, transfer, or redeem it.

(12) "Instruction" means a notification communicated to the issuer of an uncertificated security that directs that the transfer of the security be registered or that the security be redeemed.

(13) "Registered form," as applied to a certificated security, means a form in which both of the following apply:

(A) The security certificate specifies a person entitled to the security.

(B) A transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer, or the security certificate so states.

(14) "Securities intermediary" means either:

(A) A clearing corporation.

(B) A person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity.

(15) "Security," except as otherwise provided in Section 8103, means an obligation of an issuer or a share, participation, or other interest in an issuer or in property or an enterprise of an issuer that is all of the following:

(A) It is represented by a security certificate in bearer or registered form, or the transfer of it may be registered upon books maintained for that purpose by or on behalf of the issuer.

(B) It is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations.

(C) It is either of the following:

(i) It is, or is of a type, dealt in or traded on securities exchanges or securities markets.

(ii) It is a medium for investment and by its terms expressly provides that it is a security governed by this division.

(16) "Security certificate" means a certificate representing a security.

(17) "Security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in Chapter 5 (commencing with Section 8501).

(18) "Uncertificated security" means a security that is not represented by a certificate.

(b) Other definitions applying to this division and the sections in which they appear are:

Appropriate person. Section 8107.

Control. Section 8106.

Delivery. Section 8301.

Investment company security. Section 8103.

Issuer. Section 8201.

Overissue. Section 8210.

Protected purchaser. Section 8303.

Securities account. Section 8501.

(c) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

(d) The characterization of a person, business, or transaction for purposes of this division does not determine the characterization of the person, business, or transaction for purposes of any other law, regulation, or rule.

8103. (a) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(b) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this division, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by this division and not by Division 3 (commencing with Section 3101), even though it also meets the requirements of that division. However, a

negotiable instrument governed by Division 3 (commencing with Section 3101) is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(f) A commodity contract, as defined in Section 9115, is not a security or a financial asset.

8104. (a) A person acquires a security or an interest therein, under this division, if either of the following applies:

(1) The person is a purchaser to whom a security is delivered pursuant to Section 8301; or

(2) The person acquires a security entitlement to the security pursuant to Section 8501.

(b) A person acquires a financial asset, other than a security, or an interest therein, under this division, if the person acquires a security entitlement to the financial asset.

(c) A person who acquires a security entitlement to a security or other financial asset has the rights specified in Chapter 5 (commencing with Section 8501), but is a purchaser of any security, security entitlement, or other financial asset held by the securities intermediary only to the extent provided in Section 8503.

(d) Unless the context shows that a different meaning is intended, a person who is required by other law, regulation, rule, or agreement to transfer, deliver, present, surrender, exchange, or otherwise put in the possession of another person a security or financial asset satisfies that requirement by causing the other person to acquire an interest in the security or financial asset pursuant to subdivision (a) or (b).

8105. (a) A person has notice of an adverse claim if any of the following applies:

(1) The person knows of the adverse claim.

(2) The person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim.

(3) The person has a duty, imposed by statute or regulation, to investigate whether an adverse claim exists, and the investigation so required would establish the existence of the adverse claim.

(b) Having knowledge that a financial asset or interest therein is or has been transferred by a representative imposes no duty of inquiry into the rightfulness of a transaction and is not notice of an adverse claim. However, a person who knows that a representative has transferred a financial asset or interest therein in a transaction that is, or whose proceeds are being used, for the individual benefit of the representative or otherwise in breach of duty has notice of an adverse claim.

(c) An act or event that creates a right to immediate performance of the principal obligation represented by a security certificate or sets a date on or after which the certificate is to be presented or

surrendered for redemption or exchange does not itself constitute notice of an adverse claim except in the case of a transfer more than either of the following:

(1) One year after a date set for presentment or surrender for redemption or exchange.

(2) Six months after a date set for payment of money against presentation or surrender of the certificate, if money was available for payment on that date.

(d) A purchaser of a certificated security has notice of an adverse claim if the security certificate is any of the following:

(1) Whether in bearer or registered form, has been endorsed "for collection" or "for surrender" or for some other purpose not involving transfer.

(2) Is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on the certificate is not such a statement.

(e) Filing of a financing statement under Division 9 (commencing with Section 9101) is not notice of an adverse claim to a financial asset.

8106. (a) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and either of the following applies:

(1) The certificate is endorsed to the purchaser or in blank by an effective endorsement.

(2) The certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has "control" of an uncertificated security if either of the following applies:

(1) The uncertificated security is delivered to the purchaser; or

(2) The issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has "control" of a security entitlement if either of the following applies:

(1) The purchaser becomes the entitlement holder.

(2) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of paragraph (2) of subdivision (c) or paragraph (2) of subdivision (d) has control even if the registered owner in the case of paragraph (2) of subdivision (c) or the entitlement holder in the case of paragraph (2) of subdivision (d) retains the right to make substitutions for the uncertificated security or security entitlement, to originate

instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in paragraph (2) of subdivision (c) or paragraph (2) of subdivision (d) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

8107. (a) "Appropriate person" means any of the following:

(1) With respect to an endorsement, the person specified by a security certificate or by an effective special endorsement to be entitled to the security.

(2) With respect to an instruction, the registered owner of an uncertificated security.

(3) With respect to an entitlement order, the entitlement holder.

(4) If the person designated in paragraph (1), (2), or (3) is deceased, the designated person's successor taking under other law or the designated person's personal representative acting for the estate of the decedent.

(5) If the person designated in paragraph (1), (2), or (3) lacks capacity, the designated person's guardian, conservator, or other similar representative who has power under other law to transfer the security or financial asset.

(b) An endorsement, instruction, or entitlement order is effective if it is made by any of the following:

(1) It is made by the appropriate person.

(2) It is made by a person who has power under the law of agency to transfer the security or financial asset on behalf of the appropriate person, including, in the case of an instruction or entitlement order, a person who has control under paragraph (2) of subdivision (c) or paragraph (2) of subdivision (d) of Section 8106.

(3) The appropriate person has ratified it or is otherwise precluded from asserting its ineffectiveness.

(c) An endorsement, instruction, or entitlement order made by a representative is effective even if:

(1) The representative has failed to comply with a controlling instrument or with the law of the state having jurisdiction of the representative relationship, including any law requiring the representative to obtain court approval of the transaction.

(2) The representative's action in making the endorsement, instruction, or entitlement order or using the proceeds of the transaction is otherwise a breach of duty.

(d) If a security is registered in the name of or specially endorsed to a person described as a representative, or if a securities account is maintained in the name of a person described as a representative, an endorsement, instruction, or entitlement order made by the person is effective even though the person is no longer serving in the described capacity.

(e) Effectiveness of an endorsement, instruction, or entitlement order is determined as of the date the endorsement, instruction, or entitlement order is made, and an endorsement, instruction, or entitlement order does not become ineffective by reason of any later change of circumstances.

8108. (a) A person who transfers a certificated security to a purchaser for value warrants to the purchaser, and an endorser, if the transfer is by endorsement, warrants to any subsequent purchaser, all of the following:

(1) The certificate is genuine and has not been materially altered.

(2) The transferor or endorser does not know of any fact that might impair the validity of the security.

(3) There is no adverse claim to the security.

(4) The transfer does not violate any restriction on transfer.

(5) If the transfer is by endorsement, the endorsement is made by an appropriate person, or if the endorsement is by an agent, the agent has actual authority to act on behalf of the appropriate person.

(6) The transfer is otherwise effective and rightful.

(b) A person who originates an instruction for registration of transfer of an uncertificated security to a purchaser for value warrants to the purchaser all of the following:

(1) The instruction is made by an appropriate person, or if the instruction is by an agent, the agent has actual authority to act on behalf of the appropriate person.

(2) The security is valid.

(3) There is no adverse claim to the security.

(4) At the time the instruction is presented to the issuer, all of the following will be applicable:

(A) The purchaser will be entitled to the registration of transfer.

(B) The transfer will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(C) The transfer will not violate any restriction on transfer.

(D) The requested transfer will otherwise be effective and rightful.

(c) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants all of the following:

(1) The uncertificated security is valid.

(2) There is no adverse claim to the security.

(3) The transfer does not violate any restriction on transfer.

(4) The transfer is otherwise effective and rightful.

(d) A person who endorses a security certificate warrants all of the following to the issuer:

(1) There is no adverse claim to the security.

(2) The endorsement is effective.

(e) A person who originates an instruction for registration of transfer of an uncertificated security warrants all of the following to the issuer:

(1) The instruction is effective.

(2) At the time the instruction is presented to the issuer the purchaser will be entitled to the registration of transfer.

(f) A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that the person is entitled to the registration, payment, or exchange, but a purchaser for value and without notice of adverse claims to whom transfer is registered warrants only that the person has no knowledge of any unauthorized signature in a necessary endorsement.

(g) If a person acts as agent of another in delivering a certificated security to a purchaser, the identity of the principal was known to the person to whom the certificate was delivered, and the certificate delivered by the agent was received by the agent from the principal or received by the agent from another person at the direction of the principal, the person delivering the security certificate warrants only that the delivering person has authority to act for the principal and does not know of any adverse claim to the certificated security.

(h) A secured party who redelivers a security certificate received, or after payment and on order of the debtor delivers the security certificate to another person, makes only the warranties of an agent under subdivision (g).

(i) Except as otherwise provided in subdivision (g), a broker acting for a customer makes to the issuer and a purchaser the warranties provided in subdivisions (a) to (f), inclusive. A broker that delivers a security certificate to its customer, or causes its customer to be registered as the owner of an uncertificated security, makes to the customer the warranties provided in subdivision (a) or (b), and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of the customer.

8109. (a) A person who originates an entitlement order to a securities intermediary warrants all of the following to the securities intermediary:

(1) The entitlement order is made by an appropriate person, or if the entitlement order is by an agent, the agent has actual authority to act on behalf of the appropriate person.

(2) There is no adverse claim to the security entitlement.

(b) A person who delivers a security certificate to a securities intermediary for credit to a securities account or originates an instruction with respect to an uncertificated security directing that

the uncertificated security be credited to a securities account makes to the securities intermediary the warranties specified in subdivision (a) or (b) of Section 8108.

(c) If a securities intermediary delivers a security certificate to its entitlement holder or causes its entitlement holder to be registered as the owner of an uncertificated security, the securities intermediary makes to the entitlement holder the warranties specified in subdivision (a) or (b) of Section 8108.

8110. (a) The local law of the issuer's jurisdiction, as specified in subdivision (d), governs the following:

(1) The validity of a security.

(2) The rights and duties of the issuer with respect to registration of transfer.

(3) The effectiveness of registration of transfer by the issuer.

(4) Whether the issuer owes any duties to an adverse claimant to a security.

(5) Whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(b) The local law of the securities intermediary's jurisdiction, as specified in subdivision (e), governs the following:

(1) Acquisition of a security entitlement from the securities intermediary.

(2) The rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement.

(3) Whether the securities intermediary owes any duties to an adverse claimant to a security entitlement.

(4) Whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(d) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in paragraphs (2) to (5), inclusive, of subdivision (a).

(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(2) If an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in paragraph (1), but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(3) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (1) or (2), the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account.

(4) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (1) or (2) and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (3), the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

8111. A rule adopted by a clearing corporation governing rights and obligations among the clearing corporation and its participants in the clearing corporation is effective even if the rule conflicts with this division and affects another party who does not consent to the rule.

8112. (a) The interest of a debtor in a certificated security may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy, except as otherwise provided in subdivision (d). However, a certificated security for which the certificate has been surrendered to the issuer may be reached by a creditor by legal process upon the issuer.

(b) The interest of a debtor in an uncertificated security may be reached by a creditor only by legal process upon the issuer at its chief executive office in the United States, except as otherwise provided in subdivision (d).

(c) The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained, except as otherwise provided in subdivision (d).

(d) The interest of a debtor in a certificated security for which the certificate is in the possession of a secured party, or in an uncertificated security registered in the name of a secured party, or a security entitlement maintained in the name of a secured party, may be reached by a creditor by legal process upon the secured party.

(e) A creditor whose debtor is the owner of a certificated security, uncertificated security, or security entitlement is entitled to aid from a court of competent jurisdiction, by injunction or otherwise, in reaching the certificated security, uncertificated security, or security entitlement or in satisfying the claim by means allowed at law or in equity in regard to property that cannot readily be reached by other legal process.

8113. A contract or modification of a contract for the sale or purchase of a security is enforceable whether or not there is a writing signed or record authenticated by a party against whom enforcement is sought, even if the contract or modification is not capable of performance within one year of its making.

8114. The following rules apply in an action on a certificated security against the issuer:

(a) Unless specifically denied in the pleadings, each signature on a security certificate or in a necessary endorsement is admitted.

(b) If the effectiveness of a signature is put in issue, the burden of establishing effectiveness is on the party claiming under the signature, but the signature is presumed to be genuine or authorized.

(c) If signatures on a security certificate are admitted or established, production of the certificate entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security.

(d) If it is shown that a defense or defect exists, the plaintiff has the burden of establishing that the plaintiff or some person under whom the plaintiff claims is a person against whom the defense or defect cannot be asserted.

8115. A securities intermediary that has transferred a financial asset pursuant to an effective entitlement order, or a broker or other agent or bailee that has dealt with a financial asset at the direction of its customer or principal, is not liable to a person having an adverse claim to the financial asset, unless the securities intermediary, or broker or other agent or bailee did one or more of the following:

(1) Took the action after it had been served with an injunction, restraining order, or other legal process enjoining it from doing so, issued by a court of competent jurisdiction, and had a reasonable opportunity to act on the injunction, restraining order, or other legal process.

(2) Acted in collusion with the wrongdoer in violating the rights of the adverse claimant.

(3) In the case of a security certificate that has been stolen, acted with notice of the adverse claim.

8116. A securities intermediary that receives a financial asset and establishes a security entitlement to the financial asset in favor of an entitlement holder is a purchaser for value of the financial asset. A securities intermediary that acquires a security entitlement to a financial asset from another securities intermediary acquires the security entitlement for value if the securities intermediary

acquiring the security entitlement establishes a security entitlement to the financial asset in favor of an entitlement holder.

CHAPTER 2. ISSUE AND ISSUER

8201. (a) With respect to an obligation on or a defense to a security, an "issuer" includes a person that does any of the following:

(1) Places or authorizes the placing of its name on a security certificate, other than as authenticating trustee, registrar, transfer agent, or the like, to evidence a share, participation, or other interest in its property or in an enterprise, or to evidence its duty to perform an obligation represented by the certificate.

(2) Creates a share, participation, or other interest in its property or in an enterprise, or undertakes an obligation, that is an uncertificated security.

(3) Directly or indirectly creates a fractional interest in its rights or property, if the fractional interest is represented by a security certificate.

(4) Becomes responsible for, or in place of, another person described as an issuer in this section.

(b) With respect to an obligation on or defense to a security, a guarantor is an issuer to the extent of its guaranty, whether or not its obligation is noted on a security certificate.

(c) With respect to a registration of a transfer, issuer means a person on whose behalf transfer books are maintained.

8202. (a) Even against a purchaser for value and without notice, the terms of a certificated security include terms stated on the certificate and terms made part of the security by reference on the certificate to another instrument, indenture, or document or to a constitution, statute, ordinance, rule, regulation, order, or the like, to the extent the terms referred to do not conflict with terms stated on the certificate. A reference under this subdivision does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even if the certificate expressly states that a person accepting it admits notice. The terms of an uncertificated security include those stated in any instrument, indenture, or document or in a constitution, statute, ordinance, rule, regulation, order, or the like, pursuant to which the security is issued.

(b) The following rules apply if an issuer asserts that a security is not valid:

(1) A security other than one issued by a government or governmental subdivision, agency, or instrumentality, even though issued with a defect going to its validity, is valid in the hands of a purchaser for value and without notice of the particular defect unless the defect involves a violation of a constitutional provision. In that case, the security is valid in the hands of a purchaser for value and without notice of the defect, other than one who takes by original issue.

(2) Paragraph (1) applies to an issuer that is a government or governmental subdivision, agency, or instrumentality only if there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(c) Except as otherwise provided in Section 8205, lack of genuineness of a certificated security is a complete defense, even against a purchaser for value and without notice.

(d) All other defenses of the issuer of a security, including nondelivery and conditional delivery of a certificated security, are ineffective against a purchaser for value who has taken the certificated security without notice of the particular defense.

(e) This section does not affect the right of a party to cancel a contract for a security "when, as and if issued" or "when distributed" in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement pursuant to which the security is to be issued or distributed.

(f) If a security is held by a securities intermediary against whom an entitlement holder has a security entitlement with respect to the security, the issuer may not assert any defense that the issuer could not assert if the entitlement holder held the security directly.

8203. After an act or event, other than a call that has been revoked, creating a right to immediate performance of the principal obligation represented by a certificated security or setting a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer, if the act or event either:

(1) Requires the payment of money, the delivery of a certificated security, the registration of transfer of an uncertificated security, or any of them on presentation or surrender of the security certificate, the money or security is available on the date set for payment or exchange, and the purchaser takes the security more than one year after that date.

(2) Is not covered by paragraph (1) and the purchaser takes the security more than two years after the date set for surrender or presentation or the date on which performance became due.

8204. A restriction on transfer of a security imposed by the issuer, even if otherwise lawful, is ineffective against a person without knowledge of the restriction unless either of the following applies:

(1) The security is certificated and the restriction is noted conspicuously on the security certificate.

(2) The security is uncertificated and the registered owner has been notified of the restriction.

8205. An unauthorized signature placed on a security certificate before or in the course of issue is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security

if the purchaser is without notice of the lack of authority and the signing has been done by one of the following:

(1) An authenticating trustee, registrar, transfer agent, or other person entrusted by the issuer with the signing of the security certificate or of similar security certificates, or the immediate preparation for signing of any of them.

(2) An employee of the issuer, or of any of the persons listed in paragraph (1), entrusted with responsible handling of the security certificate.

8206. (a) If a security certificate contains the signatures necessary to its issue or transfer but is incomplete in any other respect, the following apply:

(1) Any person may complete it by filling in the blanks as authorized.

(2) Even if the blanks are incorrectly filled in, the security certificate as completed is enforceable by a purchaser who took it for value and without notice of the incorrectness.

(b) A complete security certificate that has been improperly altered, even if fraudulently, remains enforceable, but only according to its original terms.

8207. (a) Before due presentment for registration of transfer of a certificated security in registered form or of an instruction requesting registration of transfer of an uncertificated security, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, receive notifications, and otherwise exercise all the rights and powers of an owner.

(b) This division does not affect the liability of the registered owner of a security for a call, assessment, or the like.

8208. (a) A person signing a security certificate as authenticating trustee, registrar, transfer agent, or the like, warrants all of the following to a purchaser for value of the certificated security, if the purchaser is without notice of a particular defect:

(1) The certificate is genuine.

(2) The person's own participation in the issue of the security is within the person's capacity and within the scope of the authority received by the person from the issuer.

(3) The person has reasonable grounds to believe that the certificated security is in the form and within the amount the issuer is authorized to issue.

(b) Unless otherwise agreed, a person signing under subdivision (a) does not assume responsibility for the validity of the security in other respects.

8209. A lien in favor of an issuer upon a certificated security is valid against a purchaser only if the right of the issuer to the lien is noted conspicuously on the security certificate.

8210. (a) In this section, "overissue" means the issue of securities in excess of the amount the issuer has corporate power to issue, but

an overissue does not occur if appropriate action has cured the overissue.

(b) Except as otherwise provided in subdivisions (c) and (d), the provisions of this division that validate a security or compel its issue or reissue do not apply to the extent that validation, issue, or reissue would result in overissue.

(c) If an identical security not constituting an overissue is reasonably available for purchase, a person entitled to issue or validation may compel the issuer to purchase the security and deliver it if certificated or register its transfer if uncertificated, against surrender of any security certificate the person holds.

(d) If a security is not reasonably available for purchase, a person entitled to issue or validation may recover from the issuer the price the person or the last purchaser for value paid for it with interest from the date of the person's demand.

CHAPTER 3. TRANSFER OF CERTIFICATED AND UNCERTIFICATED SECURITIES

8301. (a) Delivery of a certificated security to a purchaser occurs when any of the following occur:

(1) The purchaser acquires possession of the security certificate.

(2) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser.

(3) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and has been specially endorsed to the purchaser by an effective endorsement.

(b) Delivery of an uncertificated security to a purchaser occurs when any of the following occur:

(1) The issuer registers the purchaser as the registered owner, upon original issue or registration of transfer.

(2) Another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

8302. (a) Except as otherwise provided in subdivisions (b) and (c), upon delivery of a certificated or uncertificated security to a purchaser, the purchaser acquires all rights in the security that the transferor had or had power to transfer.

(b) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(c) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

8303. (a) "Protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest therein, who does all of the following:

(1) Gives value.

(2) Does not have notice of any adverse claim to the security.

(3) Obtains control of the certificated or uncertificated security.

(b) In addition to acquiring the rights of a purchaser, a protected purchaser also acquires its interest in the security free of any adverse claim.

8304. (a) An endorsement may be in blank or special. An endorsement in blank includes an endorsement to bearer. A special endorsement specifies to whom a security is to be transferred or who has power to transfer it. A holder may convert a blank endorsement to a special endorsement.

(b) An endorsement purporting to be only of part of a security certificate representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.

(c) An endorsement, whether special or in blank, does not constitute a transfer until delivery of the certificate on which it appears or, if the endorsement is on a separate document, until delivery of both the document and the certificate.

(d) If a security certificate in registered form has been delivered to a purchaser without a necessary endorsement, the purchaser may become a protected purchaser only when the endorsement is supplied. However, against a transferor, a transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary endorsement supplied.

(e) An endorsement of a security certificate in bearer form may give notice of an adverse claim to the certificate, but it does not otherwise affect a right to registration that the holder possesses.

(f) Unless otherwise agreed, a person making an endorsement assumes only the obligations provided in Section 8108 and not an obligation that the security will be honored by the issuer.

8305. (a) If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed, even though it has been completed incorrectly.

(b) Unless otherwise agreed, a person initiating an instruction assumes only the obligations imposed by Section 8108 and not an obligation that the security will be honored by the issuer.

8306. (a) A person who guarantees a signature of an endorser of a security certificate warrants that at the time of signing all of the following were true:

(1) The signature was genuine.

(2) The signer was an appropriate person to endorse, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person.

(3) The signer had legal capacity to sign.

(b) A person who guarantees a signature of the originator of an instruction warrants that at the time of signing all of the following were true:

(1) The signature was genuine.

(2) The signer was an appropriate person to originate the instruction, or if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person, if the person specified in the instruction as the registered owner was, in fact, the registered owner, as to which fact the signature guarantor does not make a warranty.

(3) The signer had legal capacity to sign.

(c) A person who specially guarantees the signature of an originator of an instruction makes the warranties of a signature guarantor under subdivision (b) and also warrants that at the time the instruction is presented to the issuer all of the following are true:

(1) The person specified in the instruction as the registered owner of the uncertificated security will be the registered owner.

(2) The transfer of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions, and claims other than those specified in the instruction.

(d) A guarantor under subdivisions (a) and (b) or a special guarantor under subdivision (c) does not otherwise warrant the rightfulness of the transfer.

(e) A person who guarantees an endorsement of a security certificate makes the warranties of a signature guarantor under subdivision (a) and also warrants the rightfulness of the transfer in all respects.

(f) A person who guarantees an instruction requesting the transfer of an uncertificated security makes the warranties of a special signature guarantor under subdivision (c) and also warrants the rightfulness of the transfer in all respects.

(g) An issuer may not require a special guaranty of signature, a guaranty of endorsement, or a guaranty of instruction as a condition to registration of transfer.

(h) The warranties under this section are made to a person taking or dealing with the security in reliance on the guaranty, and the guarantor is liable to the person for loss resulting from their breach. An endorser or originator of an instruction whose signature, endorsement, or instruction has been guaranteed is liable to a guarantor for any loss suffered by the guarantor as a result of breach of the warranties of the guarantor.

8307. Unless otherwise agreed, the transferor of a security on due demand shall supply the purchaser with proof of authority to transfer or with any other requisite necessary to obtain registration of the transfer of the security, but if the transfer is not for value, a transferor need not comply unless the purchaser pays the necessary expenses.

If the transferor fails within a reasonable time to comply with the demand, the purchaser may reject or rescind the transfer.

CHAPTER 4. REGISTRATION

8401. (a) If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security, the issuer shall register the transfer as requested if the following conditions are met:

(1) Under the terms of the security the person seeking registration of transfer is eligible to have the security registered in its name.

(2) The endorsement or instruction is made by the appropriate person or by an agent who has actual authority to act on behalf of the appropriate person.

(3) Reasonable assurance is given that the endorsement or instruction is genuine and authorized (Section 8402).

(4) Any applicable law relating to the collection of taxes has been complied with.

(5) The transfer does not violate any restriction on transfer imposed by the issuer in accordance with Section 8204.

(6) A demand that the issuer not register transfer has not become effective under Section 8403, or the issuer has complied with subdivision (b) of Section 8403 but no legal process or indemnity bond is obtained as provided in subdivision (d) of Section 8403.

(7) The transfer is in fact rightful or is to a protected purchaser.

(b) If an issuer is under a duty to register a transfer of a security, the issuer is liable to a person presenting a certificated security or an instruction for registration or to the person's principal for loss resulting from unreasonable delay in registration or failure or refusal to register the transfer.

8402. (a) An issuer may require the following assurance that each necessary endorsement or each instruction is genuine and authorized:

(1) In all cases, a guaranty of the signature of the person making an endorsement or originating an instruction including, in the case of an instruction, reasonable assurance of identity.

(2) If the endorsement is made or the instruction is originated by an agent, appropriate assurance of actual authority to sign.

(3) If the endorsement is made or the instruction is originated by a fiduciary pursuant to paragraph (4) or (5) of Section 8107, appropriate evidence of appointment or incumbency.

(4) If there is more than one fiduciary, reasonable assurance that all who are required to sign have done so.

(5) If the endorsement is made or the instruction is originated by a person not covered by another provision of this subdivision,

assurance appropriate to the case corresponding as nearly as may be to the provisions of this subdivision.

(b) An issuer may elect to require reasonable assurance beyond that specified in this section.

(c) In this section:

(1) "Guaranty of the signature" means a guaranty signed by or on behalf of a person reasonably believed by the issuer to be responsible. An issuer may adopt standards with respect to responsibility if they are not manifestly unreasonable.

(2) "Appropriate evidence of appointment or incumbency" means:

(A) In the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of the court or an officer thereof and dated within 60 days before the date of presentation for transfer.

(B) In any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by an issuer to be responsible or, in the absence of that document or certificate, other evidence the issuer reasonably considers appropriate.

8403. (a) A person who is an appropriate person to make an endorsement or originate an instruction may demand that the issuer not register transfer of a security by communicating to the issuer a notification that identifies the registered owner and the issue of which the security is a part and provides an address for communications directed to the person making the demand. The demand is effective only if it is received by the issuer at a time and in a manner affording the issuer reasonable opportunity to act on it.

(b) If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security after a demand that the issuer not register transfer has become effective, the issuer shall promptly communicate to (A) the person who initiated the demand at the address provided in the demand and (B) the person who presented the security for registration of transfer or initiated the instruction requesting registration of transfer a notification stating all of the following:

(1) The certificated security has been presented for registration of transfer or the instruction for registration of transfer of the uncertificated security has been received.

(2) A demand that the issuer not register transfer had previously been received.

(3) The issuer will withhold registration of transfer for a period of time stated in the notification in order to provide the person who initiated the demand an opportunity to obtain legal process or an indemnity bond.

(c) The period described in paragraph (3) of subdivision (b) may not exceed 30 days after the date of communication of the

notification. A shorter period may be specified by the issuer if it is not manifestly unreasonable.

(d) An issuer is not liable to a person who initiated a demand that the issuer not register transfer for any loss the person suffers as a result of registration of a transfer pursuant to an effective endorsement or instruction if the person who initiated the demand does not, within the time stated in the issuer's communication, either:

(1) Obtain an appropriate restraining order, injunction, or other process from a court of competent jurisdiction enjoining the issuer from registering the transfer.

(2) File with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar, or other agent of the issuer involved from any loss it or they may suffer by refusing to register the transfer.

(e) This section does not relieve an issuer from liability for registering transfer pursuant to an endorsement or instruction that was not effective.

8404. (a) Except as otherwise provided in Section 8406, an issuer is liable for wrongful registration of transfer if the issuer has registered a transfer of a security to a person not entitled to it, and the transfer was registered in any of the following circumstances:

(1) Pursuant to an ineffective endorsement or instruction.

(2) After a demand that the issuer not register transfer became effective under subdivision (a) of Section 8403(a) and the issuer did not comply with subdivision (b) of Section 8403.

(3) After the issuer had been served with an injunction, restraining order, or other legal process enjoining it from registering the transfer, issued by a court of competent jurisdiction, and the issuer had a reasonable opportunity to act on the injunction, restraining order, or other legal process.

(4) By an issuer acting in collusion with the wrongdoer.

(b) An issuer that is liable for wrongful registration of transfer under subdivision (a) on demand shall provide the person entitled to the security with a like certificated or uncertificated security, and any payments or distributions that the person did not receive as a result of the wrongful registration. If an overissue would result, the issuer's liability to provide the person with a like security is governed by Section 8210.

(c) Except as otherwise provided in subdivision (a) or in a law relating to the collection of taxes, an issuer is not liable to an owner or other person suffering loss as a result of the registration of a transfer of a security if registration was made pursuant to an effective endorsement or instruction.

8405. (a) If an owner of a certificated security, whether in registered or bearer form, claims that the certificate has been lost, destroyed, or wrongfully taken, the issuer shall issue a new certificate if the owner does all of the following:

(1) So requests before the issuer has notice that the certificate has been acquired by a protected purchaser.

(2) Files with the issuer a sufficient indemnity bond.

(3) Satisfies other reasonable requirements imposed by the issuer.

(b) If, after the issue of a new security certificate, a protected purchaser of the original certificate presents it for registration of transfer, the issuer shall register the transfer unless an overissue would result. In that case, the issuer's liability is governed by Section 8210. In addition to any rights on the indemnity bond, an issuer may recover the new certificate from a person to whom it was issued or any person taking under that person, except a protected purchaser.

8406. If a security certificate has been lost, apparently destroyed, or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after the owner has notice of it and the issuer registers a transfer of the security before receiving notification, the owner may not assert against the issuer a claim for registering the transfer under Section 8404 or a claim to a new security certificate under Section 8405.

8407. A person acting as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of a transfer of its securities, in the issue of new security certificates or uncertificated securities, or in the cancellation of surrendered security certificates has the same obligation to the holder or owner of a certificated or uncertificated security with regard to the particular functions performed as the issuer has in regard to those functions.

CHAPTER 5. SECURITY ENTITLEMENTS

8501. (a) "Securities account" means an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.

(b) Except as otherwise provided in subdivisions (d) and (e), a person acquires a security entitlement if a securities intermediary does any of the following:

(1) Indicates by book entry that a financial asset has been credited to the person's securities account.

(2) Receives a financial asset from the person or acquires a financial asset for the person and, in either case, accepts it for credit to the person's securities account.

(3) Becomes obligated under other law, regulation, or rule to credit a financial asset to the person's securities account.

(c) If a condition of subdivision (b) has been met, a person has a security entitlement even though the securities intermediary does not itself hold the financial asset.

(d) If a securities intermediary holds a financial asset for another person, and the financial asset is registered in the name of, payable to the order of, or specially endorsed to the other person, and has not been endorsed to the securities intermediary or in blank, the other person is treated as holding the financial asset directly rather than as having a security entitlement with respect to the financial asset.

(e) Issuance of a security is not establishment of a security entitlement.

8502. An action based on an adverse claim to a financial asset, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who acquires a security entitlement under Section 8501 for value and without notice of the adverse claim.

8503. (a) To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not property of the securities intermediary, and are not subject to claims of creditors of the securities intermediary, except as otherwise provided in Section 8511.

(b) An entitlement holder's property interest with respect to a particular financial asset under subdivision (a) is a pro rata property interest in all interests in that financial asset held by the securities intermediary, without regard to the time the entitlement holder acquired the security entitlement or the time the securities intermediary acquired the interest in that financial asset.

(c) An entitlement holder's property interest with respect to a particular financial asset under subdivision (a) may be enforced against the securities intermediary only by exercise of the entitlement holder's rights under Sections 8505 to 8508, inclusive.

(d) An entitlement holder's property interest with respect to a particular financial asset under subdivision (a) may be enforced against a purchaser of the financial asset or interest therein only if all of the following conditions are met:

(1) Insolvency proceedings have been initiated by or against the securities intermediary.

(2) The securities intermediary does not have sufficient interests in the financial asset to satisfy the security entitlements of all of its entitlement holders to that financial asset.

(3) The securities intermediary violated its obligations under Section 8504 by transferring the financial asset or interest therein to the purchaser.

(4) The purchaser is not protected under subdivision (e). The trustee or other liquidator, acting on behalf of all entitlement holders having security entitlements with respect to a particular financial asset, may recover the financial asset, or interest therein, from the purchaser. If the trustee or other liquidator elects not to pursue that right, an entitlement holder whose security entitlement remains

unsatisfied has the right to recover its interest in the financial asset from the purchaser.

(e) An action based on the entitlement holder's property interest with respect to a particular financial asset under subdivision (a), whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against any purchaser of a financial asset or interest therein who gives value, obtains control, and does not act in collusion with the securities intermediary in violating the securities intermediary's obligations under Section 8504.

8504. (a) A securities intermediary shall promptly obtain and thereafter maintain a financial asset in a quantity corresponding to the aggregate of all security entitlements it has established in favor of its entitlement holders with respect to that financial asset. The securities intermediary may maintain those financial assets directly or through one or more other securities intermediaries.

(b) Except to the extent otherwise agreed by its entitlement holder, a securities intermediary may not grant any security interests in a financial asset it is obligated to maintain pursuant to subdivision (a).

(c) A securities intermediary satisfies the duty in subdivision (a) if it does either of the following:

(1) The securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary.

(2) In the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to obtain and maintain the financial asset.

(d) This section does not apply to a clearing corporation that is itself the obligor of an option or similar obligation to which its entitlement holders have security entitlements.

8505. (a) A securities intermediary shall take action to obtain a payment or distribution made by the issuer of a financial asset. A securities intermediary satisfies the duty if it does either of the following:

(1) The securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary.

(2) In the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to attempt to obtain the payment or distribution.

(b) A securities intermediary is obligated to its entitlement holder for a payment or distribution made by the issuer of a financial asset if the payment or distribution is received by the securities intermediary.

8506. A securities intermediary shall exercise rights with respect to a financial asset if directed to do so by an entitlement holder. A

securities intermediary satisfies the duty if it does either of the following:

(1) The securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary.

(2) In the absence of agreement, the securities intermediary either places the entitlement holder in a position to exercise the rights directly or exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

8507. (a) A securities intermediary shall comply with an entitlement order if the entitlement order is originated by the appropriate person, the securities intermediary has had reasonable opportunity to assure itself that the entitlement order is genuine and authorized, and the securities intermediary has had reasonable opportunity to comply with the entitlement order. A securities intermediary satisfies the duty if it does either of the following:

(1) The securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary.

(2) In the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to comply with the entitlement order.

(b) If a securities intermediary transfers a financial asset pursuant to an ineffective entitlement order, the securities intermediary shall reestablish a security entitlement in favor of the person entitled to it, and pay or credit any payments or distributions that the person did not receive as a result of the wrongful transfer. If the securities intermediary does not reestablish a security entitlement, the securities intermediary is liable to the entitlement holder for damages.

8508. A securities intermediary shall act at the direction of an entitlement holder to change a security entitlement into another available form of holding for which the entitlement holder is eligible, or to cause the financial asset to be transferred to a securities account of the entitlement holder with another securities intermediary. A securities intermediary satisfies the duty if it does either of the following:

(1) The securities intermediary acts as agreed upon by the entitlement holder and the securities intermediary.

(2) In the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder.

8509. (a) If the substance of a duty imposed upon a securities intermediary by Sections 8504 to 8508, inclusive, is the subject of a federal statute, regulation, or rule, compliance with that statute, regulation, or rule satisfies the duty.

(b) To the extent that specific standards for the performance of the duties of a securities intermediary or the exercise of the rights of an entitlement holder are not specified by other statute, regulation, or rule or by agreement between the securities intermediary and entitlement holder, the securities intermediary shall perform its duties and the entitlement holder shall exercise its rights in a commercially reasonable manner.

(c) The obligation of a securities intermediary to perform the duties imposed by Sections 8504 to 8508, inclusive, is subject to the following:

(1) Rights of the securities intermediary arising out of a security interest under a security agreement with the entitlement holder or otherwise.

(2) Rights of the securities intermediary under other law, regulation, rule, or agreement to withhold performance of its duties as a result of unfulfilled obligations of the entitlement holder to the securities intermediary.

(d) Sections 8504 to 8508, inclusive, do not require a securities intermediary to take any action that is prohibited by other statute, regulation, or rule.

8510. (a) An action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under Section 8502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in Division 9 (commencing with Section 9101), a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. Purchasers who have control rank equally, except that a securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

8511. (a) Except as otherwise provided in subdivisions (b) and (c), if a securities intermediary does not have sufficient interests in a particular financial asset to satisfy both its obligations to entitlement holders who have security entitlements to that financial asset and its obligation to a creditor of the securities intermediary who has a security interest in that financial asset, the claims of entitlement holders, other than the creditor, have priority over the claim of the creditor.

(b) A claim of a creditor of a securities intermediary who has a security interest in a financial asset held by a securities intermediary

has priority over claims of the securities intermediary's entitlement holders who have security entitlements with respect to that financial asset if the creditor has control over the financial asset.

(c) If a clearing corporation does not have sufficient financial assets to satisfy both its obligations to entitlement holders who have security entitlements with respect to a financial asset and its obligation to a creditor of the clearing corporation who has a security interest in that financial asset, the claim of the creditor has priority over the claims of entitlement holders.

CHAPTER 6. TRANSITION PROVISIONS

8601. This division becomes operative January 1, 1997.

8603. (a) This division does not affect an action or proceeding commenced before this division becomes operative.

(b) If a security interest in a security is perfected at the date this division becomes operative, and the action by which the security interest was perfected would suffice to perfect a security interest under this division, no further action is required to continue perfection. If a security interest in a security is perfected at the date this division takes effect but the action by which the security interest was perfected would not suffice to perfect a security interest under this division, the security interest remains perfected for a period of four months after the operative date and continues perfected thereafter if appropriate action to perfect under this division is taken within that period. If a security interest is perfected at the date this division becomes operative and the security interest can be perfected by filing under this division, a financing statement signed by the secured party instead of the debtor may be filed within that period to continue perfection or thereafter to perfect and that financing statement shall contain a statement that it is being filed pursuant to this section.

SEC. 10. Section 9103 of the Commercial Code is amended to read:

9103. (1) (a) This subdivision applies to documents, instruments, rights to proceeds of written letters of credit, and goods other than those covered by a certificate of title described in subdivision (2), mobile goods described in subdivision (3), and minerals described in subdivision (5).

(b) Except as otherwise provided in this subdivision, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs

the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until 30 days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the 30-day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by Chapter 3 (commencing with Section 9301) to perfect the security interest:

(i) If the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal.

(ii) If the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter.

(iii) For the purpose of priority over a buyer of consumer goods (subdivision (2) of Section 9307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(e) If goods are or become fixtures (Section 9313(1)(a)) in relation to real estate located in this state, the conflicting interest of an encumbrancer or owner of the real estate is governed by Section 9313.

(2) (a) This subdivision applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection whether such certificate is designated a "certificate of title," "certificate of ownership," or otherwise.

(b) Except as otherwise provided in this subdivision, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to the rules stated in paragraph (d) of subdivision (1).

(d) If goods are brought into this state while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this state and the certificate does not show that the goods are subject to the security interest or that they may be subject to a security interest not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he or she gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) (a) This subdivision applies to accounts (other than an account described in subdivision (5) on minerals) and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, roadbuilding and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subdivision (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or nonperfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at the debtor's place of business if he or she has one, at the debtor's chief executive office if he or she has more than one place of business, or otherwise at the debtor's residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the

new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) The rules stated for goods in subdivision (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subdivision (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) (a) This subdivision applies to investment property.

(b) Except as otherwise provided in paragraph (f), during the time that a security certificate is located in a jurisdiction, perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby are governed by the local law of that jurisdiction.

(c) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security are governed by the local law of the issuer's jurisdiction as specified in subdivision (d) of Section 8110.

(d) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account are governed by the local law of the securities intermediary's jurisdiction as specified in subdivision (e) of Section 8110.

(e) Except as otherwise provided in paragraph (f), perfection of a security interest, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account are governed by the local law of the commodity intermediary's jurisdiction. The following rules determine a "commodity intermediary's jurisdiction" for purposes of this paragraph:

(i) If an agreement between the commodity intermediary and commodity customer specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(ii) If an agreement between the commodity intermediary and commodity customer does not specify the governing law as provided in subparagraph (i), but expressly specifies that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(iii) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraphs (i) or (ii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the commodity customer's account.

(iv) If an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in subparagraphs (i) or (ii) and an account statement does not identify an office serving the commodity customer's account as provided in subparagraph (iii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the commodity intermediary.

(f) Perfection of a security interest by filing, automatic perfection of a security interest in investment property granted by a broker or securities intermediary, and automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary are governed by the local law of the jurisdiction in which the debtor is located. The rules in paragraphs (c), (d), and (e) of subdivision (3) apply to security interests to which this paragraph applies.

SEC. 11. Section 9105 of the Commercial Code is amended to read:

9105. (1) In this division unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible.

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper.

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold.

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he or she owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, "debtor" means the owner of the collateral in any provision of the division dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires.

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit.

(f) "Document" means document of title as defined in the general definitions of Division 1 (Section 1201), and a receipt of the kind described in subdivision (2) of Section 7201.

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (Section 9313), but does not include money, documents, instruments, investment property, accounts, chattel paper, general intangibles or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops.

(i) "Instrument" means a negotiable instrument (defined in Section 3104) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary endorsement or assignment. The term does not include investment property.

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like.

(k) An advance is made "pursuant to commitment" if the secured party has bound himself or herself to make it, whether or not a subsequent event of default or other event not within his or her control has relieved or may relieve him or her from his or her obligation.

(*l*) "Security agreement" means an agreement which creates or provides for a security interest.

(m) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. If a security interest is in favor of a trustee, indenture trustee, agent, collateral agent, or other representative, the representative is the secured party.

(n) "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service.

(o) "New value" includes new advances or loans made, or new obligations incurred, or the release of a valid and existing security interest, or the release of a claim to proceeds; but "new value" shall not be construed to include extension or renewals of existing obligations of the debtor, nor obligations substituted for such existing obligations.

(2) Other definitions applying to this division and the sections in which they appear are:

"Account." Section 9106.
"Attach." Section 9203.
"Commodity contract." Section 9115.
"Commodity customer." Section 9115.
"Commodity intermediary." Section 9115.
"Consumer goods." Section 9109(1).
"Construction mortgage." Section 9313(1).
"Control." Section 9115.
"Equipment." Section 9109(2).
"Farm products." Section 9109(3).
"Fixture." Section 9313(1).
"Fixture filing." Section 9313(1).
"General intangibles." Section 9106.
"Inventory." Section 9109(4).
"Investment property." Section 9115.
"Lien creditor." Section 9301(3).
"Proceeds." Section 9306(1).
"Purchase money security interest." Section 9107.
"United States." Section 9103.

(3) The following definitions in other divisions apply to this division:

"Broker." Section 8102.
"Certificated security." Section 8102.
"Check." Section 3104.
"Clearing corporation." Section 8102.
"Contract for sale." Section 2106.
"Control." Section 8106.
"Delivery." Section 8301.
"Entitlement holder." Section 8102.
"Financial asset." Section 8102.
"Holder in due course." Section 3302.
"Letter of credit." Section 5102.
"Note." Section 3104.
"Proceeds of a letter of credit." Subdivision (a) of Section 5114.
"Sale." Section 2106.
"Securities intermediary." Section 8102.
"Security." Section 8102.
"Security certificate." Section 8102.
"Security entitlement." Section 8102.
"Uncertificated security." Section 8102.

(4) In addition, Division 1 (commencing with Section 1101) contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 12. Section 9106 of the Commercial Code is amended to read:

9106. "Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by

performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, investment property, rights to proceeds of written letters of credit, and money. All rights to payment earned or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts.

SEC. 13. Section 9115 is added to the Commercial Code, to read:

9115. (1) In this division:

(a) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(b) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or other contract that, in each case, is either of the following:

(i) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to the federal commodities laws.

(ii) Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(c) "Commodity customer" means a person for whom a commodity intermediary carries a commodity contract on its books.

(d) "Commodity intermediary" means either of the following:

(i) A person who is registered as a futures commission merchant under the federal commodities laws.

(ii) A person who in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to the federal commodities laws.

(e) "Control" with respect to a certificated security, uncertificated security, or security entitlement has the meaning specified in Section 8106. A secured party has control over a commodity contract if by agreement among the commodity customer, the commodity intermediary, and the secured party, the commodity intermediary has agreed that it will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer. If a commodity customer grants a security interest in a commodity contract to its own commodity intermediary, the commodity intermediary as secured party has control. A secured party has control over a securities account or commodity account if the secured party has control over all security entitlements or commodity contracts carried in the securities account or commodity account.

(f) "Investment property" means any of the following:

(i) A security, whether certificated or uncertificated.

(ii) A security entitlement.

(iii) A securities account.

(iv) A commodity contract.

(v) A commodity account.

(2) Attachment or perfection of a security interest in a securities account is also attachment or perfection of a security interest in all security entitlements carried in the securities account. Attachment or perfection of a security interest in a commodity account is also attachment or perfection of a security interest in all commodity contracts carried in the commodity account.

(3) A description of collateral in a security agreement or financing statement is sufficient to create or perfect a security interest in a certificated security, uncertificated security, security entitlement, securities account, commodity contract, or commodity account whether it describes the collateral by those terms, or as investment property, or by description of the underlying security, financial asset, or commodity contract. A description of investment property collateral in a security agreement or financing statement is sufficient if it identifies the collateral by specific listing, by category, by quantity, by a computational or allocational formula or procedure, or by any other method, if the identity of the collateral is objectively determinable.

(4) Perfection of a security interest in investment property is governed by the following rules:

(a) A security interest in investment property may be perfected by control.

(b) Except as otherwise provided in paragraphs (c) and (d), a security interest in investment property may be perfected by filing.

(c) If the debtor is a broker or securities intermediary, a security interest in investment property is perfected when it attaches. The filing of a financing statement with respect to a security interest in investment property granted by a broker or securities intermediary has no effect for purposes of perfection or priority with respect to that security interest.

(d) If a debtor is a commodity intermediary, a security interest in a commodity contract or a commodity account is perfected when it attaches. The filing of a financing statement with respect to a security interest in a commodity contract or a commodity account granted by a commodity intermediary has no effect for purposes of perfection or priority with respect to that security interest.

(5) Priority between conflicting security interests in the same investment property is governed by the following rules:

(a) A security interest of a secured party who has control over investment property has priority over a security interest of a secured party who does not have control over the investment property.

(b) Except as otherwise provided in paragraphs (c) and (d), conflicting security interests of secured parties each of whom has control rank equally.

(c) Except as otherwise agreed by the securities intermediary, a security interest in a security entitlement or a securities account

granted to the debtor's own securities intermediary has priority over any security interest granted by the debtor to another secured party.

(d) Except as otherwise agreed by the commodity intermediary, a security interest in a commodity contract or a commodity account granted to the debtor's own commodity intermediary has priority over any security interest granted by the debtor to another secured party.

(e) Conflicting security interests granted by a broker, a securities intermediary, or a commodity intermediary that are perfected without control rank equally.

(f) In all other cases, priority between conflicting security interests in investment property is governed by subdivisions (5), (6), and (7) of Section 9312. Subdivision (4) of Section 9312 does not apply to investment property.

(6) If a security certificate in registered form is delivered to a secured party pursuant to agreement, a written security agreement is not required for attachment or enforceability of the security interest, delivery suffices for perfection of the security interest, and the security interest has priority over a conflicting security interest perfected by means other than control, even if a necessary endorsement is lacking.

SEC. 14. Section 9116 is added to the Commercial Code, to read:

9116. (1) If a person buys a financial asset through a securities intermediary in a transaction in which the buyer is obligated to pay the purchase price to the securities intermediary at the time of the purchase, and the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary, the securities intermediary has a security interest in the buyer's security entitlement securing the buyer's obligation to pay. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

(2) If a certificated security, or other financial asset represented by a writing that in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment is delivered pursuant to an agreement between persons in the business of dealing with those securities or financial assets and the agreement calls for delivery versus payment, the person delivering the certificate or other financial asset has a security interest in the certificated security or other financial asset securing the seller's right to receive payment. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

SEC. 15. Section 9203 of the Commercial Code is amended to read:

9203. (1) Subject to the provisions of Section 4210 on the security interest of a collecting bank, Sections 9115 and 9116 on security interests in investment property, and Section 9113 on a security

interest arising under the divisions on sales and leases, a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless all of the following are applicable:

(a) The collateral is in the possession of the secured party pursuant to agreement, the collateral is investment property and the secured party has control pursuant to agreement, or the debtor has signed a security agreement which contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned.

(b) Value has been given.

(c) The debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in subdivision (1) have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed, a security agreement gives the secured party the rights to proceeds provided by Section 9306.

(4) A transaction, although subject to this division, is also subject to the Retail Installment Sales Act, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code; the Automobile Sales Finance Act, Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code; the Industrial Loan Law, Division 7 (commencing with Section 18000) of the Financial Code; the Pawnbroker Law, Division 8 (commencing with Section 21000) of the Financial Code; the Personal Property Brokers Law, Division 9 (commencing with Section 22000) of the Financial Code; the Consumer Finance Lenders Law, Division 10 (commencing with Section 24000) of the Financial Code; the Commercial Finance Lenders Law, Division 11 (commencing with Section 26000) of the Financial Code; and the Mobilehomes-Manufactured Housing Act of 1980, Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, and in the case of conflict between the provisions of this division and that statute, the provisions of that statute control. Failure to comply with any applicable statute has only the effect which is specified in that statute.

SEC. 16. Section 9301 of the Commercial Code is amended to read:

9301. (1) Except as otherwise provided in subdivision (2), an unperfected security interest is subordinate to the rights of all of the following:

(a) Persons entitled to priority under Section 9312.

(b) A person who becomes a lien creditor before the security interest is perfected.

(c) In the case of goods, instruments, documents, and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business to the extent

that he or she gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected.

(d) In the case of accounts, general intangibles, and investment property, a person who is not a secured party and who is a transferee to the extent that he or she gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within 20 days after the debtor receives possession of the collateral, he or she takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment. "Lien creditor" does not include a creditor who by filing a notice with the Secretary of State has acquired only an attachment or judgment lien on personal property, or both.

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he or she becomes a lien creditor or within 45 days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien.

SEC. 17. Section 9302 of the Commercial Code is amended to read:

9302. (1) A financing statement must be filed to perfect all security interests except the following:

(a) A security interest in collateral in possession of the secured party under Section 9305.

(b) A security interest temporarily perfected in instruments, certificated securities, or documents without delivery under Section 9304 or in proceeds for a 10-day period under Section 9306.

(c) A security interest created by an assignment of a beneficial interest in a trust or a decedent's estate.

(d) A purchase money security interest in consumer goods; but filing is required for a motor vehicle or boat required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in Section 9313.

(e) A security interest of a collecting bank (Section 4210) or arising under the divisions on sales and leases (see Section 9113) or covered in subdivision (3) of this section.

(f) An assignment for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder.

(g) A security interest in a deposit account. Such a security interest is perfected:

(i) As to a deposit account maintained with the secured party, when the security agreement is executed.

(ii) As to a deposit account not described in subparagraph (i), when notice thereof is given in writing to the organization with whom the deposit account is maintained.

(h) A security interest in investment property that is perfected without filing under Section 9115 or 9116.

(i) A security interest in or claim in or under any policy of insurance including unearned premiums. Such interest shall be perfected when notice thereof is given in writing to the insurer.

(2) If a secured party assigns a perfected security interest, no filing under this division is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by this division is not necessary or effective to perfect a security interest in property subject to any of the following:

(a) A statute or treaty of the United States which provides for a national or international registration or a national or international certificate of title or which specifies a place of filing different from that specified in this division for filing of the security interest.

(b) The provisions of the Vehicle Code which require registration of a vehicle or boat, or provisions of the Health and Safety Code which require registration of a mobilehome or commercial coach; but during any period in which collateral is inventory, the filing provisions of this division (Chapter 4 (commencing with Section 9401)) apply to a security interest in that collateral.

(c) A certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (subdivision (2) of Section 9103).

(d) The provisions of the Health and Safety Code which require registration of all interests in approved air contaminant emission reductions (Sections 40709 to 40713, inclusive, of the Health and Safety Code).

(4) Compliance with a statute or treaty described in subdivision (3) is equivalent to the filing of a financing statement under this division and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in Section 9103 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to this division.

SEC. 18. Section 9304 of the Commercial Code is amended to read:

9304. (1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in the

rights to proceeds of a written letter of credit can be perfected only by the secured party's taking possession of the letter of credit. A security interest in money or instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in subdivisions (4), (5), and (7) of this section and subdivisions (2) and (3) of Section 9306 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during the period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments, certificated securities, or negotiable documents is perfected without filing or the taking of possession for a period of 21 days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of 21 days without filing where a secured party having a perfected security interest in an instrument, a certificated security, a negotiable document, or goods in possession of a bailee other than one who has issued a negotiable document therefor does either of the following:

(a) Makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to subdivision (3) of Section 9312.

(b) Delivers the instrument or certificated security to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the 21-day period in subdivisions (4) and (5), perfection depends upon compliance with applicable provisions of this division.

(7) If an instrument claimed as proceeds (other than cash proceeds) under Section 9306 is in the custody of a levying officer, a secured party may perfect a security interest in such instrument by filing a third-party claim with the levying officer pursuant to Chapter 3 (commencing with Section 720.210) of Division 4 of Title 9 of Part 2 of the Code of Civil Procedure within the 10-day period allowed under Section 9306.

SEC. 19. Section 9305 of the Commercial Code is amended to read:

9305. A security interest in goods, instruments, money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. A security interest in the right to proceeds of a written letter of credit may be perfected by the secured party's taking possession of the letter of credit. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in this division. The security interest may be otherwise perfected as provided in this division before or after the period of possession by the secured party.

SEC. 20. Section 9306 of the Commercial Code is amended to read:

9306. (1) "Proceeds" includes whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Any payments or distributions made with respect to investment property collateral are proceeds. Money, checks, deposit accounts, and the like are "cash proceeds." All other proceeds are "noncash proceeds."

(2) Except where this division or subdivision (4) of Section 8321 otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof unless the disposition was authorized by the secured party in the security agreement or otherwise, and also continues in any identifiable proceeds including collections received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected but it ceases to be a perfected security interest and becomes unperfected 10 days after receipt of the proceeds by the debtor unless any of the following apply:

(a) A filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds.

(b) A filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds.

(c) The original collateral was investment property and the proceeds are identifiable cash proceeds.

(d) The security interest in the proceeds is perfected before the expiration of the 10-day period.

Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances

permitted in this division or Division 8 (commencing with Section 8101) for original collateral of the same type.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest only in all of the following proceeds:

(a) In identifiable noncash proceeds and in a separate deposit account containing only proceeds.

(b) In identifiable cash proceeds in the form of money which is neither commingled with other money nor deposited in a deposit account prior to the insolvency proceedings.

(c) In identifiable cash proceeds in the form of checks and the like which are not deposited in a deposit account prior to the insolvency proceedings.

(d) In all cash and deposit accounts of the debtor in which proceeds have been commingled with other funds, but the perfected security interest under this paragraph (d) is both:

(i) Subject to any right of setoff.

(ii) Limited to an amount not greater than the amount of any cash proceeds received by the debtor within 10 days before the institution of the insolvency proceedings less the sum of (I) the payments to the secured party on account of cash proceeds received by the debtor during such period and (II) the cash proceeds received by the debtor during such period to which the secured party is entitled under paragraphs (a), (b), and (c).

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) If the goods were collateral at the time of sale, for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file.

(b) An unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under paragraph (a) to the extent that the transferee of the chattel paper was entitled to priority under Section 9308.

(c) An unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under paragraph (a).

(d) A security interest of an unpaid transferee asserted under paragraph (b) or (c) must be perfected for protection against

creditors of the transferor and purchasers of the returned or repossessed goods.

(6) Cash proceeds retain their character as cash proceeds while in the possession of a levying officer pursuant to Title 6.5 (commencing with Section 481.010) or Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

SEC. 21. Section 9309 of the Commercial Code is amended to read:

9309. Nothing in this division limits the rights of a holder in due course of a negotiable instrument (Section 3302) or a holder to whom a negotiable document of title has been duly negotiated (Section 7501) or a protected purchaser of a security (Section 8303) and the holders or purchasers take priority over an earlier security interest even though perfected. Filing under this division does not constitute notice of the security interest to the holders or purchasers.

SEC. 22. Section 9312 of the Commercial Code is amended to read:

9312. (1) The rules of priority stated in other sections of this chapter and in the following sections shall govern where applicable: Section 4210 with respect to the security interest of collecting banks in items being collected, accompanying documents and proceeds; Section 9103 on security interests related to other jurisdictions; Section 9114 on consignments; Section 9115 on security interests in investment property.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if all of the following occur:

(a) The purchase money security interest is perfected at the time the debtor receives possession of the inventory.

(b) The purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the 21-day period where the purchase money security interest is temporarily perfected without filing or possession (subdivision (5) of Section 9304).

(c) The holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory.

(d) The notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within 20 days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests which do not qualify for the special priorities set forth in subdivisions (3) and (4)), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) Conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection.

(b) So long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of subdivision (5) a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing, the taking of possession, or under Section 9115 or 9116 on investment property, the security interest has the same priority for the purposes of subdivision (5) with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made.

SEC. 23. Section 15103 of the Commercial Code is amended to read:

15103. The owner of an interest (other than a security interest) in an uncertificated security (paragraph (b) of subdivision (1) of Section 8102) whose interest was acquired prior to January 1, 1985, or was acquired after January 1, 1985, in an uncertificated security issued in respect of a security in which the owner had such an interest, shall not be required to take any action under Section 8313 or otherwise to preserve or protect that ownership interest, which shall remain effective and enforceable to the same extent it was prior to January 1, 1985, in the absence of that action. However, if a security interest first attaches to the security or any other interest in the security first becomes effective after that date, the provisions of Division 8 (commencing with Section 8101) as revised shall govern the rights and obligations of all persons with respect to those interests. Except as otherwise provided in this division, the rights and obligations of all persons with respect to uncertificated securities issued prior to January 1, 1985, shall be governed by Division 8 (commencing with Section 8101) as revised by Chapter 927 of the Statutes of 1984. All references in this section to Division 8 (commencing with Section 8101) or a section thereof are references to Division 8 (commencing with Section 8101) as revised by Chapter 927 of the Statutes of 1984.

SEC. 24. Section 15104 of the Commercial Code is amended to read:

15104. A secured party who has a security interest in an uncertificated security (paragraph (b) of subdivision (1) of Section 8102), which security interest attached to that uncertificated security (a) prior to January 1, 1985, or (b) after that date in an uncertificated security issued in respect of a security in which the secured party had the pre-January 1, 1985, security interest, shall not be required to take any action under Division 8 (commencing with Section 8101) to protect, preserve, or perfect that security interest, which shall remain attached and perfected to the same extent it was prior to that date in the absence of any such action. The priority and perfection of those security interests shall continue to be governed by Division 9 (commencing with Section 9101) as it existed prior to that date. However, on or before the last date on which any action is required under Division 9 (commencing with Section 9101) (as it existed prior to that date) to continue the perfection of the security interest, in order to continue the perfection of the security interest the secured party, rather than complying with Division 9 (commencing with Section 9101), shall furnish to a party described in subparagraph (i), (iii), or (iv) of paragraph (h) of subdivision (1) of Section 8313, or if none of those is applicable, then to the issuer of the uncertificated security, either (x) a copy of either the financing statement previously filed to perfect the security interest or the security agreement that created the security interest, in either case bearing a copy or an original of the debtor's signature, or (y) a written notification from the registered owner under paragraph (b) of subdivision (7) of Section 8403. Any such notice to an issuer shall be deemed a written notification under paragraph (b) of subdivision (7) of Section 8403, subject to the limitation that there can be no more than one registered pledge of an uncertificated security at any time (Section 8108). Except as otherwise provided in this division, the provisions of Division 8 (commencing with Section 8101) as revised shall govern the rights and obligations of all persons with respect to a security interest in an uncertificated security that first attaches after January 1, 1985. All references in this section to Division 8 (commencing with Section 8101) or a section thereof are references to Division 8 (commencing with Section 8101) as revised by Chapter 927 of the Statutes of 1984.

SEC. 25. Section 156.1 of the Corporations Code is amended to read:

156.1. "Certificated security" means a share (Section 184), as defined in paragraph (4) of subdivision (a) of Section 8102 of, or an obligation of the issuer as described in paragraph (15) of subdivision (a) of, the Commercial Code.

SEC. 26. Section 166 of the Corporations Code is amended to read:

166. "Distribution to its shareholders" means the transfer of cash or property by a corporation to its shareholders without consideration, whether by way of dividend or otherwise, except a dividend in shares of the corporation, or the purchase or redemption of its shares for cash or property, including the transfer, purchase, or redemption by a subsidiary of the corporation. The time of any distribution by way of dividend shall be the date of declaration thereof and the time of any distribution by purchase or redemption of shares shall be the date cash or property is transferred by the corporation, whether or not pursuant to a contract of an earlier date; provided, that where a debt obligation that is a security (as defined in Section 8102 of the Commercial Code) is issued in exchange for shares the time of the distribution is the date when the corporation acquires the shares in the exchange. In the case of a sinking fund payment, cash or property is transferred within the meaning of this section at the time that it is delivered to a trustee for the holders of preferred shares to be used for the redemption of the shares or physically segregated by the corporation in trust for that purpose. "Distribution to its shareholders" shall not include (a) satisfaction of a final judgment of a court or tribunal of appropriate jurisdiction ordering the rescission of the issuance of shares, (b) the rescission by a corporation of the issuance of it shares, if the board determines (with any director who is, or would be, a party to the transaction not being entitled to vote) that (1) it is reasonably likely that the holder or holders of the shares in question could legally enforce a claim for the rescission, (2) that the rescission is in the best interests of the corporation, and (3) the corporation is likely to be able to meet its liabilities (except those for which payment is otherwise adequately provided) as they mature, or (c) the repurchase by a corporation of its shares issued by it pursuant to Section 408, if the board determines (with any director who is, or would be, a party to the transaction not being entitled to vote) that (1) the repurchase is in the best interests of the corporation and that (2) the corporation is likely to be able to meet its liabilities (except those for which payment is otherwise adequately provided) as they mature.

SEC. 27. Section 171.1 of the Corporations Code is amended to read:

171.1. "Initial transaction statement" means a statement signed by or on behalf of the issuer sent to the new registered owner or registered pledgee, and "written statements," when used in connection with uncertificated securities, means the written statements that are periodically, or at the request of the registered owner or registered pledgee, sent by the issuer to the registered owner or registered pledgee describing the issue of which the uncertificated security is a part.

SEC. 28. Section 174 of the Corporations Code is amended to read:

174. "On the certificate" means that a statement appears on the face of a share certificate or on the reverse thereof with a reference thereto on the face or, in the case of an uncertificated security, that the applicable provisions of subdivision (a) of Section 8202 and Section 8204 of the Commercial Code have been complied with.

SEC. 29. Section 191.1 of the Corporations Code is amended to read:

191.1. "Uncertificated security" means a share (Section 184), or an obligation of the issuer, described in paragraphs (15) and (18) of subdivision (a) of Section 8102 of the Commercial Code.

SEC. 30. Section 7151 of the Government Code is amended to read:

7151. "Bona fide purchaser" has the same meaning as "protected purchaser" as defined in Section 8303 of the Commercial Code.

SEC. 31. This act shall become operative on January 1, 1997.

CHAPTER 498

An act to amend Sections 54, 54.1, 54.2, and 54.3 of the Civil Code, to amend Sections 30850 and 30852 of, and to add Sections 30853 and 30854 to, the Food and Agricultural Code, to amend Section 12948 of the Government Code, and to amend Section 365.5 of the Penal Code, relating to disabled persons.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 54 of the Civil Code is amended to read:

54. (a) Individuals with disabilities have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians' offices, public facilities, and other public places.

(b) "Disability," as used in this part, means any of the following with respect to an individual:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(2) A record of such an impairment.

(3) Being regarded as having such an impairment.

(c) A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) also constitutes a violation of this section.

SEC. 1.5. Section 54.1 of the Civil Code is amended to read:

54.1. (a) (1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to

accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, 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.

(2) As used in this section, "telephone facilities" means tariff items and other equipment and services that 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.

(3) "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, that 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) (A) Any person renting, leasing, or otherwise providing real property for compensation shall not refuse to permit an individual with a disability, at that person's expense, to make reasonable modifications of the existing rented premises if the modifications are necessary to afford the person full enjoyment of the premises. However, any modifications under this paragraph may be conditioned on the disabled tenant entering into an agreement to restore the interior of the premises to the condition existing prior to the modifications. No additional security may be required on account of an election to make modifications to the rented premises under this paragraph, but the lessor and tenant may negotiate, as part of the agreement to restore the premises, a provision requiring the disabled tenant to pay an amount into an escrow account, not to exceed a reasonable estimate of the cost of restoring the premises.

(B) Any person renting, leasing, or otherwise providing real property for compensation shall not refuse to make reasonable accommodations in rules, policies, practices, or services, when those accommodations may be necessary to afford individuals with a disability equal opportunity to use and enjoy the premises.

(4) 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.

(5) Except as provided in paragraph (6), 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.

(6) (A) 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 any other 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 any other disability to keep a service dog on the premises.

(B) 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 that 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 the same exists.

(C) (i) As used in this subdivision, "guide dog" means any guide dog that 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).

(ii) 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.

(iii) As used in this subdivision, "service dog" means any dog individually trained to the requirements of the individual with a disability, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items.

(7) 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, however, shall prohibit a lessor or landlord from considering the aggregate financial status of an individual with a disability and his or her spouse.

(c) Visually impaired or blind persons and 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 who are deaf or hearing impaired and persons authorized to train signal dogs for individuals who are deaf or hearing impaired, and other individuals with a disability and persons authorized to train service dogs for individuals with a disability, 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 ensure that the dog is on a leash and tagged as a guide dog, signal dog, or service dog by identification tag issued by the county clerk, animal control department, or other agency, as authorized by Chapter 3.5 (commencing with Section 30850) of Division 14 of the Food and Agricultural Code. In addition, the person shall be liable for any provable damage done to the premises or facilities by his or her dog.

(d) A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) also constitutes a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

(e) Nothing in this section shall preclude the requirement of the showing of a license plate or disabled placard when required by enforcement units enforcing disabled persons parking violations pursuant to Sections 22507.8 and 22511.8 of the Vehicle Code.

SEC. 2. Section 54.2 of the Civil Code is amended to read:

54.2. (a) Every individual with a disability has the right to be accompanied by a guide dog, signal dog, or service dog, especially trained for the purpose, in any of the places specified in Section 54.1 without being required to pay an extra charge or security deposit for the guide dog, signal dog, or service dog. However, the individual shall be liable for any damage done to the premises or facilities by his or her dog.

(b) Individuals who are blind or otherwise visually impaired and persons licensed to train guide dogs for individuals who are blind or visually impaired pursuant to Chapter 9.5 (commencing with Section

7200) of Division 3 of the Business and Professions Code or as defined in regulations implementing Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336), and individuals who are deaf or hearing impaired and persons authorized to train signal dogs for individuals who are deaf or hearing impaired, and individuals with a disability and persons who are authorized to train service dogs for the individuals with a disability may take dogs, for the purpose of training them as guide dogs, signal dogs, or service dogs in any of the places specified in Section 54.1 without being required to pay an extra charge or security deposit for the guide dog, signal dog, or service dog. However, the person shall be liable for any damage done to the premises or facilities by his or her dog. These persons shall ensure the dog is on a leash and tagged as a guide dog, signal dog, or service dog by an identification tag issued by the county clerk, animal control department, or other agency, as authorized by Chapter 3.5 (commencing with Section 30850) of Title 14 of the Food and Agricultural Code.

A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) also constitutes a violation of this section, and nothing in this section shall be construed to limit the access of any person in violation of that act.

(c) As used in this section, the terms "guide dog," "signal dog," and "service dog" have the same meanings as specified in Section 54.1.

(d) Nothing in this section precludes the requirement of the showing of a license plate or disabled placard when required by enforcement units enforcing disabled persons parking violations pursuant to Sections 22507.8 and 22511.8 of the Vehicle Code.

SEC. 2.3. Section 54.3 of the Civil Code is amended to read:

54.3. (a) Any person or persons, firm or corporation who denies or interferes with admittance to or enjoyment of the public facilities as specified in Sections 54 and 54.1 or otherwise interferes with the rights of an individual with a disability under Sections 54, 54.1 and 54.2 is liable for each offense for the actual damages and any amount as may be determined by a jury, or the court sitting without a jury, up to a maximum of three times the amount of actual damages but in no case less than one thousand dollars ($1,000), and attorney's fees as may be determined by the court in addition thereto, suffered by any person denied any of the rights provided in Sections 54, 54.1, and 54.2. "Interfere," for purposes of this section, includes, but is not limited to, preventing or causing the prevention of a guide dog, signal dog, or service dog from carrying out its functions in assisting a disabled person.

(b) Any person who claims to be aggrieved by an alleged unlawful practice in violation of Section 54, 54.1, or 54.2 may also file a verified complaint with the Department of Fair Employment and Housing pursuant to Section 12948 of the Government Code. The remedies in this section are nonexclusive and are in addition to any other remedy

provided by law, including, but not limited to, any action for injunctive or other equitable relief available to the aggrieved party or brought in the name of the people of this state or of the United States.

(c) A person may not be held liable for damages pursuant to both this section and Section 52 for the same act or failure to act.

SEC. 2.5. Section 30850 of the Food and Agricultural Code is amended to read:

30850. (a) The county clerk or animal control department shall endorse upon the application for an assistance dog identification tag the number of the identification tag issued. As used in this chapter, "assistance dogs" are dogs specially trained as guide dogs, signal dogs, or service dogs. All applications that have been endorsed shall be kept on file in the office of the county clerk or animal control department and shall be open to public inspection.

(b) Whenever a person applies for an assistance dog identification tag, the person shall sign an affidavit stating as follows:

"By affixing my signature to this affidavit, I hereby declare I fully understand that Section 365.7 of the Penal Code prohibits any person to knowingly and fraudulently represent himself or herself, through verbal or written notice, to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide dog, signal dog, or service dog, as defined in subdivisions (d), (e), and (f), respectively, of Section 365.5 of the Penal Code and paragraph (6) of subdivision (b) of Section 54.1 of the Civil Code, and that a violation of Section 365.7 of the Penal Code is a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine."

(c) Upon the death or retirement of an assistance dog, the owner or person in possession of the assistance dog identification tag shall immediately return the tag to the county clerk or animal control department that issued the tag.

SEC. 3. Section 30852 of the Food and Agricultural Code is amended to read:

30852. (a) The tag identifying a dog as an assistance dog shall be used only by a person with a disability or a trainer of an assistance dog and shall be of such uniform statewide shape, size, and color as to be easily recognized.

(b) The Department of Food and Agriculture, in consultation with the State Department of Health Services, shall specify the shape, size, and color of the tags. This subdivision shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 30853 is added to the Food and Agricultural Code, to read:

30853. Nothing in this chapter shall be construed to limit the access of any person in violation of the Americans with Disabilities Act of 1990 (Public Law 101-336).

SEC. 5. Section 30854 is added to the Food and Agricultural Code, to read:

30854. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid or to be in conflict with the Americans with Disabilities Act of 1990 (Public Law 101-336), that invalidity or conflict shall not affect other provisions or applications that can be given effect without the invalid or conflicting provision or application.

SEC. 5.5. Section 12948 of the Government Code is amended to read:

12948. It is an unlawful practice under this part for a person to deny or to aid, incite, or conspire in the denial of the rights created by Section 51, 51.7, 54, 54.1, or 54.2 of the Civil Code.

SEC. 6. Section 365.5 of the Penal Code is amended to read:

365.5. (a) Any blind person, deaf person, or 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 disabled person and his or her specially trained guide dog, signal dog, or service dog shall be denied admittance to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, 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 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 disabled person from exercising, or interferes with a disabled person in the exercise of, the rights specified in this section is guilty of a misdemeanor, punishable by a fine not exceeding two thousand five hundred dollars ($2,500).

(d) As used in this section, "guide dog" means any guide dog or Seeing Eye dog that was trained by a person licensed under Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code or that meets the definitional criteria under federal regulations adopted to implement Title III of the Americans with Disabilities Act of 1990 (Public Law 101-336).

(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 for the benefit of an

individual with a disability, including, but not limited to, minimal protection work, rescue work, pulling a wheelchair, or fetching dropped items.

(g) (1) Nothing in this section is intended to affect any civil remedies available for a violation of this section.

(2) This section is intended to provide equal accessibility for all owners or trainers of animals that are trained as guide dogs, signal dogs, or service dogs in a manner that is no less than that provided by the Americans with Disabilities Act of 1990 (Public Law 101-336) and the Air Carrier Access Act of 1986 (Public Law 99-435).

(h) The exercise of rights specified in subdivisions (a) and (b) by any person may not be conditioned upon payment of any extra charge, provided that the person shall be liable for any provable damage done to the premises or facilities by his or her dog.

(i) Any trainer or individual with a disability may take dogs in any of the places specified in subdivisions (a) and (b) for the purpose of training the dogs as guide dogs, signal dogs, or service dogs. The person shall ensure that the dog is on a leash and tagged as a guide dog, signal dog, or service dog by an identification tag issued by the county clerk or animal control department as authorized by Chapter 3.5 (commencing with Section 30850) of Division 14 of the Food and Agricultural Code. In addition, the person shall be liable for any provable damage done to the premises or facilities by his or her dog.

CHAPTER 499

An act to add and repeal Section 15200.99 of the Welfare and Institutions Code, relating to county programs.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 15200.99 is added to the Welfare and Institutions Code, to read:

15200.99. (a) Notwithstanding Section 15200.97, the Counties of Merced, San Luis Obispo, and Stanislaus, in concurrence with their respective district attorneys, and in consultation with the respective family support division administrators, may use moneys in the special fund established pursuant to Section 15200.97 only for children-related services, including child abuse, child molestation, and the prosecution of child abuse and molestation cases.

(b) The authority of subdivision (a) shall apply only if all of the following are met:

(1) The county is eligible to receive the performance rate, and remains eligible to receive that rate for the entire period that this section is effective.

(2) The county maintains a fund balance sufficient for the county to meet the milestones for transition to the statewide automated system due to be completed in 1997.

(3) The county in each fiscal year equals or exceeds the recoupment rate of the prior fiscal year.

(c) Moneys used pursuant to this section shall be used only to enhance prosecution efforts and shall not be used to supplant funding that existed prior to the enactment of Section 15200.98 and this section.

(d) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

CHAPTER 500

An act to add Section 21080.32 to the Public Resources Code, relating to environmental quality.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 21080.32 is added to the Public Resources Code, to read:

21080.32. (a) This section shall only apply to publicly owned transit agencies, but shall not apply to any publicly owned transit agency created pursuant to Section 130050.2 of the Public Utilities Code.

(b) Except as provided in subdivision (c), and in accordance with subdivision (d), this division does not apply to actions taken on or after July 1, 1995, by a publicly owned transit agency to implement budget reductions caused by the failure of agency revenues to adequately fund agency programs and facilities.

(c) This section does not apply to any action to reduce or eliminate a transit service, facility, program, or activity that was approved or adopted as a mitigation measure in any environmental document authorized by this division or the National Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.) or to any state or federal requirement that is imposed for the protection of the environment.

(d) (1) This section applies only to actions taken after the publicly owned transit agency has made a finding that there is a fiscal emergency caused by the failure of agency revenues to adequately fund agency programs and facilities, and after the publicly owned

transit agency has held a public hearing to consider those actions. A publicly owned transit agency that has held such a hearing shall respond within 30 days at a regular public meeting to suggestions made by the public at the initial public hearing. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; or reduce or eliminate the availability of an existing publicly owned transit service, facility, program, or activity.

(2) For purposes of this subdivision, "fiscal emergency," when applied to a publicly owned transit agency, means that the agency is projected to have negative working capital within one year from the date that the agency makes the finding that there is a fiscal emergency pursuant to this section. Working capital shall be determined by adding together all unrestricted cash, unrestricted short-term investments, and unrestricted short-term accounts receivable and then subtracting unrestricted accounts payable. Employee retirement funds, including Internal Revenue Code Section 457 deferred compensation plans and Section 401(k) plans, health insurance reserves, bond payment reserves, workers' compensation reserves, and insurance reserves, shall not be factored into the formula for working capital.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 501

An act to amend Sections 11340.1 and 11344 of the Government Code, relating to administrative regulations.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 11340.1 of the Government Code is amended to read:

11340.1. (a) The Legislature therefore declares that it is in the public interest to establish an Office of Administrative Law which

shall be charged with the orderly review of adopted regulations. It is the intent of the Legislature that the purpose of such review shall be to reduce the number of administrative regulations and to improve the quality of those regulations which are adopted. It is the intent of the Legislature that agencies shall actively seek to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process. It is the intent of the Legislature that neither the Office of Administrative Law nor the court should substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations. It is the intent of the Legislature that while the Office of Administrative Law will be part of the executive branch of state government, that the office work closely with, and upon request report directly to, the Legislature in order to accomplish regulatory reform in California.

(b) It is the intent of the Legislature that the California Code of Regulations made available on the Internet by the office pursuant to Section 11344 include complete authority and reference citations and history notes.

SEC. 2. Section 11344 of the Government Code is amended to read:

11344. The office shall do all of the following:

(a) Provide for the official compilation, printing, and publication of adoption, amendment, or repeal of regulations, which shall be known as the California Code of Regulations. On and after July 1, 1998, the office shall make available on the Internet, free of charge, the full text of the California Code of Regulations, and may contract with another state agency or a private entity in order to provide this service.

(b) Provide for the compilation, printing, and publication of weekly updates of the California Code of Regulations. This publication shall be known as the California Regulatory Code Supplement and shall contain amendments to the code.

(c) Provide for the publication dates and manner and form in which regulations shall be printed and distributed and ensure that regulations are available in printed form at the earliest practicable date after filing with the Secretary of State.

(d) Ensure that each regulation is printed together with a reference to the statutory authority pursuant to which it was enacted and the specific statute or other provision of law which the regulation is implementing, interpreting, or making specific.

CHAPTER 502

An act to amend Sections 21670, 21672, 21674, 21675, 21677, and 21679 of, and to add Sections 20486 and 21685 to, the Government Code, relating to public employees.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 20486 is added to the Government Code, to read:

20486. Notwithstanding any other provision of law, no contracting agency or public agency that becomes the subject of a case under the bankruptcy provisions of Chapter 9 (commencing with Section 901) of Title 11 of the United States Code, shall reject any contract or agreement between that agency and the board pursuant to Section 365 of Title 11 of the United States Code or similar provision of law; nor shall the agency, without the prior written consent of the board, assume or assign any contract or agreement between that agency and the board pursuant to Section 365 of Title 11 of the United States Code or similar provision of law.

SEC. 2. Section 21670 of the Government Code is amended to read:

21670. The board may establish a deferred compensation program for California public employees. The program shall be made available to all employees of an employer under procedures established by the board unless participation is subject to the terms of any memorandums of understanding between the employer and the employees.

SEC. 3. Section 21672 of the Government Code is amended to read:

21672. The deferred compensation program may include any or all of the following components:

(a) Investment fund options for participants, as part of the deferred compensation program administered for state employees by the Department of Personnel Administration.

(b) Investment fund options for other participants.

(c) Annuity contracts on behalf of all participants.

SEC. 4. Section 21674 of the Government Code is amended to read:

21674. (a) Investment fund options under subdivision (a) of Section 21672 shall be provided through a written interagency agreement between the board and the Department of Personnel Administration.

(b) Participating employers shall enter into a written contractual agreement with the board that shall be binding for a minimum term of 36 months.

(c) Employees participating under the deferred compensation program shall enter into written salary reduction agreements with their employers, for the purpose of making deferrals or for annuity contracts.

SEC. 5. Section 21675 of the Government Code is amended to read:

21675. All development and administration costs of the deferred compensation program shall be paid by employers and plan participants.

SEC. 6. Section 21677 of the Government Code is amended to read:

21677. The Public Employees' Deferred Compensation Fund shall consist of the following sources and receipts and disbursements shall be accounted for as set forth below:

(a) Premiums determined by the board and paid by employers and plan participants for the cost of administering the deferred compensation program.

(b) Asset management fees as determined by the board assessed against investment earnings of investment options or other investments funds provided by the board to either the state or other public employers. Asset management fees shall be disclosed to plan participants.

(c) Deferrals or contributions to be paid monthly by participating employers or plan participants for investment by the board pursuant to this article. The moneys shall be deposited in the investment corpus account within the Public Employees' Deferred Compensation Fund, and invested in accordance with the fund option or fund selected by the plan participants.

(d) Disbursements to plan participants shall be paid from a disbursement account within the Public Employees' Deferred Compensation Fund, in accordance with current federal law pertaining to tax-deferred savings plans.

(e) The board shall offer a savings account equivalent plan among those deferred compensation accounts made payable to plan participants.

(f) Income, of whatever nature, earned on the Public Employees' Deferred Compensation Fund shall be credited to the appropriate account. Participant accounts shall be individually posted to reflect net asset value for each fund in which the participant invests.

(g) The board has the exclusive control of the administration and investment of the Public Employees' Deferred Compensation Fund.

SEC. 7. Section 21679 of the Government Code is amended to read:

21679. The officers and employees of this system shall discharge their duties with respect to the deferred compensation plan solely in the interest of the plan participants in the following manner:

(a) For the exclusive purpose of providing deferred compensation to plan participants and defraying reasonable expenses of administering the plan.

(b) In the selection of investment options with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims.

(c) By diversifying the investment options available to participants of the plan so as to minimize the risk of large losses and by using reasonable diligence to accurately inform all employees and participants as to all plan options.

(d) In accordance with the documents and instruments governing the plan insofar as those documents and instruments are consistent with this article.

SEC. 8. Section 21685 is added to the Government Code, to read:

21685. Notwithstanding any other provision of this part, the following definitions govern the construction of this chapter:

(a) "Participating employer" means any California public agency, including, but not limited to, any office of the county superintendent of schools, school district, community college district, or public agency defined by Section 20056.

(b) "Employer" means any city, county, city and county, district, school district, community college district, county superintendent of schools, and other public authority or body within this state.

(c) "Plan participant" means any person enrolled in the deferred compensation program established by this chapter.

CHAPTER 503

An act to add Section 15363.7 to, and to repeal Article 4 (commencing with Section 15350) and Article 4.5 (commencing with Section 15355) of Chapter 1 of, and Chapter 2.1 (commencing with Section 15372.10) of, Part 6.7 of Division 3 of Title 2 of, the Government Code, relating to business.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Article 4 (commencing with Section 15350) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 2. Article 4.5 (commencing with Section 15355) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 3. Section 15363.7 is added to the Government Code, to read:

15363.7. The secretary shall include as part of the annual report required pursuant to subdivision (c) of Section 15363, a report on the foreign and domestic business development marketing programs administered by the agency.

SEC. 4. Chapter 2.1 (commencing with Section 15372.10) of Part 6.7 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 5. Any balance remaining in the Dry Cleaning Fund established pursuant to Section 15372.19 of the Government Code as of January 1, 1997, shall be transferred to the General Fund.

CHAPTER 504

An act to amend Section 4604 of, and to add and repeal Section 4604.5 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 4604 of the Vehicle Code is amended to read:

4604. (a) Except as otherwise provided in subdivision (d), prior to the expiration of the registration of a vehicle, if that registration is not to be renewed prior to its expiration, the owner of the vehicle shall file, under penalty of perjury, a certification that the vehicle will not be operated, moved, or left standing upon any highway without first making an application for registration of the vehicle, including full payment of all fees. The certification is valid until the vehicle's registration is renewed pursuant to subdivision (c).

(b) Each certification filed pursuant to subdivision (a) shall be accompanied by a filing fee of ten dollars ($10).

(c) (1) An application for renewal of registration, except when accompanied by an application for transfer of title to, or any interest in, the vehicle, shall be submitted to the department with payment of the required fees for the current registration year and without penalty for delinquent payment of fees imposed under this code or under Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code if the department receives the application prior to or on the date the vehicle is first operated, moved, or left standing upon any highway during the current

registration year and the certification required pursuant to subdivision (a) was timely filed with the department.

(2) If an application for renewal of registration is accompanied by an application for transfer of title, that application may be made without incurring a penalty for delinquent payment of fees not later than 20 days after the date the vehicle is first operated, moved, or left standing on any highway if a certification pursuant to subdivision (a) was timely filed with the department.

(d) A certification is not required to be filed pursuant to subdivision (a) for any of the following:

(1) A vehicle on which the registration expires while being held as inventory by a dealer or lessor-retailer or while being held pending a lien sale by the keeper of a garage or operator of a towing service.

(2) A vehicle registered pursuant to Article 4 (commencing with Section 8050) of Chapter 4 of Division 3.

(3) A vehicle described in Section 5004, 5004.5, 5004.6, or 5051, as provided in Section 4604.2. However, the registered owner may file a certificate of nonoperation in lieu of the certification specified in subdivision (a).

(4) A vehicle registered pursuant to Article 5 (commencing with Section 9700) of Chapter 6 if the registered owner has complied with subdivision (c) of Section 9706.

(e) For purposes of this section, a "vehicle" is, notwithstanding Section 670, a device by which any person or property may be propelled, moved, or driven upon a highway having intact and assembled its major component parts including, but not limited to, the frame or chassis, cowl, and floor pan or, in the case of a trailer, the frame and wheels or, in the case of a motorcycle, the frame, front fork, and engine. For purposes of this section, "vehicle" does not include a device moved exclusively by human power, a device used exclusively upon stationary rails or tracks, or a motorized wheelchair.

SEC. 2. Section 4604.5 is added to the Vehicle Code, to read:

4604.5. (a) If the vehicle has not been operated, moved, or left standing upon any highway subsequent to the expiration of the vehicle's registration, the certification specified in Section 4604 or 4604.2 may be filed after the expiration of the registration of a vehicle, but not later than 90 days after the expiration date, subject to the payment of the filing fee specified in Section 4604 and the penalty specified in subdivision (b).

(b) A penalty shall be collected on any certification specified in Section 4604 or 4604.2 filed later than midnight of the date of expiration of registration. The penalty shall be computed as provided in Sections 9406 and 9559 and after the registration and weight fees have been combined with the license fee specified in Section 10751 of the Revenue and Taxation Code, as follows:

(1) For a delinquency period of 10 days or less, the penalty is 10 percent of the fee.

(2) For a delinquency period of more than 10 days, to and including 30 days, the penalty is 20 percent of the fee.

(3) For a delinquency period of more than 30 days, to and including 90 days, the penalty is 60 percent of the fee.

(c) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2000, deletes or extends that date.

SEC. 3. The Department of Motor Vehicles shall report to the Legislature on or before January 1, 1999, regarding the effects of authorizing the filing of certificates of nonoperation within 90 days after the registration expiration date and the revenue loss associated with that authorization.

CHAPTER 505

An act to add and repeal Section 19442 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 19442 is added to the Revenue and Taxation Code, to read:

19442. (a) Any outstanding tax, penalty, interest, or additions to tax for any bank or corporation that has accumulated since January 1, 1987, shall be canceled if all of the following conditions are met:

(1) The bank or corporation was incorporated prior to January 1, 1987.

(2) The bank or corporation has been suspended in connection with an income year commencing on or before December 1, 1987, pursuant to Section 23301 and has not been "doing business" as defined in Section 23101 since January 1, 1987.

(3) The bank or corporation has an outstanding liability for tax, penalty, interest, or additions to tax of more than two hundred dollars ($200) and the tax liability for each income year for which a waiver is requested does not exceed the minimum tax applicable to that year.

(4) During the period from the effective date of this section to December 31, 1998, inclusive, the bank or corporation applies for full corporate dissolution and waiver of tax, penalty, and interest, and pays a fee of two hundred dollars ($200).

(b) This section shall remain in effect only until January 1, 1999, and as of that date is repealed.

SEC. 2. The Legislature hereby finds and declares that Section 1 of this act properly relieves suspended and inactive corporations of

tax burdens that were never intended to be placed upon those corporations, and thereby serves a public purpose.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 506

An act to add Section 17952.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. This act shall be known and may be cited as the Morrissey Retirement Income Protection Act.

SEC. 2. Section 17952.5 is added to the Revenue and Taxation Code, to read:

17952.5. (a) Gross income of a nonresident, as defined in Section 17015, from sources within this state shall not include "qualified retirement income" received on or after January 1, 1996, for any part of the taxable year during which the taxpayer was not a resident of this state.

(b) For purposes of this section, "qualified retirement income" means income from any of the following:

(1) A qualified trust under Section 401(a) of the Internal Revenue Code that is exempt under Section 501(a) of the Internal Revenue Code from taxation.

(2) A simplified employee pension as defined in Section 408(k) of the Internal Revenue Code.

(3) An annuity plan described in Section 403(a) of the Internal Revenue Code.

(4) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(5) An individual retirement plan described in Section 7701(a)(37) of the Internal Revenue Code.

(6) An eligible deferred compensation plan as defined in Section 457 of the Internal Revenue Code.

(7) A governmental plan as defined in Section 414(d) of the Internal Revenue Code.

(8) A trust described in Section 501(c)(18) of the Internal Revenue Code.

(9) Any plan, program, or arrangement described in Section 3121(v)(2)(C) of the Internal Revenue Code, if that income is either of the following:

(A) Part of a series of substantially equal periodic payments (not less frequently than annually) made for either of the following:

(i) The life or the life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient).

(ii) A period of not less than 10 years.

(B) A payment received after termination of employment, under a plan, program, or arrangement to which that employment relates, maintained solely for the purpose of providing retirement benefits for employees in excess of the limitation imposed by Section 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of the Internal Revenue Code, or any combination of those sections, or any other limitation on contributions or benefits in the Internal Revenue Code on plans to which any of those sections apply.

(10) Any retired or retainer pay of a member or former member of a uniform service computed under Chapter 71 (commencing with Sec. 1401) of Title 10 of the United States Code.

(c) This section shall apply only to any taxable year, or portion thereof, that the provisions of Section 114 of Title 4 of the United States Code, relating to limitation on state income taxation of certain pension income, are effective.

(d) References to the Internal Revenue Code are subject to paragraph (1) of subdivision (a) of Section 17024.5 which identifies, for each taxable year, the effective date of the referenced provisions of the Internal Revenue Code.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 507

An act to amend Section 44253.10 of the Education Code, relating to teacher credentialing.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 44253.10 of the Education Code is amended to read:

44253.10. (a) A teacher with a basic teaching credential may be assigned to provide specially designed content instruction delivered in English, as defined in subdivision (b) of Section 44253.2, to limited-English-proficient pupils only if the following conditions are met:

(1) The teacher, as of January 1, 1995, is a permanent employee of a school district, a county office of education, or a school administered

under the authority of the Superintendent of Public Instruction, or was previously a permanent employee and then was employed in any California public school district within 39 months of the previous permanent status, or has been employed in a school district with an average daily attendance of not more than 250 for at least two years.

(2) The teacher completes 45 clock hours of staff development in methods of specially designed content instruction delivered in English prior to January 1, 2000. The commission may extend that date by an additional six-month period if the commission finds, on the basis of a petition by the staff development sponsor, that the sponsor has made a good faith effort to provide the staff development but has been unable to do so because of circumstances beyond the control of the sponsor providing the staff development and the teachers.

(b) The commission, in consultation with the Superintendent of Public Instruction, shall establish guidelines for the provision of staff development pursuant to this section. The commission and the superintendent shall use their best efforts to establish these guidelines as soon as possible, but in no event later than January 1, 1996. Staff development pursuant to this section shall be consistent with the commission's guidelines. To ensure the highest standards of program quality and effectiveness, the guidelines shall include quality standards for the persons who train others to perform staff development training and for those who provide the training. The guidelines may require that teachers who qualify to provide instruction pursuant to paragraph (1) of subdivision (d) include a portion, within the total 45 clock hours of training provided in paragraph (2) of subdivision (a), in English language development. The guidelines for training to meet the requirements of paragraph (1) of subdivision (d) may provide for 20 hours, or fewer hours as the commission may specify, of training in any aspect of English language development or specially designed content instruction delivered in English. The guidelines and standards established by the commission to implement this section shall require and maintain compliance with any requirements mandated by federal law for purposes of assuring continued federal financial assistance.

(c) The staff development may be sponsored by any school district, county office of education, or regionally accredited college or university that meets the standards included in the guidelines established pursuant to this subdivision or any organization that meets those standards and is approved by the commission. Any equivalent three semester unit or four quarter unit class may be taken by the teacher at a regionally accredited college or university to satisfy the staff development requirement described in either subdivision (a) or (d), or both.

(d) A teacher who completes the staff development described in subdivision (a) shall be awarded a certificate of completion of staff development in methods of specially designed content instruction delivered in English, but may not be assigned to provide content

instruction in the pupil's primary language, as defined in subdivision (c) of Section 44253.2. A teacher who completes that staff development may be assigned to provide instruction for English language development, as defined in subdivision (a) of Section 44253.2, in a self-contained classroom only under either of the following circumstances:

(1) The teacher has taught for at least nine years in California public schools, certifies that he or she has had experience or training in teaching limited-English-proficient pupils, and authorizes verification by the entity that issues the certificate of completion. The teacher shall be awarded a certificate of completion in methods of instruction for English language development in a self-contained classroom.

(2) The teacher has taught for less than nine years in California public schools, or has taught for at least nine years in California public schools but is unable to certify that he or she has had experience or training in teaching limited-English-proficient pupils, but has, within three years of completing the staff development described in subdivision (a), completed an additional 45 hours of staff development, including English language development training, as set forth in the guidelines developed pursuant to subdivision (a). Upon completion of this additional staff development, the teacher shall be awarded a certificate of completion in methods of instruction for English language development in a self-contained classroom.

(e) During the period in which a teacher is pursuing the training specified in paragraph (2) of subdivision (a) or subdivision (d), or both, including the period for the assessment and awarding of the certificate, the teacher may be provisionally assigned to provide instruction for English language development, as defined in subdivision (a) of Section 44253.2, or to provide specially designed content instruction delivered in English, as defined in subdivision (b) of Section 44253.2.

(f) (1) A teacher who completes the staff development with any provider specified in subdivision (c), and who meets the requirements of subdivision (a) or (d) for a certificate of completion of staff development in methods of specially designed content instruction delivered in English or English language development in a self-contained classroom, or both, shall be issued the certificate or certificates. The teacher may apply to any of the following agencies for the certificate or certificates, but the teacher shall be issued the certificate or certificates by only one of these agencies:

(A) The school district in which the teacher is a permanent employee.

(B) The county office of education in the county in which the teacher is an employee for an agency specified in paragraph (1) of subdivision (a).

(C) Any school district or county office of education that provides staff development pursuant to subdivision (c). Before issuing a

certificate or certificates based on an equivalent class or classes, as provided for in subdivision (c), the issuing agency shall determine if the class or classes meet the guidelines established pursuant to subdivision (b).

(2) Any school district or county office of education that issues a certificate of completion shall forward a copy of the certificate to the Commission on Teacher Credentialing within 90 days of issuing the certificate.

(3) An agency that issues a certificate or certificates of completion may charge the teacher requesting the certificate or certificates of completion a fee that will cover the actual costs of the agency in issuing, forwarding a copy to the commission, and paying any fee charged by the commission for receiving and servicing, the certificate or certificates of completion.

The commission may charge the agency that forwards a copy of a certificate or certificates of completion a one-time fee to cover the actual costs to the commission to file the copy or copies, and to issue duplicates when requested by the teacher. The fee shall not exceed an amount equal to one-half the fee the commission charges for issuing a credential.

(g) The certificate of completion is valid in all California public schools. A teacher who has been issued a certificate of completion may be assigned indefinitely to provide the instructional services named on the certificate in any school district, county office of education, or school administered under the authority of the Superintendent of Public Instruction.

(h) Teacher assignments made in accordance with subdivision (a) of this section shall be included in the reports required by subdivisions (a) and (e) of Section 44258.9.

(i) The governing board of each school district shall make reasonable efforts to provide limited-English-proficient pupils in need of English language development instruction with teachers who hold appropriate credentials, language development specialist certificates, or crosscultural language and academic development certificates that authorize English language development instruction. However, any teacher awarded a certificate or certificates of completion shall be deemed certificated and competent to provide the services listed on that certificate of completion. A teacher who completes staff development pursuant to this section may use those hours of staff development to meet the requirements of subdivision (b) of Section 44277.

(j) Any teacher completing staff development pursuant to this section shall be credited with three semester units or four quarter units for each block of 45 hours of staff development completed for the purpose of meeting the requirements set forth in subdivision (b) of Section 44253.3.

(k) Any school district may use funds allocated to it for the purposes of Chapter 3.1 (commencing with Section 44670) to provide staff development pursuant to this section.

CHAPTER 508

An act to amend Sections 903, 903.1, 903.25, and 903.3 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 903 of the Welfare and Institutions Code is amended to read:

903. (a) The father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place pursuant to Section 625 or pursuant to an order of the juvenile court. However, a county shall not levy charges for the costs of support of a minor detained pursuant to Section 625 unless, at the detention hearing, the juvenile court determines that detention of the minor should be continued, the petition for the offense for which the minor is detained is subsequently sustained, or the minor agrees to a program of supervision pursuant to Section 654. The liability of these persons and estates shall be a joint and several liability.

(b) The county shall limit the charges it seeks to impose to the reasonable costs of support of the minor and shall exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor. In the event that court-ordered child support paid to the county pursuant to subdivision (a) exceeds the amount of the costs authorized by this subdivision and subdivision (a), the county shall either hold the excess in trust for the minor's future needs pursuant to Section 302.52 of Title 45 of the Code of Federal Regulations or, with the approval of the minor's caseworker or the probation officer, pay the excess directly to the minor.

(c) It is the intent of the Legislature in enacting this subdivision to protect the fiscal integrity of the county, to protect persons against whom the county seeks to impose liability from excessive charges, to ensure reasonable uniformity throughout the state in the level of liability being imposed, and to ensure that liability is imposed only on persons with the ability to pay. In evaluating a family's financial ability to pay under this section, the county shall take into

consideration the family's income, the necessary obligations of the family, and the number of persons dependent upon this income. Except as provided in paragraphs (1), (2), (3), and (4), "costs of support" as used in this section means only actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a combined maximum cost of fifteen dollars ($15) per day, except that:

(1) The maximum cost of fifteen dollars ($15) per day shall be adjusted every third year beginning January 1, 1988, to reflect the percentage change in the calendar year annual average of the California Consumer Price Index, All Urban Consumers, published by the Department of Industrial Relations, for the three-year period.

(2) No cost for medical expenses shall be imposed by the county until the county has first exhausted any eligibility the minor may have under private insurance coverage, standard or medically indigent Medi-Cal coverage, and the Robert W. Crown California Children's Services Act (Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code).

(3) In calculating the cost of medical expenses, the county shall not charge in excess of 100 percent of the AFDC fee for service average Medi-Cal payment for that county for that fiscal year as calculated by the State Department of Health Services; however, if a minor has extraordinary medical or dental costs that are not met under any of the coverages listed in paragraph (2), the county may impose these additional costs.

(4) For those placements of a minor subject to this section in which an AFDC–FC grant is made, the district attorney shall seek an order pursuant to Section 11350 and the statewide child support guideline in effect in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 of the Family Code. For purposes of determining the correct amount of support of a minor subject to this section, the rebuttable presumption set forth in Section 4057 of the Family Code is applicable.

(d) Notwithstanding subdivision (a), the father, mother, spouse, or other person liable for the support of the minor, the estate of that person, or the estate of the minor, shall not be liable for the costs described in this section if a petition to declare the minor a dependent child of the court pursuant to Section 300 is dismissed at or before the jurisdictional hearing.

SEC. 2. Section 903.1 of the Welfare and Institutions Code is amended to read:

903.1. (a) The father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the cost to the county of legal services rendered to the minor by the public defender or other public attorney pursuant to an order of the juvenile court, or for the cost to the county for the legal services rendered to the minor by an attorney in private practice appointed pursuant to an order of the juvenile

court. The father, mother, spouse, or other person liable for the support of a minor and the estate of that person shall also be liable for any cost to the county of legal services rendered directly to the father, mother, or spouse, of the minor or any other person liable for the support of the minor, in a dependency proceeding by the public defender or other public attorney appointed pursuant to an order of the juvenile court, or by an attorney in private practice appointed pursuant to order of the juvenile court. The liability of those persons (in this article called relatives) and estates shall be a joint and several liability.

(b) Notwithstanding subdivision (a), the father, mother, spouse, or other person liable for the support of the minor, the estate of that person, or the estate of the minor, shall not be liable for the costs of any of the legal services provided to any person described in this section if a petition to declare the minor a dependent child of the court pursuant to Section 300 is dismissed at or before the jurisdictional hearing.

SEC. 3. Section 903.25 of the Welfare and Institutions Code is amended to read:

903.25. (a) In addition to the liability established by any other provision of law, a parent or guardian of a minor who has been delivered to the custody of the probation department, or who has been placed into a children's receiving home, a foster care home or facility, or securely detained in a juvenile facility operated by a probation department, shall be liable for the reasonable costs of food, shelter, and care of the minor while in the custody of the probation department when all of the following circumstances are applicable:

(1) The parent or guardian receives actual notice by telephone or by written communication from the probation officer that the minor is scheduled for release from custody and that the parent or guardian, in person or through a responsible relative, is requested to take delivery of the minor. The notice shall inform the parent or guardian of the financial liability created by this section.

(2) It is reasonably possible for the parent or guardian to take delivery of the minor, in person or through a responsible relative, at the place designated by the probation officer within 12 hours from the time notice of release was received, or within 48 hours from the time notice of release is received in any case where a petition to declare the minor a dependent child of the court pursuant to Section 300 was dismissed at or before the jurisdictional hearing.

(3) The parent states a refusal to take delivery of the minor or fails to make a reasonable effort to take delivery of the minor, in person or through a responsible relative, within 12 hours from the time of actual receipt of the notice, or within 48 hours from the time of actual receipt of the notice in any case where a petition to declare the minor a dependent child of the court pursuant to Section 300 was dismissed at or before the jurisdictional hearing.

(b) The liability established by this section, when combined with any liability arising under Section 903, shall not exceed one hundred dollars ($100) for each 24-hour period, beginning when notice of release was actually received, or beginning 48 hours after notice of release was actually received in any case where a petition to declare the minor a dependent child of the court pursuant to Section 300 was dismissed at or before the jurisdictional hearing, in which a notified parent or guardian has failed to make a reasonable effort to take delivery of the minor, in person or through a responsible relative, in accordance with the request and instructions of the probation officer.

(c) The liability established by this section shall be limited by the financial ability of the parents, guardians, or other persons to pay. Any parent, guardian, or other person who is assessed under this section shall, upon request, be entitled to an evaluation and determination of ability to pay under the provisions of Section 903.45. Any parent, guardian, or other person who is assessed under this section shall also be entitled, upon petition, to a hearing and determination by the juvenile court on the issues of liability and ability to pay.

SEC. 4. Section 903.3 of the Welfare and Institutions Code is amended to read:

903.3. (a) The father, mother, spouse, or other person liable for the support of a minor person, the person himself or herself if he or she is an adult, or the estates of those persons shall, unless indigent, be liable for the cost to the county for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to Section 781 pertaining to that person. The liability of those persons and estates shall be a joint and several liability.

(b) In the event a petition is filed for an order sealing a record, the father, mother, spouse, or other person liable for the support of a minor, that person if he or she is an adult, or the estate of that person, may be required to reimburse the county for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars ($120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services.

(c) Notwithstanding subdivision (a), the father, mother, spouse, or other person liable for the support of the minor, the person himself or herself if he or she is an adult, the estate of that person, or the estate of the minor, shall not be liable for the costs described in this section if a petition to declare the minor a dependent child of the court

pursuant to Section 300 is dismissed at or before the jurisdictional hearing.

CHAPTER 509

An act to add Section 39006 to the Education Code, relating to school facilities.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 39006 is added to the Education Code, to read:

39006. (a) Prior to commencing the acquisition of real property for a new schoolsite in an area designated in a city, county, or city and county general plan for agricultural use and zoned for agricultural production, the governing board of a school district shall make all of the following findings:

(1) The school district has notified and consulted with the city, county, or city and county within which the prospective schoolsite is to be located.

(2) The final site selection has been evaluated by the governing board of the school district based on all factors affecting the public interest and not limited to selection on the basis of the cost of the land.

(3) The school district will attempt to minimize any public health and safety issues resulting from the neighboring agricultural uses that may affect the pupils and employees at the schoolsite.

(b) Subdivision (a) shall not apply to any schoolsite approved by the State Department of Education prior to January 1, 1997.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 510

An act to amend Sections 8802, 8810, 8814, and 8814.5 of, and to add Section 8811.5 to, the Family Code, relating to family law.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 8802 of the Family Code is amended to read:

8802. (a) (1) Any of the following persons who desire to adopt a child may, for that purpose, file a petition in the county in which the petitioner resides:

(A) A grandparent, aunt, uncle, first cousin, or sibling.

(B) A person named in the will of a deceased parent as an intended adoptive parent where the child has no other parent.

(C) A person with whom a child has been placed for adoption.

(D) A legal guardian who has been the child's legal guardian for more than one year. However, if the parent nominated the guardian for a purpose other than adoption for a specified time period, or if the guardianship was established pursuant to Section 360 of the Welfare and Institutions Code, the guardianship shall have been in existence for not less than three years.

(2) If the child has been placed for adoption, a copy of the adoptive placement agreement shall be attached to the petition. The court clerk shall immediately notify the department at Sacramento in writing of the pendency of the proceeding and of any subsequent action taken.

(b) The petition shall contain an allegation that the petitioners will file promptly with the department or delegated county adoption agency information required by the department in the investigation of the proposed adoption. The omission of the allegation from a petition does not affect the jurisdiction of the court to proceed or the validity of an adoption order or other order based on the petition.

(c) The caption of the adoption petition shall contain the names of the petitioners, but not the child's name. The petition shall state the child's sex and date of birth and the name the child had before adoption.

(d) If the child is the subject of a guardianship petition, the adoption petition shall so state and shall include the caption and docket number or have attached a copy of the letters of the guardianship or temporary guardianship. The petitioners shall notify the court of any petition for guardianship or temporary guardianship filed after the adoption petition. The guardianship proceeding shall be consolidated with the adoption proceeding.

(e) The order of adoption shall contain the child's adopted name, but not the name the child had before adoption.

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

SEC. 2. Section 8810 of the Family Code is amended to read:

8810. (a) Except as otherwise provided in this section, whenever 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, prior to the filing of a report in the superior court by the department or delegated county adoption agency, as follows:

(1) For petitions filed on and after July 1, 1993, one thousand two hundred fifty dollars ($1,250).

(2) For petitioners who have a valid preplacement evaluation at the time of filing a petition pursuant to Section 8811.5, three hundred twenty-five dollars ($325) for a postplacement evaluation pursuant to Sections 8806 and 8807.

(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) The department or delegated county adoption agency or the court 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 an adopted child.

SEC. 3. Section 8811.5 is added to the Family Code, to read:

8811.5. (a) A licensed private adoption agency may certify prospective adoptive parents by a preplacement evaluation that contains a finding that an individual is suited to be an adoptive parent.

(b) The preplacement evaluation shall include an investigation pursuant to standards included in the regulations governing independent adoption investigations established by the department. Fees for the investigation shall be commensurate with those fees charged for a comparable investigation conducted by the department or by a delegated licensed county adoption agency.

(c) The preplacement evaluation, whether it is conducted for the purpose of initially certifying prospective adoptive parents or for renewing that certification, shall be completed no more than one year prior to the signing of an adoption placement agreement. The cost for renewal of that certification shall be in proportion to the extent of the work required to prepare the renewal that is attributable to changes in family circumstances.

SEC. 4. Section 8814 of the Family Code is amended to read:

8814. (a) Except as provided in Section 7662, the consent of the birth parent or parents who did not place the child for adoption, as described in Section 8801.3, to the adoption shall be signed in the presence of an agent of the department or of a delegated county adoption agency on a form prescribed by the department. The consent shall be filed with the clerk of the appropriate superior court.

(b) The consent described in subdivision (a), when reciting that the person giving it is entitled to the sole custody of the child and when acknowledged before that agent, is prima facie evidence of the right of the person making it to the sole custody of the child and that person's sole right to consent.

(c) If the birth parent described in subdivision (a) is located outside this state for an extended period of time unrelated to the adoption at the time of signing the consent, the consent may be signed before a notary or other person authorized to perform notarial acts, and in that case the consent of the department or of the delegated county adoption agency is also necessary.

(d) A birth parent who is a minor has the right to sign a consent for the adoption of the birth parent's child and the consent is not subject to revocation by reason of minority.

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

SEC. 5. Section 8814.5 of the Family Code is amended to read:

8814.5. (a) After a consent to the adoption is signed by the birth parent or parents pursuant to Section 8801.3 or 8814, the birth parent or parents signing the consent shall have 90 days to take one of the following actions:

(1) Sign and deliver to the department or delegated county adoption agency a written statement revoking the consent and requesting the child to be returned to the birth parent or parents.

(2) Sign a waiver of the right to revoke consent on a form prescribed by the department in the presence of a representative of the department or delegated county adoption agency. If neither a representative of the department nor a representative of a delegated county adoption agency is reasonably available, the waiver of the right to revoke consent may be signed in the presence of a judicial officer of a court of record if the birth parent is represented by independent legal counsel. "Reasonably available" means that a representative from either the department or the delegated county adoption agency is available to accept the signing of the waiver within 10 days and is within 100 miles of the location of the birth mother.

An adoption service provider may assist the birth parent or parents in any activity where the primary purpose of that activity is to facilitate the signing of the waiver with the department, a delegated county agency, or a judicial officer. The adoption service provider or another person designated by the birth parent or parents may also

be present at any interview conducted pursuant to this section to provide support to the birth parent or parents.

The waiver of the right to revoke consent may not be signed until an interview has been completed by the department or delegated county adoption agency unless the waiver of the right to revoke consent is signed in the presence of a judicial officer of a court of record as specified in this section, in which case the interview and the witnessing of the signing of the waiver shall be conducted by the judicial officer. Within 10 working days of a request made after the department, the delegated county adoption agency, or the court has received a copy of the petition for the adoption and the names and addresses of the persons to be interviewed, the department, the delegated county adoption agency, or the court shall interview, at the department or agency office or the court, any birth parent requesting to be interviewed. However, the interview, and the witnessing of the signing of a waiver of the right to revoke consent of a birth parent residing outside of California or located outside of California for an extended period of time unrelated to the adoption may be conducted in the state where the birth parent is located, by any of the following:

(A) A representative of a public adoption agency in that state.

(B) A judicial officer in that state where the birth parent is represented by independent legal counsel.

(C) An adoption service provider.

(3) Allow the consent to become a permanent consent on the 91st day after signing.

(b) The consent may not be revoked after a waiver of the right to revoke consent has been signed or after 90 days, beginning on the date the consent was signed, whichever occurs first.

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

CHAPTER 511

An act to amend Section 42310 of the Public Resources Code, relating to solid waste.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 42310 of the Public Resources Code is amended to read:

42310. Except as otherwise provided in this chapter, every rigid plastic packaging container sold or offered for sale in this state shall, on average, meet one of the following criteria:

(a) Be made from 25 percent postconsumer material.

(b) Have a recycling rate of 25 percent, based on annual reports published by the board. For purposes of this subdivision, PETE material shall be included in this calculation.

(c) Have a recycling rate of 55 percent if its primary material is PETE, based on annual reports published by the board.

(d) Have a recycling rate of 45 percent if it is a product-associated rigid plastic packaging container.

(e) Be a reusable package or a refillable package.

(f) Be a source reduced container.

(g) Is a container containing floral preservative that is subsequently reused by the floral industry for at least two years.

CHAPTER 512

An act to add Section 31522.3 to the Government Code, relating to county employees.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. The Legislature declares that this act is not intended to diminish, limit, or otherwise affect the power of a county board of retirement or investments to appoint, discharge, or otherwise administer and manage its employees under Section 31522.1 of the Government Code or other provisions of the County Employees' Retirement Law of 1937 or Section 17 of Article XVI of the California Constitution.

SEC. 2. Section 31522.3 is added to the Government Code, to read:

31522.3. In a county in which the board of retirement or both the board of retirement and the board of investment have appointed personnel pursuant to Section 31522.1, the respective board or boards may elect to appoint assistant administrators and chief investment officers as provided for in this section. The positions of the assistant administrators and chief investment officers designated by the retirement board shall not be subject to county charter, civil service, or merit system rules. The persons so appointed shall be county employees and shall be included in the salary ordinance or salary resolution adopted by the board of supervisors for the compensation of county officers and employees. The assistant administrators and chief investment officers so appointed shall be directed by, shall serve at the pleasure of, and may be dismissed at the will of, the appointing board or boards. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal of the assistant

administrators and chief investment officers by the appointing board or boards.

This section shall not apply to any person who was an assistant administrator or a chief investment officer and was included in the county civil service or was subject to merit system rules on December 31, 1996.

This section shall only apply to a county of the third class, a county of the eighth class, a county of the 14th class, or a county of the 15th class, as provided by Sections 28020, 28024, 28029, 28035, and 28036.

CHAPTER 513

An act to amend Section 30171.5 of the Public Resources Code, relating to coastal resources.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

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

(a) It is the intent of the Legislature in enacting this measure to enhance and preserve natural resources within the City of Carlsbad.

(b) The open field cultivation of floriculture in the coastal zone within the City of Carlsbad is an activity that contributes to the conservation and protection of natural resources in the zone.

(c) The City of Carlsbad City Council Resolutions 96-231, 96-232, and 96-233 are consistent with efforts to preserve natural resources within the city.

SEC. 2. Section 30171.5 of the Public Resources Code is amended to read:

30171.5. (a) The amount of the mitigation fee for development on nonprime agricultural lands in the coastal zone in the City of Carlsbad that lie outside of the areas described in subdivision (f) of Section 30170 and subdivision (b) of Section 30171 shall be determined in the applicable segment of the local coastal program of the City of Carlsbad, but shall not be less than five thousand dollars ($5,000), nor more than ten thousand dollars ($10,000), per acre. All mitigation fees collected under this section shall be deposited in the State Coastal Conservancy Fund.

(b) All mitigation fees collected pursuant to this section are hereby appropriated to, and shall be expended by, the State Coastal Conservancy in the following order of priority:

(1) Restoration of natural resources and wildlife habitat in Batiquitos Lagoon.

(2) Development of an interpretive center at Buena Vista Lagoon.

(3) Provision of access to public beaches in the City of Carlsbad.

(4) Any other project or activity benefiting or enhancing the use of natural resources, including open field cultivated floriculture, in the coastal zone in the City of Carlsbad that is provided for in the local coastal program of the City of Carlsbad.

(c) The State Coastal Conservancy may establish a special account in the State Coastal Conservancy Fund and deposit mitigation fees collected pursuant to this section in the special account. Any interest accruing on that money in the special account shall be expended pursuant to subdivision (b).

(d) Not less than 50 percent of collected and bonded mitigation fees shall be expended for the purpose specified in paragraph (1) of subdivision (b).

(e) Other than to mitigate the agricultural conversion impacts for which they are collected, none of the mitigation fees collected pursuant to this section shall be used for elements of a project which cause that project to be in compliance with this division or to mitigate a project which would otherwise be inconsistent with this division. When reviewing a potential project for consistency with this subdivision, the State Coastal Conservancy shall consult with the commission.

CHAPTER 514

An act to add Section 102426 to the Health and Safety Code, relating to vital statistics.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 102426 is added to the Health and Safety Code, to read:

102426. (a) In addition to the items of information collected pursuant to Section 102425, the State Registrar shall instruct all local registrars that have automated birth registration to electronically capture the mother's marital status in an electronic file. The information shall not be transcribed onto the actual hard copy of the certificate of live birth.

(b) Notwithstanding any provisions of law to the contrary, information collected pursuant to this section shall not under any circumstances be disclosed or available to anyone except to the department for demographic and statistical analysis, and to the

federal government, without any personal identifying information, for demographic and statistical analysis.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 515

An act to amend Sections 5705, 5718, 5775, and 5778 of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 5705 of the Welfare and Institutions Code is amended to read:

5705. (a) It is the intent of the Legislature that the use of negotiated net amounts or rates, as provided in this section, be given preference in contracts for services under this division.

(b) Negotiated net amount or rates may be used as the cost of services in contracts between the state and the county or contracts between the county and a subprovider of services, or both, in accordance with the following provisions:

(1) A negotiated net amount shall be determined by calculating the total budget for services for a program or a component of a program, less the amount of projected revenue. All participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9), shall be bound to that amount as the cost of providing all or part of the total county mental health program as described in the county performance contract for each fiscal year, to the extent that the governmental funding source participates in funding the county mental health programs. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal

program, those regulations shall be controlling as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and local mental health programs any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

(2) A negotiated rate is the payment for services delivered on a per unit of service basis. All participating governmental funding sources shall be bound by that amount as the cost of providing that service for that county mental health program to the extent that the governmental funding source participates in funding the county and mental health program. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the local mental health program and the local mental health program shall report to the State Department of Mental Health any information required by the department in accordance with procedures established by the Director of Mental Health.

(3) A county choosing to participate in the negotiated rate setting process for community mental health services under the Medi-Cal program in any fiscal year shall submit a negotiated rate proposal to the State Department of Mental Health, along with the prior fiscal year cost report, by December 31 following the close of the fiscal year. The department shall respond with comments to the negotiated rate proposal of a participating county by January 31 following the submission of the prior year cost report.

(4) Failure to submit both the rate proposal, as required by paragraph (3), and the prior fiscal year cost report by December 31, as required by subdivision (c) of Section 5718, shall result in disapproval of the rate proposal, and consequent settlement of the current year cost report to actual cost.

(c) Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure or retention of funds received pursuant to this section.

SEC. 2. Section 5718 of the Welfare and Institutions Code is amended to read:

5718. (a) (1) This section and Sections 5719 to 5724, inclusive, shall apply to mental health services provided by counties to Medi-Cal eligible individuals. Counties shall provide services to

Medi-Cal beneficiaries and seek the maximum federal reimbursement possible for services rendered to the mentally ill.

(2) To the extent permitted under federal law, funds deposited into the local health and welfare trust fund from the Sales Tax Account of the Local Revenue Fund may be used to match federal medicaid funds in order to achieve the maximum federal reimbursement possible for services pursuant to this chapter. If a county applies to use local funds, the department may enforce any additional federal requirements that use may involve, based on standards and guidelines designed to enhance, protect, and maximize the claiming of those resources.

(3) The standards and guidelines for the administration of mental health services to Medi-Cal eligible persons shall be based on federal medicaid requirements.

(b) With regard to each person receiving mental health services from a county mental health program, the county shall determine whether the person is Medi-Cal eligible and, if determined to be Medi-Cal eligible, the person shall be referred when appropriate to a facility, clinic, or program which is certified for Medi-Cal reimbursement.

(c) With regard to county operated facilities, clinics, or programs for which claims are submitted to the department for Medi-Cal reimbursement for mental health services to Medi-Cal eligible individuals, the county shall ensure that all requirements necessary for Medi-Cal reimbursement for these services are complied with, including, but not limited to, utilization review and the submission of year-end cost reports by December 31 following the close of the fiscal year.

(d) Counties shall certify to the state that required matching funds are available prior to the reimbursement of federal funds.

SEC. 3. Section 5775 of the Welfare and Institutions Code is amended to read:

5775. (a) Notwithstanding any other provision of state law, the State Department of Mental Health shall implement managed mental health care for Medi-Cal beneficiaries through fee-for-service or capitated rate contracts with mental health plans, including individual counties, counties acting jointly, any qualified individual or organization, or a nongovernmental entity. A contract may be exclusive and may be awarded on a geographic basis.

(b) Two or more counties acting jointly may agree to deliver or subcontract for the delivery of mental health services. The agreement may encompass all or any portion of the mental health services provided pursuant to this part. This agreement shall not relieve the individual counties of financial responsibility for providing these services. Any agreement between counties shall delineate each county's responsibilities and fiscal liability.

(c) The department shall offer to contract with each county for the delivery of mental health services to that county's Medi-Cal

beneficiary population prior to offering to contract with any other entity, upon terms at least as favorable as any offered to a noncounty contract provider. If a county elects not to contract with the department, does not renew its contract, or does not meet the minimum standards set by the department, the department may elect to contract with any other governmental or nongovernmental entity for the delivery of mental health services in that county and may administer the delivery of mental health services until a contract for a mental health plan is implemented. The county may not subsequently contract to provide mental health services under this part unless the department elects to contract with the county.

(d) If a county does not contract with the department to provide mental health services, the county shall transfer the responsibility for community Medi-Cal reimbursable mental health services and the anticipated county matching funds needed for community Medi-Cal mental health services in that county to the department. The amount of the anticipated county matching funds shall be determined by the department in consultation with the county, and shall be adjusted annually. The amount transferred shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors. The anticipated county matching funds shall be used by the department to contract with another entity for mental health services, and shall not be expended for any other purpose but the provision of those services and related administrative costs. The county shall continue to deliver non-Medi-Cal reimbursable mental health services in accordance with this division, and subject to subdivision (i) of Section 5777.

(e) (1) Whenever the department determines that a mental health plan has failed to comply with this part, or any regulations adopted pursuant thereto implementing this part, the department may impose sanctions including, but not limited to, fines, penalties, withholding of payments, special requirements, probationary or corrective actions, or other actions deemed necessary to prompt and ensure contract and performance compliance. If fines are imposed by the department, they may be withheld from the state matching funds provided to mental health plans for Medi-Cal mental health services.

(2) The department shall adopt emergency regulations necessary to implement paragraph (1), including the establishment of procedures for the appeal of an administrative finding relative to paragraph (1), 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). The initial adoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare, and shall be exempt from the review or approval of the office of administrative law. Regulations adopted pursuant to this section shall remain in effect for no more than 180

days. These regulations shall be developed in consultation with a statewide organization representing counties.

SEC. 4. Section 5778 of the Welfare and Institutions Code is amended to read:

5778. (a) This section shall be limited to mental health services reimbursed through a fee-for-service payment system.

(b) During the initial phases of the implementation of this part, as determined by the department, the mental health plan contractor and subcontractors shall submit claims under the Medi-Cal program for eligible services on a fee-for-service basis.

(c) A qualifying county may elect, with the approval of the department, to operate under the requirements of a capitated, integrated service system field test pursuant to Section 5719.5 rather than this part, in the event the requirements of the two programs conflict. A county that elects to operate under that section shall comply with all other provisions of this part that do not conflict with that section.

(d) (1) No sooner than October 1, 1994, state matching funds for Medi-Cal fee-for-service acute psychiatric inpatient services, and associated administrative days, shall be transferred to the department. No later than July 1, 1997, upon agreement between the department and the State Department of Health Services, state matching funds for the remaining Medi-Cal fee-for-service mental health services and the state matching funds associated with field test counties under Section 5719.5 shall be transferred to the department.

(2) The department, in consultation with the State Department of Health Services, a statewide organization representing counties, and a statewide organization representing health maintenance organizations shall develop a timeline for the transfer of funding and responsibility for fee-for-service mental health services from Medi-Cal managed care plans to mental health plans. In developing the timeline, the department shall develop screening, referral, and coordination guidelines to be used by Medi-Cal managed care plans and mental health plans.

(e) The department shall allocate the contracted amount at the beginning of the contract period to the mental health plan. The allocated funds shall be considered to be funds of the plan that may be held by the department. The department shall develop a methodology to ensure that these funds are held as the property of the plan and shall not be reallocated by the department or other entity of state government for other purposes.

(f) Beginning in the fiscal year following the transfer of funds from the State Department of Health Services, the state matching funds for Medi-Cal mental health services shall be included in the annual budget for the department. The amount included shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors.

(g) Initially, the mental health plans shall use the fiscal intermediary of the Medi-Cal program of the State Department of Health Services for the processing of claims for inpatient psychiatric hospital services and may be required to use that fiscal intermediary for the remaining mental health services. The providers for other Short-Doyle Medi-Cal services shall not be initially required to use the fiscal intermediary but may be required to do so on a date to be determined by the department. The department and its mental health plans shall be responsible for the initial incremental increased matching costs of the fiscal intermediary for claims processing and information retrieval associated with the operation of the services funded by the transferred funds.

(h) The mental health plans, subcontractors, and providers of mental health services shall be liable for all federal audit exceptions or disallowances based on their conduct or determinations. The mental health plan contractors shall not be liable for federal audit exceptions or disallowances based on the state's conduct or determinations. The department and the State Department of Health Services shall work jointly with mental health plans in initiating any necessary appeals. The State Department of Health Services may offset the amount of any federal disallowance or audit exception against subsequent claims from the mental health plan or subcontractor. This offset may be done at any time, after the audit exception or disallowance has been withheld from the federal financial participation claim made by the State Department of Health Services. The maximum amount that may be withheld shall be 25 percent of each payment to the plan or subcontractor.

(i) The mental health plans shall have sufficient funds on deposit with the department as the matching funds necessary for federal financial participation to ensure timely payment of claims for acute psychiatric inpatient services and associated administrative days. The department and the State Department of Health Services, in consultation with a statewide organization representing counties, shall establish a mechanism to facilitate timely availability of those funds. Any funds held by the state on behalf of a plan shall be deposited in a mental health managed care deposit fund and shall accrue interest to the plan. The department shall exercise any necessary funding procedures pursuant to Section 12419.5 of the Government Code and Sections 8776.6 and 8790.8 of the State Administrative Manual regarding county claim submission and payment.

(j) (1) The goal for funding of the future capitated system shall be to develop statewide rates for beneficiary, by aid category and with regional price differentiation, within a reasonable time period. The formula for distributing the state matching funds transferred to the department for acute inpatient psychiatric services to the participating counties shall be based on the following principles:

(A) Medi-Cal state General Fund matching dollars shall be distributed to counties based on historic Medi-Cal acute inpatient psychiatric costs for the county's beneficiaries and on the number of persons eligible for Medi-Cal in that county.

(B) All counties shall receive a baseline based on historic and projected expenditures up to October 1, 1994.

(C) Projected inpatient growth for the period October 1, 1994, to June 30, 1995, inclusive, shall be distributed to counties below the statewide average per eligible person on a proportional basis. The average shall be determined by the relative standing of the aggregate of each county's expenditures of mental health Medi-Cal dollars per beneficiary. Total Medi-Cal dollars shall include both fee-for-service Medi-Cal and Short-Doyle Medi-Cal dollars for both acute inpatient psychiatric services, outpatient mental health services, and psychiatric nursing facility services, both in facilities that are not designated as institutions for mental disease and for beneficiaries who are under 22 years of age and beneficiaries who are over 64 years of age in facilities that are designated as institutions for mental disease.

(D) There shall be funds set aside for a self-insurance risk pool for small counties. The department may provide these funds directly to the administering entity designated in writing by all counties participating in the self-insurance risk pool. The small counties shall assume all responsibility and liability for appropriate administration of these funds. For purposes of this subdivision, "small counties" means counties with less than 200,000 population. Nothing in this paragraph shall in any way obligate the state or the department to provide or make available any additional funds beyond the amount initially appropriated and set aside for each particular fiscal year, unless otherwise authorized in statute or regulations, nor shall the state or the department be liable in any way for mismanagement of loss of funds by the entity designated by the counties under this paragraph.

(2) The allocation method for state funds transferred for acute inpatient psychiatric services shall be as follows:

(A) For the 1994–95 fiscal year, an amount equal to 0.6965 percent of the total shall be transferred to a fund established by small counties. This fund shall be used to reimburse mental health plans in small counties for the cost of acute inpatient psychiatric services in excess of the funding provided to the mental health plan for risk reinsurance, acute inpatient psychiatric services and associated administrative days, alternatives to hospital services as approved by participating small counties, or for costs associated with the administration of these moneys. The methodology for use of these moneys shall be determined by the small counties, through a statewide organization representing counties, in consultation with the department.

(B) The balance of the transfer amount for the 1994–95 fiscal year shall be allocated to counties based on the following formula:

County	Percentage
Alameda	3.5991
Alpine	.0050
Amador	.0490
Butte	.8724
Calaveras	.0683
Colusa	.0294
Contra Costa	1.5544
Del Norte	.1359
El Dorado	.2272
Fresno	2.5612
Glenn	.0597
Humboldt	.1987
Imperial	.6269
Inyo	.0802
Kern	2.6309
Kings	.4371
Lake	.2955
Lassen	.1236
Los Angeles	31.3239
Madera	.3882
Marin	1.0290
Mariposa	.0501
Mendocino	.3038
Merced	.5077
Modoc	.0176
Mono	.0096
Monterey	.7351
Napa	.2909
Nevada	.1489
Orange	8.0627
Placer	.2366
Plumas	.0491
Riverside	4.4955
Sacramento	3.3506
San Benito	.1171
San Bernardino	6.4790
San Diego	12.3128

San Francisco	3.5473
San Joaquin	1.4813
San Luis Obispo	.2660
San Mateo	.0000
Santa Barbara	.0000
Santa Clara	1.9284
Santa Cruz	1.7571
Shasta	.3997
Sierra	.0105
Siskiyou	.1695
Solano	.0000
Sonoma	.5766
Stanislaus	1.7855
Sutter/Yuba	.7980
Tehama	.1842
Trinity	.0271
Tulare	2.1314
Tuolumne	.2646
Ventura	.8058
Yolo	.4043

(k) The allocation method for the state funds transferred for subsequent years for acute inpatient psychiatric and other mental health services shall be determined by the department in consultation with a statewide organization representing counties.

(*l*) The allocation methodologies described in this section shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis. When federal funds are capitated, the department, in consultation with a statewide organization representing counties, shall determine the methodology for capitation consistent with federal requirements.

(m) The formula that specifies the amount of state matching funds transferred for the remaining Medi-Cal fee-for-service mental health services shall be determined by the department in consultation with a statewide organization representing counties. This formula shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis.

(n) Upon the transfer of funds from the budget of the State Department of Health Services to the department pursuant to subdivision (d), the department shall assume the applicable program oversight authority formerly provided by the State Department of Health Services, including, but not limited to, the oversight of utilization controls as specified in Section 14133. The mental health plan shall include a requirement in any subcontracts that all inpatient

subcontractors maintain necessary licensing and certification. Mental health plans shall require that services delivered by licensed staff are within their scope of practice. Nothing in this part shall prohibit the mental health plans from establishing standards that are in addition to the minimum federal and state requirements, provided that these standards do not violate federal and state Medi-Cal requirements and guidelines.

(o) Subject to federal approval and consistent with state requirements, the mental health plan may negotiate rates with providers of mental health services.

(p) Under the fee-for-service payment system, any excess in the payment set forth in the contract over the expenditures for services by the plan shall be spent for the provision of mental health services and related administrative costs.

(q) Nothing in this part shall limit the mental health plan from being reimbursed appropriate federal financial participation for any qualified services even if the total expenditures for service exceeds the contract amount with the department. Matching nonfederal public funds shall be provided by the plan for the federal financial participation matching requirement.

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 the fiscal integrity of community mental health services programs at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 516

An act to add Section 33132 to the Education Code, relating to education.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 33132 is added to the Education Code, to read:

33132. (a) Notwithstanding Section 51877, the Superintendent of Public Instruction shall award educational technology competitive grants under this code with respect to each of the following categories based on a school district's regular average daily attendance:

(1) 1,000 and below.

(2) 1,001 to 2,500.

(3) 2,501 to 5,000.
(4) 5,001 to 15,000.
(5) 15,001 to 60,000.
(6) 60,001 and above.

(b) Notwithstanding Section 51877, the Superintendent of Public Instruction shall award educational technology competitive grants under this code with respect to each of the following two categories based on a county office of education's regular average daily attendance:

(1) 1,000 and below.
(2) 1,001 and above.

(c) The Superintendent shall use the prior year's second principal regular average daily attendance to determine the category in which a school district or county office of education shall be placed.

(d) Program grant funds shall be allocated for each category in subdivisions (a) and (b) in the following proportion:

(1) Compute the average daily attendance determined pursuant to subdivision (c) for the school districts or county offices of education in the category.

(2) Divide the aggregate sum determined pursuant to paragraph (1) by the total statewide regular average daily attendance reported for the second principal apportionment for the prior fiscal year.

(e) The applicants within each category shall be evaluated and scored as otherwise required by the grant program.

(f) This section is applicable only to educational technology grants awarded on or after January 1, 1997.

CHAPTER 517

An act to amend Section 1507 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. It is the intent of the Legislature to ensure that adults with incidental medical needs have access to community care facilities.

SEC. 2. Section 1507 of the Health and Safety Code is amended to read:

1507. (a) A community care facility may provide incidental medical services. If the medical services constitute a substantial component of the services provided by the community care facility as defined by the director in regulations, the medical services

component shall be approved as set forth in Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

(b) The department shall adopt emergency regulations for community care facilities for adults by February 1, 1997, to do all of the following:

(1) Specify incidental medical services that may be provided. These incidental medical services shall include, but need not be limited to, any of the following: gastrostomy, colostomy, ileostomy, and urinary catheters.

(2) Specify the conditions under which incidental medical services may be provided.

(3) Specify the medical services that, due to the level of care required, are prohibited services.

(c) The department shall consult with the State Department of Developmental Services, the State Department of Mental Health, the Association of Regional Center Agencies, and provider associations in the development of the regulations required by subdivision (b).

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 518

An act to add Section 15.4 to the Mojave Water Agency Law (Chapter 2146 of the Statutes of 1959), relating to water.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. The Legislature finds and declares that the Mojave Water Agency has identified sources of groundwater pollution within its boundaries, and pursuant to the water rights adjudication in City of Barstow, et al. v. City of Adelanto, et al. (Superior Court of the County of Riverside, No. 208568), the agency is authorized to preserve and protect the groundwater basin within its jurisdictional

boundaries and should be extended oversight and protection from responsibility for remediation of those sources of groundwater pollution.

SEC. 2. Section 15.4 is added to the Mojave Water Agency Law (Chapter 2146 of the Statutes of 1959), to read:

15.4. (a) Unless the context requires otherwise, the following definitions govern the construction of this section:

(1) "Affected lands" means lands that are affected by groundwater pollution or pollutants in soils that threaten to cause groundwater pollution and are in a location where the agency has implemented or proposes to implement a remediation plan.

(2) "Oversight agency" means either the State Water Resources Control Board or the appropriate regional water quality control board. "Remediation plan" means a plan to improve the quality of groundwater underlying lands within the jurisdiction of the agency that has been directly and adversely affected by groundwater pollution.

(b) Notwithstanding any other provision of law, if the agency has submitted a remediation plan to an oversight agency, the oversight agency has approved that remediation plan, and the agency has implemented the remediation plan, in accordance with this section, the agency shall not be deemed, based on the actions taken to implement the remediation plan, to be the owner or operator of any affected lands, or any structure, improvement, waste management unit, or facility on those affected lands, and shall not be deemed, based on the actions taken to implement the remediation plan, to be responsible for any discharge, or the results of any discharge, of pollutants on or from those affected lands or any structure, improvement, waste management unit, or facility on those affected lands.

(c) Except as provided in subdivision (d), and Chapter 5.5 (commencing with Section 13370) of the Water Code, the responsibilities of the agency are limited to the following:

(1) Submitting a remediation plan to an oversight agency for approval in accordance with subdivision (d).

(2) Implementing a remediation plan that has been approved by the oversight agency.

(3) If required by a remediation plan approved by the oversight agency, maintaining any structure, waste management unit, improvement, or other facility constructed, improved, or placed on the affected lands.

(4) Periodically monitoring and reporting as required by the oversight agency.

(5) (A) Determining if the remediation plan implemented by the agency has been effective to provide a substantial improvement in groundwater quality affected by the discharge or potential discharge of pollutants on or from affected lands.

(B) If the agency determines that the remediation plan implemented by the agency is not effective, the agency shall promptly report that determination to the oversight agency. If the agency or the oversight agency determines that the remediation plan implemented by the agency is not effective, the agency shall submit a modified remediation plan to the oversight agency that includes a proposal to improve the plan to make it effective, or a proposal to cease remedial activities on the affected lands and return those lands, including the groundwater quality on those lands, to a condition that approximates the quality that existed prior to commencing remedial activities. The agency shall implement the modified remediation plan as approved by the oversight agency.

(6) Notwithstanding any other provision of law, except as provided in Chapter 5.5 (commencing with Section 13370) of the Water Code, if the agency implements or has implemented the approved remediation plan and any modifications to the plan approved by the oversight agency, the agency, with regard to any discharge of pollutants that is the subject of the plan, shall not be required to achieve water quality objectives pursuant to, or to comply with other requirements of, the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) or other laws that are administered by the State Water Resources Control Board or the regional water quality control boards, and shall not be subject to any enforcement actions pursuant to state law based on actions taken to implement the approved remediation plan, except for violations involving gross negligence, including reckless, willful, or wanton misconduct, or intentional misconduct by the agency.

(d) The remediation plan to be submitted by the agency to the oversight agency shall include all of the following:

(1) Identification of the affected lands that are the subject of the plan, including a legal description and the owner of record.

(2) Identification of the groundwater that is affected by discharges of pollutants on or from the affected lands.

(3) A description of the physical conditions of the affected lands that have had, or are having, an adverse effect on groundwater quality.

(4) A description of the practices, including system design and construction plans, and operation and maintenance plans, proposed to reduce, control, mitigate, or eliminate the adverse effects on groundwater quality and a schedule for implementing those practices.

(5) An analysis demonstrating that the implementation of the practices described in the plan have caused, or are expected to cause, a substantial improvement in groundwater quality for the identified groundwater.

(6) A description of monitoring or other assessment activities to be undertaken to evaluate the success of the implemented practices

during and after implementation, including an assessment of baseline conditions.

(7) A budget and identified funding to pay for the implementation of the plan.

(8) Remediation goals and objectives.

(9) Contingency plans.

(10) A description of the agency's legal right to enter and conduct remedial activities.

(11) The signature of an authorized representative of the agency.

(12) Identification of the pollutants to be addressed by the plan.

(e) The oversight agency shall do all of the following:

(1) Comply with the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) in connection with the review of any remediation plan.

(2) Provide an opportunity for public review of, and comment with regard to, the remediation plan.

(3) Disapprove, approve, or modify and approve a remediation plan at a public meeting.

(f) (1) The oversight agency may approve the remediation plan if the oversight agency finds that there is substantial evidence in the record that the plan will substantially improve groundwater quality affected by discharges of pollutants on or from affected lands. The oversight agency may disapprove a remediation plan even if there is substantial evidence that the plan would improve the groundwater quality.

(2) The agency is not required to include in the remediation plan a plan to achieve water quality objectives, with regard to any discharge of pollutants that is the subject of the plan, to comply with other requirements of the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), except for Chapter 5.5 (commencing with Section 13370) of Division 7 of the Water Code, or to comply with any other law that is administered by the state board or the regional boards, with regard to that discharge of pollutants.

(3) The oversight agency may approve a modification of an approved remediation plan to permit additional time for completing the remediation project or to otherwise modify the plan, after an opportunity for public comment.

(4) If the oversight agency determines that the agency is not implementing the approved remediation plan in substantial compliance with its terms, that oversight agency shall notify the agency of its determination, including the specific causes for that determination.

(5) If the oversight agency determines that the specific causes for the determination are not adequately addressed pursuant to paragraph (4), or if a compliance plan is not submitted to, and approved by, the oversight agency within 180 days from the date of

the notification pursuant to paragraph (4), the oversight agency may determine that the agency is in violation of this section. If the agency is determined to be in violation of this section, the agency is not protected by the limitations on responsibility provided by this section for remediation of groundwater quality adversely affected by discharges of pollutants on or from affected lands and may be subject to any enforcement action authorized by law.

(g) This section has no effect on any of the following:

(1) The tort liability of the agency for personal injury or wrongful death.

(2) The liability of the agency based upon activities other than those undertaken in connection with the implementation of an approved remediation plan.

(3) The responsibilities of the owner of affected lands or other property that is the source of pollutants on affected lands or any other person responsible for activities that caused or permitted the discharge of pollutants.

(4) The liability of the agency for damages resulting from the agency's negligent implementation of the remediation plan.

CHAPTER 519

An act to add Section 41904 to the Public Resources Code, relating to solid waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 41904 is added to the Public Resources Code, to read:

41904. (a) For the purposes of this section, the following terms have the following meaning:

(1) "Nonprofit charitable reuser" means a charitable organization, as defined in Section 501(c)(3) of the federal Internal Revenue Code, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than 50 percent of its revenues from the handling and sale of those donated goods or materials.

(2) "Residue" means the solid waste resulting from the receipt, collection, transportation, sorting, processing, or sale of goods or materials donated to the nonprofit charitable reuser for reuse or recycling, including solid wastes left at collection, processing, or sale sites, but does not include solid wastes resulting from other activities of the nonprofit charitable reuser, such as, but not limited to, the

assembly or manufacture of products from new materials, the provision of charitable services such as classroom education, meal preparation, and shelter, or the provision of services for a fee, including solid waste handling services.

(b) The Legislature hereby finds and declares both of the following:

(1) In addition to their service to the poor, disabled, and disadvantaged, charitable organizations provide a valuable service by providing for the reuse or recycling of many articles that otherwise would be disposed of at disposal sites. That reuse or recycling is a leading form of source reduction, which has the highest priority among solid waste management practices identified for California.

(2) The purpose of this section is to authorize local agencies to limit the amount of solid waste handling and disposal fees, as well as any fees authorized by this chapter, for nonprofit charitable reusers to help those nonprofit organizations meet the costs of reusing or recycling donated goods or materials.

(3) The activities of nonprofit charitable reusers that reuse and recycle waste that would otherwise be disposed of assist local agencies in meeting the diversion requirements of Section 41780.

(c) (1) A city, county, district, or regional agency may structure its fees for the solid waste handling services or disposal services that it directly provides in a manner that requires nonprofit charitable reusers to pay only the direct costs of handling and disposing of their residue, and exempts them from paying any fee amounts associated with administrative costs to the city, county, district, or regional agency or associated with any other costs that are incurred by the city, county, district, or regional agency pursuant to this division.

(2) A city, county, district, or regional agency may exempt nonprofit charitable reusers from all or part of any fees imposed on the handling or disposal of their residue pursuant to this chapter.

(d) To implement this section, a city, county, district, or regional agency may, by ordinance, resolution, or otherwise, restrict any fee reduction or exemption to specified classes of nonprofit charitable reusers, such as by their size or location, or by the amount, origin, or types of solid waste handled or disposed of, and may require that nonprofit charitable reusers enter into contractual agreements to report the amounts of solid waste disposed of and materials diverted, to maintain specified levels of service and performance, or to perform any activity that the city, county, district, or regional agency may require to achieve the diversion requirements of Section 41780.

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:

Nonprofit charitable reusers are struggling to remain solvent in difficult economic times. In order to ensure that the costs to those

reusers of disposing of solid waste are kept at a minimum, it is necessary that this act take effect immediately.

CHAPTER 520

An act to amend Sections 729.5 and 730.7 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 729.5 of the Welfare and Institutions Code is amended to read:

729.5. (a) If a petition alleges that a minor is a person described by Section 602 and the petition is sustained, the court, in addition to the notice required by any other provision of law, may issue a citation to the minor's parents or guardians, ordering them to appear in the court at the time and date stated for a hearing to impose a restitution fine pursuant to Section 730.6.

(b) The citation shall notify the parent or guardian that, at the hearing, the parent or guardian may be held liable for the payment of restitution if the minor is ordered to make restitution to the victim.The citation shall contain a warning that the failure to appear at the time and date stated may result in an order that the parent or guardian pay restitution up to the limits provided for in Sections 1714.1 and 1714.3 of the Civil Code.

(c) The hearing described in subdivision (b) may be held immediately following the disposition hearing or at a later date, at the option of the court.

(d) If the parent or guardian fails to appear pursuant to this section, the court may hold the parent or guardian jointly and severally liable with the minor for restitution, subject to the limitations contained in subdivision (b).

(e) Execution may be issued on an order holding a parent or guardian jointly or severally liable with the minor for restitution in the same manner as on a judgment in a civil action, including any balance unpaid at the termination of the court's jurisdiction over the minor.

(f) At any time prior to the full payment of restitution ordered pursuant to this section, a person held liable for payment of restitution may petition the court to modify or vacate the order based on a showing of change in circumstances.

(g) Service of the citation shall be made on all parents or guardians of the minor whose names and addresses are known to the petitioner.

(h) Service of the citation shall be made at least 10 days prior to the time and date stated therein for appearance, in the manner provided by law for the service of a summons in a civil action, other than by publication.

(i) This section shall not apply to any case where a citation has been issued pursuant to Section 742.18.

(j) Nothing in this section shall be interpreted to make an insurer liable for a loss caused by the willful act of the insured or the insured's dependents within the meaning of Section 533 of the Insurance Code.

(k) This section does not apply to foster parents.

SEC. 2. Section 730.7 of the Welfare and Institutions Code is amended to read:

730.7. (a) In a case where a minor is ordered to make restitution to the victim or victims, or the minor is ordered to pay fines and penalty assessments under any provision of this code, a parent or guardian who has joint or sole legal and physical custody and control of the minor shall be rebuttably presumed to be jointly and severally liable with the minor in accordance with Sections 1714.1 and 1714.3 of the Civil Code for the amount of restitution, fines, and penalty assessments so ordered, up to the limits provided in those sections, subject to the court's consideration of the parent's or guardian's ability to pay. When considering the parent's or guardian's ability to pay, the court may consider future earning capacity, present income, the number of persons dependent on that income, and the necessary obligations of the family, including, but not limited to, rent or mortgage payments, food, children's school tuition, children's clothing, medical bills, and health insurance. The parent or guardian shall have the burden of showing the lack of ability to pay. The parent or guardian shall also have the burden of showing by a preponderance of the evidence that the parent or guardian was either not given notice of potential liability for payment of restitution, fines, and penalty assessments prior to the petition being sustained by an admission or adjudication, or that he or she was not present during the proceedings wherein the petition was sustained either by admission or adjudication and any hearing thereafter related to restitution, fines, or penalty assessments.

(b) In cases in which the court orders restitution to the victim or victims of the offense, each victim in whose favor the restitution order has been made shall be notified within 60 days after restitution has been ordered of the following:

(1) The name and address of the minor ordered to make restitution.

(2) The amount and any terms or conditions of restitution.

(3) The offense or offenses that were sustained.

(4) The name and address of the parent or guardian of the minor.

(5) The rebuttable presumption that the parent or guardian is jointly and severally liable with the minor for the amount of restitution so ordered in accordance with Sections 1714.1 and 1714.3

of the Civil Code, up to the limits provided in those sections, and that the parent or guardian has the burden of showing by a preponderance of the evidence that the parent or guardian was either not given notice of potential liability for payment of restitution prior to the petition being sustained by an admission or adjudication, or that he or she was not present during the proceedings wherein the petition was sustained by an admission or adjudication and any hearings thereafter related to restitution.

(6) Whether the notice and presence requirements of paragraph (5) were met.

(7) The victim's rights to a certified copy of the order reflecting the information specified in this subdivision.

(c) The victim has a right, upon request, to a certified copy of the order reflecting the information specified in subdivision (b).

(d) This section does not apply to foster parents.

(e) Nothing in this section shall be construed to make an insurer liable for a loss caused by the willful act of the insured or the dependents of the insured pursuant to Section 533 of the Insurance Code.

CHAPTER 521

An act to amend Section 4584 of the Public Resources Code, relating to forest practices.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 4584 of the Public Resources Code is amended to read:

4584. Upon determining that the exemption is consistent with the purposes of this chapter, the board may exempt from this chapter or portions thereof, any person engaged in forest management whose activities are limited to any of the following:

(a) The cutting or removal of trees for the purpose of constructing or maintaining a right-of-way for utility lines.

(b) The planting, growing, nurturing, shaping, shearing, removal, or harvest of immature trees for Christmas trees or other ornamental purposes or minor forest products, including fuelwood.

(c) The cutting or removal of dead, dying, or diseased trees of any size.

(d) Site preparation.

(e) Maintenance of drainage facilities and soil stabilization treatments.

(f) Timber operations on land managed by the Department of Parks and Recreation.

(g) The one-time conversion of less than three acres to a nontimber use.

(h) Easements granted by a right-of-way construction agreement administered by the federal government if any timber sales and operations within or affecting these areas are reviewed and conducted pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

(i) The cutting, removal, or sale of timber or other solid wood forest products from the species Taxus brevifolia (Pacific yew), provided that the known locations of any stands of this species three inches and larger in diameter at breast height are identified in the exemption notice submitted to the department. Nothing in this subdivision is intended to authorize the peeling of bark from, or the cutting or removal of, Taxus brevifolia within a watercourse and lake protection zone, special treatment area, buffer zone, or other area where timber harvesting is prohibited or otherwise restricted pursuant to board rules.

(j) (1) The cutting or removal of trees in compliance with Sections 4290 and 4291 which eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuelbreak for a distance of not more than 150 feet on each side from an approved and legally permitted structure that complies with the California Building Code, when that cutting or removal is conducted in compliance with this subdivision. For purposes of this subdivision, an "approved and legally permitted structure" includes only structures that are designed for human occupancy and garages, barns, stables, and structures used to enclose fuel tanks.

(2) (A) The cutting or removal of trees pursuant to this subdivision shall be limited to cutting or removal that will result in a reduction in the rate of fire spread, fire duration and intensity, fuel ignitability, or ignition of the tree crowns and shall be in accordance with any regulations adopted by the board pursuant to this section.

(B) Trees may not be cut or removed pursuant to this subdivision by the clearcutting regeneration method, by the seed tree removal step of the seed tree regeneration method, or by the shelterwood removal step of the shelterwood regeneration method.

(3) (A) Surface fuels, including logging slash and debris, low brush, and deadwood, that could promote the spread of wildfire shall be chipped, burned, or otherwise removed from all areas of timber operations within 45 days from the date of commencement of timber operations pursuant to this subdivision.

(B) (i) All surface fuels that are not chipped, burned, or otherwise removed from all areas of timber operations within 45 days from the date of commencement of timber operations may be

determined to be a nuisance and subject to abatement by the department or the city or county having jurisdiction.

(ii) The costs incurred by the department, city, or county, as the case may be, to abate the nuisance upon any parcel of land subject to the timber operations, including, but not limited to, investigation, boundary determination, measurement, and other related costs, may be recovered by special assessment and lien against the parcel of land by the department, city, or county. The assessment may be collected at the same time and in the same manner as ordinary ad valorem taxes, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ad valorem taxes.

(4) All timber operations conducted pursuant to this subdivision shall conform to applicable city or county general plans, city or county implementing ordinances, and city or county zoning ordinances. Nothing in this paragraph is intended to authorize the cutting, removal, or sale of timber or other solid wood forest products within an area where timber harvesting is prohibited or otherwise restricted pursuant to the rules or regulations adopted by the board.

(5) (A) The board shall adopt regulations, initially as emergency regulations in accordance with subparagraph (B), that the board considers necessary to implement and to obtain compliance with this subdivision.

(B) The emergency regulations adopted pursuant to subparagraph (A) shall be adopted 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). The adoption of emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 522

An act to amend Section 19483 of, and to add Section 19116 to, the Education Code, and to amend Sections 97.37, 98, and 99 of the Revenue and Taxation Code, relating to libraries.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 19116 is added to the Education Code, to read:

19116. (a) The provisions of Sections 19104 and 19105 are not applicable to the withdrawal of a city or library district from the county free library system in Los Angeles County. The legislative body of any city or the board of trustees of any library district, whose jurisdiction is within the County of Los Angeles, may notify the board of supervisors for Los Angeles County that the city or library district no longer desires to be a part of the county free library system. The notice shall state whether the city or library district intends to acquire property pursuant to subdivision (c). The board of supervisors shall transmit a copy of the notice to the Los Angeles County Assessor, the Los Angeles County Auditor, and the State Board of Equalization.

(b) When a city or library district files a notice pursuant to subdivision (a), it shall remain a member of the county free library system until July 1 of the base year or the date on which property is transferred pursuant to subdivision (c), whichever date is later. Upon ceasing to be a member of the county free library system, the city or library district shall not participate in any benefits of the county free library system, and shall assume the responsibility for the provision of library services within its jurisdiction. Unless otherwise agreed by July 1 of the base year in writing by the Board of Supervisors of Los Angeles County and the withdrawing entity city or library district, property tax revenues allocated to the county free library pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code in the fiscal year prior to the base year and which were derived from property situated in the withdrawing entity shall be allocated to and used to maintain library services by the withdrawing entity in the base year and, adjusted forward, in each fiscal year thereafter at the same time allocations are made pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code. This subdivision shall not apply to property tax revenues that have been pledged to repay bonded indebtedness of the county free library.

(c) If there is one or more county library facilities within the territorial boundaries of the withdrawing entity at the time the

withdrawing entity provides notice pursuant to subdivision (a), the withdrawing entity shall have the right to acquire any or all of those facilities from the county and the county shall, no later than July 1 of the base year, transfer to the withdrawing entity each facility and the personal property therein related to the provision of library services at the following prices, unless otherwise provided for by statute or contract:

(1) Each county library facility which, for the purposes of this section, shall include the real property upon which the facility is located and any fixtures therein and shall not include computer systems and software, shall be transferred for the lesser of:

(A) No cost, if the facility was donated to the county by the withdrawing entity.

(B) The price paid to the withdrawing entity by the county for the facility, if the county bought the facility from the withdrawing entity.

(C) The county's cost of acquiring the facility, including any construction costs and any costs of capital improvements, but excluding any costs of routine repair, restoration, and maintenance, less any moneys contributed by the withdrawing entity to the county specifically for such acquisition.

(D) The fair market value of the facility.

(2) Any personal property within the facility related to the provision of library services includes books and resource materials, computer systems and software, furniture, and furnishings, shall be transferred for the lesser of:

(A) No cost, if the property was donated to the county by the withdrawing entity at any time or by any other source within the previous five years.

(B) The fair market value of the personal property.

(d) If a facility transferred pursuant to subdivision (c) serves residents of surrounding jurisdictions, the board of supervisors governing the county free library system may require, as a condition of transferring the facility, that the library services provided by the withdrawing entity to its residents also be available to the residents of the surrounding jurisdictions. If the requirement is imposed and, unless otherwise agreed in writing by the county and the withdrawing entity by July 1 of the base year, property tax revenues derived from property situated in the surrounding jurisdictions which were, in the fiscal year prior to the base year, allocated to the county free library system pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code shall be allocated to and used to maintain library services by the withdrawing entity in the base year and, adjusted forward, in each fiscal year thereafter at the same time other allocations are made pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code. This subdivision shall not apply to property tax revenues that have been pledged to repay bonded indebtedness. If a surrounding

jurisdiction subsequently provides notice of its intent to withdraw from the county free library system pursuant to subdivision (a), on the date the surrounding jurisdiction ceases to participate in the benefits of the county free library system pursuant to subdivision (b), the withdrawing entity shall no longer be required to make library services available to the residents of the surrounding jurisdictions and property tax revenues derived from property situated in the surrounding jurisdiction shall no longer be allocated to the withdrawing entity pursuant to this subdivision.

(e) For purposes of this section, the following terms are defined as follows:

(1) "Base year" means the fiscal year commencing on the July 1 following the December 2 following the date of the notice given pursuant to subdivision (a) of this section.

(2) "Fair market value" means:

(A) Any value agreed upon by the withdrawing entity and the county.

(B) If no agreement as to value can be reached by the March 1 preceding the July 1 of the base year, the value assigned by an appraiser agreed upon by the withdrawing entity and the county.

(C) If no agreement as to the appointment of an appraiser can be reached pursuant to subparagraph (B) by the April 1 preceding the July 1 of the base year, the value assigned by an appraiser agreed upon between the withdrawing entity's appraiser and the county's appraiser.

(D) If no agreement as to an appraiser can be reached pursuant to subparagraph (C) by the May 1 preceding the July 1 of the base year, the value assigned by a state certified appraiser designated by the withdrawing entity. The designated appraiser shall provide the appraisal in writing to the county no later than the June 1 preceding the July 1 of the base year.

(E) The withdrawing entity shall reimburse the county for any appraisal costs the county incurs in determining the fair market value pursuant to this paragraph.

(3) "Surrounding jurisdictions" means cities and library districts which are adjacent to the withdrawing entity and tax rate areas in unincorporated areas of the county which tax rate areas are wholly or partially within the withdrawing entity's sphere of influence, which cities, libraries, and tax rate areas are within the county free library system and have no facility within their territorial boundaries providing library services at the time the withdrawing entity provides notice pursuant to subdivision (a).

SEC. 2. Section 19483 of the Education Code is amended to read:

19483. Anything in Sections 19100 to 19179, inclusive, to the contrary, notwithstanding, the property in any library district created under this chapter subsequent to the establishment of a county free library is subject to taxation for county free library purposes as though the library district had not been created. This

section shall not apply to any adjustments in property tax allocations made pursuant to Section 19116.

SEC. 3. Section 97.37 of the Revenue and Taxation Code is amended to read:

97.37. Notwithstanding any other provision of this chapter, for the 1994–95 fiscal year and each fiscal year thereafter, the amount of property tax revenue deemed allocated in the prior fiscal year to a county free library system, or a library established as an independent special district, shall not be reduced for purposes of increasing the amount of property tax revenue to be allocated to another jurisdiction. This section does not apply to any adjustments in property tax allocations made pursuant to Section 19116 of the Education Code.

SEC. 4. Section 98 of the Revenue and Taxation Code is amended to read:

98. (a) In each county, other than the County of Ventura, having within its boundaries a qualifying city, the computations made pursuant to Section 96.1 or its predecessor section, for the 1989–90 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 1989–90 fiscal year and each year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 96.5 or its predecessor section, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1, or their predecessor sections, in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall, for the 1989–90 fiscal year and each year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 96.5 or its predecessor section to

jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(E) For the fifth fiscal year in which the qualifying city receives a distribution pursuant to this section, 5 percent of the amount determined in paragraph (5).

(F) For the sixth fiscal year in which the qualifying city receives a distribution pursuant to this section, 6 percent of the amount determined in paragraph (5).

(G) For the seventh fiscal year and each fiscal year thereafter in which the city receives a distribution pursuant to this section, 7 percent of the amount determined in paragraph (5).

(d) "Qualifying city" means any city, except a qualifying city as defined in Section 98.1, that incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 96.1 or its predecessor section in the 1988–89 fiscal year that is less than 7 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue determined in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.07, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.07, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of property tax revenue that was exchanged between the county and the qualifying city as a result of negotiation pursuant to Section 99.03.

(2) The amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed general or special

tax, except any tax that was imposed after January 1, 1988. In the case of a tax that existed before January 1, 1988, this paragraph shall apply only with respect to an amount attributable to a reduction of the rate or base to a level lower than the rate or base applicable on January 1, 1988. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this paragraph as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(3) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 1986–87 fiscal year by all special districts that are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city. Notwithstanding this paragraph, commencing with the 1994–95 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city becoming the successor agency to a special district that is dissolved, merged with that city, or becomes a subsidiary district of that city, on or after July 1, 1994. Notwithstanding this paragraph, commencing with the 1997–98 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city withdrawing from a county free library system pursuant to Section 19116 of the Education Code.

(g) In any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall increase the actual amount distributed to the qualifying city by the amount of property tax revenue allocated to the qualifying city pursuant to Section 19116 of the Education Code.

(h) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e), (f), and (g) would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city's appropriations limit.

(i) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(j) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section that is less than the amount the city would have been allocated without the application of the TEA formula.

(k) Notwithstanding any other provision of this section, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city that has in the prior fiscal year used any

revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax-exempt financing.

SEC. 5. Section 99 of the Revenue and Taxation Code is amended to read:

99. (a) For the purposes of the computations required by this chapter:

(1) In the case of a jurisdictional change, other than a city incorporation or a formation of a district as defined in Section 2215, the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1, or the annual tax increment determined pursuant to Section 96.5, for local agencies whose service area or service responsibility would be altered by the jurisdictional change, as determined pursuant to subdivision (b) or (c).

(2) In the case of a city incorporation, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56842 of the Government Code and the adjustments in tax revenues that may occur pursuant to Section 56845 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 56842 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the incorporation.

(3) In the case of a formation of a district as defined in Section 2215, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56842 of the Government Code to the district and shall make the adjustment as determined by Section 56842 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the formation.

(b) Upon the filing of an application or a resolution pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), but prior to the issuance of a certificate of filing, the executive officer shall give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change.

(1) (A) The county assessor shall provide to the county auditor, within 30 days of the notice of filing, a report which identifies the assessed valuations for the territory subject to the jurisdictional change and the tax rate area or areas in which the territory exists.

(B) The auditor shall estimate the amount of property tax revenue generated within the territory that is the subject of the jurisdictional change during the current fiscal year.

(2) The auditor shall estimate what proportion of the property tax revenue determined pursuant to paragraph (1) is attributable to each local agency pursuant to Section 96.1 and Section 96.5.

(3) Within 45 days of notice of the filing of an application or resolution, the auditor shall notify the governing body of each local agency whose service area or service responsibility will be altered by the amount of, and allocation factors with respect to, property tax revenue estimated pursuant to paragraph (2) that is subject to a negotiated exchange.

(4) Upon receipt of the estimates pursuant to paragraph (3) the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among the local agencies. This negotiation period shall not exceed 30 days.

The exchange may be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years.

(5) In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues.

(6) Notwithstanding any other provision of law, the executive officer shall not issue a certificate of filing pursuant to Section 56828 of the Government Code until the local agencies included in the property tax revenue exchange negotiation, within the 30-day negotiation period, present resolutions adopted by each such county and city whereby each county and city agrees to accept the exchange of property tax revenues.

(7) In the event that the commission modifies the proposal or its resolution of determination, any local agency whose service area or service responsibility would be altered by the proposed jurisdictional change may request, and the executive officer shall grant, 15 days for the affected agencies, pursuant to paragraph (4) to renegotiate an exchange of property tax revenues. Notwithstanding the time period specified in paragraph (4), if the resolutions required pursuant to paragraph (6) are not presented to the executive officer within the 15-day period, all proceedings of the jurisdictional change shall automatically be terminated.

(8) No later than the date on which the certificate of completion of the jurisdictional change is recorded with the county recorder, the executive officer shall notify the auditor or auditors of the exchange

of property tax revenues and the auditor or auditors shall make the appropriate adjustments as provided in subdivision (a).

(c) Whenever a jurisdictional change is not required to be reviewed and approved by a local agency formation commission, the local agencies whose service area or service responsibilities would be altered by the proposed change, shall give notice to the State Board of Equalization and the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change and request the auditor and assessor to make the determinations required pursuant to paragraphs (1) and (2) of subdivision (b). Upon notification by the auditor of the amount of, and allocation factors with respect to, property tax subject to exchange, the local agencies, pursuant to the provisions of paragraphs (4), (5), and (6) of subdivision (b), shall determine the amount of property tax revenues to be exchanged between and among the local agencies. Notwithstanding any other provision of law, no such jurisdictional change shall become effective until each county and city included in these negotiations agrees, by resolution, to accept the negotiated exchange of property tax revenues. The exchange may be limited to an exchange of property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years. Upon the adoption of the resolutions required pursuant to this section, the adopting agencies shall notify the auditor who shall make the appropriate adjustments as provided in subdivision (a). Adjustments in property tax allocations made as the result of a city or library district withdrawing from a county free library system pursuant to Section 19116 of the Education Code shall be made pursuant to Section 19116 of the Education Code, and this subdivision shall not apply.

(d) With respect to adjustments in the allocation of property taxes pursuant to this section, a county and any local agency or agencies within the county may develop and adopt a master property tax transfer agreement. The agreement may be revised from time to time by the parties subject to the agreement.

(e) Except as otherwise provided in subdivision (f), for the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and each fiscal year thereafter for those local agencies that were affected by a jurisdictional change which was filed with the State Board of Equalization after January 1, 1978, but on or before January 1, 1979. The local agencies shall determine by resolution the amount of property tax revenues to be exchanged between and among the affected agencies and notify the auditor of the determination.

(f) For the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and each fiscal year thereafter, for a city incorporation that was filed pursuant to Sections 54900 to 54904 after January 1, 1978, but on or before January 1, 1979, the amount of property tax revenue considered to have been received by the jurisdiction for the 1978–79 fiscal year shall be equal to two-thirds of the amount of property tax revenue projected in the final local agency formation commission staff report pertaining to the incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978–79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977–78 fiscal year. Except, however, in the event that the final commission report did not specify the amount of property tax revenue projected for that incorporation, the commission shall by October 10, determine pursuant to Section 54790.3 of the Government Code the amount of property tax to be transferred to the city.

The provisions of this subdivision shall also apply to the allocation of property taxes for the 1980–81 fiscal year and each fiscal year thereafter for incorporations approved by the voters in June 1979.

(g) For the purpose of the computations made pursuant to this section, in the case of a district formation that was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1978, but before January 1, 1979, the amount of property tax to be allocated to the district for the 1979–80 fiscal year and each fiscal year thereafter shall be determined pursuant to Section 54790.3 of the Government Code.

(h) For the purposes of the computations required by this chapter, in the case of a jurisdictional change, other than a change requiring an adjustment by the auditor pursuant to subdivision (a), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1 or its predecessor section, or the annual tax increment determined pursuant to Section 96.5 or its predecessor section, for each local school district, community college district, or county superintendent of schools whose service area or service responsibility would be altered by the jurisdictional change, as determined as follows:

(1) The governing body of each district, county superintendent of schools, or county whose service areas or service responsibilities would be altered by the change shall determine the amount of property tax revenues to be exchanged between and among the affected jurisdictions. This determination shall be adopted by each affected jurisdiction by resolution. For the purpose of negotiation, the county auditor shall furnish the parties and the county board of education with an estimate of the property tax revenue subject to negotiation.

(2) In the event that the affected jurisdictions are unable to agree, within 60 days after the effective date of the jurisdictional change, and if all the jurisdictions are wholly within one county, the county board of education shall, by resolution, determine the amount of property tax revenue to be exchanged. If the jurisdictions are in more than one county, the State Board of Education shall, by resolution, within 60 days after the effective date of the jurisdictional change, determine the amount of property tax to be exchanged.

(3) Upon adoption of any resolution pursuant to this subdivision, the adopting jurisdictions or State Board of Education shall notify the county auditor who shall make the appropriate adjustments as provided in subdivision (a).

(i) For purposes of subdivision (h), the annexation by a community college district of territory within a county not previously served by a community college district is an alteration of service area. The community college district and the county shall negotiate the amount, if any, of property tax revenues to be exchanged. In these negotiations, there shall be taken into consideration the amount of revenue received from the timber yield tax and forest reserve receipts by the community college district in the area not previously served. In no event shall the property tax revenue to be exchanged exceed the amount of property tax revenue collected prior to the annexation for the purposes of paying tuition expenses of residents enrolled in the community college district, adjusted each year by the percentage change in population and the percentage change in the cost of living, or per capita personal income, whichever is lower, less the amount of revenue received by the community college district in the annexed area from the timber yield tax and forest reserve receipts.

(j) At any time after a jurisdictional change is effective, any of the local agencies party to the agreement to exchange property tax revenue may renegotiate the agreement with respect to the current fiscal year or subsequent fiscal years, subject to approval by all local agencies affected by the renegotiation.

SEC. 6. Due to unique facts and circumstances applicable to Los Angeles County, insofar as the withdrawal of cities and libraries from the Los Angeles County free library system, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Special legislation is, therefore, necessarily applicable to only Los Angeles County.

SEC. 7. This act shall become operative on July 1, 1997.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 523

An act to amend Section 19116 of the Education Code, relating to libraries.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 19116 of the Education Code, as added by Section 1 of Senate Bill 1998 of the 1995–96 Regular Session, is amended to read:

19116. (a) The provisions of Sections 19104 and 19105 are not applicable to the withdrawal of a city or library district from the county free library system in Los Angeles County. The legislative body of any city or the board of trustees of any library district, whose jurisdiction is within the County of Los Angeles, may notify the board of supervisors for Los Angeles County that the city or library district no longer desires to be a part of the county free library system. The notice shall state whether the city or library district intends to acquire property pursuant to subdivision (c). The board of supervisors shall transmit a copy of the notice to the Los Angeles County Assessor, the Los Angeles County Auditor, and the State Board of Equalization.

(b) When a city or library district files a notice pursuant to subdivision (a), it shall remain a member of the county free library system until July 1 of the base year or the date on which property is transferred pursuant to subdivision (c), whichever date is later. Upon ceasing to be a member of the county free library system, the city or library district shall not participate in any benefits of the county free library system, and shall assume the responsibility for the provision of library services within its jurisdiction. Unless otherwise agreed by July 1 of the base year in writing by the Board of Supervisors of Los Angeles County and the withdrawing entity city or library district, an amount of property tax revenue equal to the property tax revenues allocated to the county free library pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code in the fiscal year prior to the base year and which were derived from property situated within the boundaries of the withdrawing entity shall be allocated to and used

to maintain library services by the withdrawing entity in the base year and, adjusted forward, in each fiscal year thereafter at the same time allocations are made pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code. This subdivision shall not apply to property tax revenues that have been pledged to repay bonded indebtedness of the county free library.

(c) If there is one or more county library facilities within the territorial boundaries of the withdrawing entity at the time the withdrawing entity provides notice pursuant to subdivision (a), the withdrawing entity shall have the right to acquire any or all of those facilities from the county and the county shall, no later than July 1 of the base year, transfer to the withdrawing entity each facility to be acquired and the personal property therein related to the provision of library services. If the facility or personal property was purchased with bond proceeds or other forms of indebtedness, acquisition shall only take place if the withdrawing entity assumes any remaining indebtedness and in no way impairs the repayment thereof. If the withdrawing entity opts not to acquire any facilities or personal property, the county at its discretion may dispose of the facilities or personal property or convert the use of those facilities or personal property, including transferring collections and other personal property to other sites and converting facilities to other purposes. If the withdrawing entity opts to acquire any facilities or personal property, the acquisition prices shall be as follows unless otherwise provided for by statute or contract:

(1) Each county library facility which, for the purposes of this section, shall include the real property upon which the facility is located and any fixtures therein and shall not include computer systems and software, shall be transferred for the lesser of:

(A) No cost, if the facility was donated to the county by the withdrawing entity.

(B) The price paid to the withdrawing entity by the county for the facility, if the county bought the facility from the withdrawing entity. However, if the county constructed capital improvements to the facility after it was bought from the withdrawing entity, the county's total out-of-pocket costs for the capital improvement excluding any costs for routine repairs, restoration or maintenance, shall be added to the price.

(C) The fair market value of the facility. However, if any portion of the facility was donated to the county by the withdrawing entity or if any moneys were donated by the withdrawing entity towards the county's construction or acquisition of the facility or any portion thereof, the value of the donation shall be subtracted from the fair market value.

(2) Any personal property within the facility related to the provision of library services, including books and resource materials,

computer systems and software, furniture, and furnishings, shall be transferred for the lesser of:

(A) No cost, if the property was donated to the county by the withdrawing entity.

(B) The fair market value of the personal property. However, on or before the March 1 preceding the July 1 of the base year, the county librarian may designate collections of resource books and materials that are unique in, and integral to, the county free library system to be special collections. The special collections shall be acquired by the withdrawing entity only upon mutually agreeable terms and conditions.

(d) If a facility transferred pursuant to subdivision (c) serves residents of surrounding jurisdictions, the board of supervisors governing the county free library system may require, as a condition of transferring the facility, that the library services provided by the withdrawing entity to its residents also be available on the same basis to the residents of the surrounding jurisdictions. However, if the withdrawing entity contributes to the provision of library services from other city funds, or through taxes, assessments, or fees of its residents, the withdrawing entity may provide additional services to its residents. If the requirement to provide regional services is imposed and, unless otherwise agreed in writing by the county and the withdrawing entity by July 1 of the base year, an amount of property tax revenues equal to the property tax revenues derived from property situated in the surrounding jurisdictions which were, in the fiscal year prior to the base year, allocated to the county free library system pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code shall be allocated to and used to maintain library services by the withdrawing entity in the base year and, adjusted forward, in each fiscal year thereafter at the same time other allocations are made pursuant to Article 2 (commencing with Section 96) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code. This subdivision shall not apply to property tax revenues that have been pledged to repay bonded indebtedness. If a surrounding jurisdiction subsequently provides notice of its intent to withdraw from the county free library system pursuant to subdivision (a), on the date the surrounding jurisdiction ceases to participate in the benefits of the county free library system pursuant to subdivision (b), the withdrawing entity shall no longer be required to make library services available to the residents of the surrounding jurisdiction and property tax revenues derived from property situated in the surrounding jurisdiction shall no longer be allocated to the withdrawing entity pursuant to this subdivision.

(e) For purposes of this section, the following terms are defined as follows:

(1) "Base year" means the fiscal year commencing on the July 1 following the December 2 following the date of the notice given pursuant to subdivision (a) of this section.

(2) "Fair market value" means:

(A) Any value agreed upon by the withdrawing entity and the county.

(B) If no agreement as to value is reached by the March 1 preceding the July 1 of the base year, the value assigned by an appraiser agreed upon by the withdrawing entity and the county.

(C) If no agreement as to the appointment of an appraiser is reached pursuant to subparagraph (B) by the April 1 preceding the July 1 of the base year, the value assigned by an appraiser agreed upon between the withdrawing entity's appraiser and the county's appraiser.

(D) If no agreement as to the appointment of an appraiser is reached pursuant to subparagraph (C) by the May 1 preceding the July 1 of the base year, the value assigned by a state certified appraiser designated by the withdrawing entity. The designated appraiser shall provide the appraisal in writing to the county no later than the June 1 preceding the July 1 of the base year.

(E) The withdrawing entity shall reimburse the county for any appraisal costs the county incurs in determining the fair market value pursuant to this section.

(3) "Surrounding jurisdictions" means cities and library districts that are adjacent to the withdrawing entity and tax rate areas in unincorporated areas of the county which tax rate areas are wholly or partially within the withdrawing entity's sphere of influence, which cities, libraries, and tax rate areas are within the county free library system and have no facility within their territorial boundaries providing library services at the time the withdrawing entity provides notice pursuant to subdivision (a).

SEC. 2. (a) This bill shall become operative only if Senate Bill 1998 of the 1995–96 Regular Session is enacted and becomes effective on or before January 1, 1997, and adds Section 19116 to the Education Code.

(b) If the condition set forth in subdivision (a) is satisfied, this bill shall become operative on July 1, 1997.

CHAPTER 524

An act to amend Sections 922.4 and 922.5 of the Insurance Code, relating to insurance.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 922.4 of the Insurance Code is amended to read:

922.4. Credit in accounting and financial statements on account of reinsurance ceded to a nonadmitted reinsurer other than an alien reinsurer shall be allowed only:

(a) Where it is demonstrated by the ceding insurer to the satisfaction of the commissioner that the reinsurer maintains the standards and meets the financial requirements applicable to an admitted insurer and that it will submit itself to the jurisdiction of the courts of this state, or a court of competent jurisdiction in any state of the United States and designate the commissioner or a designated attorney in this state as its agent for service of process in this state in any action, suit, or proceeding instituted by or on behalf of the ceding insurer for any matter arising out of the reinsurance, or

(b) To the extent of deposits by, or funds withheld from, the reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if the deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or are placed in trust for those purposes in a qualified United States financial institution if withdrawals from the trust cannot be made without the consent of the ceding insurer. With respect to credit life insurance and credit disability insurance, the deposits or funds shall be deposited in a bank located in California, notwithstanding the fact that the deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer. For purposes of this subdivision, "qualified United States financial institution" means an institution that (1) is organized, or in the case of an United States Branch or agency office of a foreign banking organization is licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers, (2) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies, and (3) is insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

(c) To the extent that the amount of a clean and irrevocable letter of credit issued for a term of one year conforming to the requirements set forth below, is a substitute for advances for claims, unearned premium, and all other policy and contract liabilities and reserve obligations to be made by a foreign reinsurer in connection with its liability under a specific reinsurance agreement. The clean and irrevocable letter of credit shall be issued and maintained under arrangements satisfactory to the commissioner as constituting security to the ceding insurer substantially equal to that of a deposit under subdivision (b), and that it shall be (1) issued or confirmed by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the commissioner, (2)

issued by a California state chartered bank which is insured by the Federal Deposit Insurance Corporation and meets the conditions established by the commissioner, or (3) issued or confirmed by a United States office of a foreign banking corporation that is (A) licensed under the laws of the United States or any state thereof, (B) regulated, supervised, and examined by an agency of the United States or a state agency having regulatory authority with respect to banks and trust companies, (C) designated by the Securities Valuation Office of the National Association of Insurance Commissioners as meeting its credit standards for issuing or confirming letters of credit, and (D) of a financial standing that is satisfactory to the commissioner. For purposes of this subdivision, a confirming bank undertakes the identical terms and obligations of the issuer including those set forth herein. The changes enacted to this subdivision at the 1982 Regular Session shall apply only to life insurers.

As used in this section, the terms "deposits" and "funds" include securities authorized as general investments by Article 3 (commencing with Section 1170) of Chapter 2, cash, or securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and meeting the liquidity standards of Section 706.5.

SEC. 2. Section 922.5 of the Insurance Code is amended to read:

922.5. Credit in accounting and financial statement permitted by this code on account of reinsurance ceded to an alien reinsurer other than one which complies with Article 2 (commencing with Section 1580) of Chapter 4 and includes in the statements required by that article all reserves and liabilities arising out of that reinsurance shall be allowed only:

(a) To the extent of the amount of deposits by, and funds withheld from, the alien reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if the deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or are placed in trust for those purposes in a qualified United States financial institution, if withdrawals from the trust cannot be made without the consent of the ceding insurer. For purposes of this subdivision, "qualified United States financial institution" means an institution that (1) is organized, or in the case of a United States branch or agency office of a foreign banking organization is licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers, (2) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies, and (3) is insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

(b) (1) Where the alien reinsurer maintains sufficient assets in the United States for the protection of policyholders in the United States and operates its business in a manner which satisfies the

commissioner that it maintains standard and financial conditions reasonably comparable to those required of admitted insurers and that it is able to pay losses in the United States and that it will submit itself to the jurisdiction of the courts of this state, or a court of competent jurisdiction in any state of the United States and designate the commissioner or a designated attorney in this state as its agent for service of process in this state in any action, suit, or proceeding instituted by or on behalf of the ceding insurer for any matter arising out of the reinsurance.

(2) Where it has been demonstrated by any ceding insurer to the satisfaction of the commissioner that the alien reinsurer is a group including incorporated and individual unincorporated underwriters that maintains a trusteed account representing the group's liabilities and attributable to business written in the United States and, in addition, the group maintains a trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States ceding insurers of any members of the group, the commissioner shall grant accreditation to the group. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. The group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

(c) To the extent that the amount of a clean and irrevocable letter of credit issued for a term of one year conforming to the requirements set forth below, is a substitute for advances for claims, unearned premium, and all other policy and contract liabilities and reserve obligations to be made by an alien reinsurer in connection with its liability under a specific reinsurance agreement. The clean and irrevocable letter of credit shall be issued and maintained under arrangements satisfactory to the commissioner as constituting security to the ceding insurer substantially equal to that of a deposit under subdivision (a), and that it shall be (1) issued or confirmed by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the commissioner, (2) issued by a California state chartered bank which is insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation and meets the conditions established by the commissioner, or (3) issued by or confirmed a United States office of a foreign banking corporation that is (A) licensed under the laws of the United States or any state thereof, (B) regulated, supervised, and examined by an agency of the United States or a state agency having regulatory authority with respect to banks and trust companies, (C) designated by the Securities Valuation Office of the National Association of Insurance Commissioners as meeting its credit standards for issuing or confirming letters of credit, and (D) of a financial standing

satisfactory to the commissioner. For purposes of this subdivision, a confirming bank undertakes the identical terms and obligations of the issuer including those set forth herein. The changes enacted to this subdivision at the 1982 Regular Session shall apply only to life insurers.

(d) (1) When it has been demonstrated by any ceding insurer to the satisfaction of the commissioner that the alien reinsurer is a group of incorporated insurers under common administration that maintains a trust fund in a qualified United States financial institution for the payment of the claims of its United States policyholders and ceding insurers, their assigns, and successors in interest, that has continuously transacted an insurance business outside the United States for at least three years immediately preceding the date of the financial statement for which the ceding insurer is requesting reinsurance credit, that is in good standing with its domiciliary regulator, whose individual insurer members maintain standards and financial condition reasonably comparable to admitted insurers, that submits to this state's authority to examine its books and records and bears the expense of examination, and that has an aggregate policyholder's surplus of ten billion dollars ($10,000,000,000), the commissioner shall grant accreditation to that group. The trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of that group, plus the group shall maintain a joint trusteed surplus of which one hundred million dollars ($100,000,000) shall be deposited and maintained with a qualified United States financial institution, and shall be held jointly for the exclusive benefit of United States ceding insurers of any member of the group as additional security for any of those liabilities, and each member of the group shall make available to the commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant. The group of incorporated insurers shall file with the commissioner a certified copy of the trust agreement. Each member insurer or reinsurer shall also submit to this state's authority to examine its books and records and bears the expense of examination. The commissioner shall have the authority to require additional amounts to be held in the trust as a condition for initial or continued accreditation if the commissioner determines that these additional amounts are required for the protection of ceding insurers.

(2) The group and, if the commissioner requests, any member of the group, shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund.

(3) The trust described in paragraph (1) shall be established in a form approved by the commissioner. The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. The assuming insurer or its legal successor shall not withdraw its funds from the trust without notice to the commissioner and the ceding insurer. The investments of the trust shall be limited to "general investments" and "excess investments" that would qualify as authorized investments for a California insurer.

(4) No later than February 28 of each year the trustees shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding yearend.

(5) For purposes of this subdivision, "qualified United States financial institution" means an institution that is (A) a member of the Federal Reserve System and of financial standing satisfactory to the commissioner, (B) a California state chartered bank that is insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation and meets the conditions established by the commissioner, or (C) a United States office of a foreign banking corporation that is (i) licensed under the laws of the United States or any state thereof, (ii) regulated, supervised, and examined by an agency of the United States or a state agency having regulatory authority with respect to banks and trust companies, (iii) designated by the Securities Valuation Office of the National Association of Insurance Commissioners as meeting its credit standards for issuing or confirming letters of credit, and (iv) of a financial standing that is satisfactory to the commissioner.

(6) For purposes of this section, the terms "deposits" and "funds" include securities authorized as general investments by Article 3 (commencing with Section 1170) of Chapter 2, cash, or securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and meeting the liquidity standards of Section 706.5.

(7) For purposes of this subdivision, "group of incorporated insurers" means an incorporated association of individual incorporated assuming insurers wherein each member insured underwrites solely for its own account.

(8) "Accreditation" means the issuance of a certificate of recognition as an accredited reinsurer by the commissioner to an assuming insurer not authorized to do any insurance business in this state but which (A) presents satisfactory evidence to the commissioner that it meets the applicable standards of solvency required in this state and (B) is in compliance with the conditions prescribed by regulation under which a ceding insurer may be allowed credit for reinsurance recoverable from an insurer not authorized in this state.

(9) The group of incorporated insurers shall annually file a certified copy of this annual report by the trustee.

The commissioner shall recoup administrative cost pursuant to paragraph (1) of subdivision (a) of Section 12921.6.

CHAPTER 525

An act to add Section 1950.6 to the Civil Code, relating to landlord-tenant.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 1950.6 is added to the Civil Code, to read:

1950.6. (a) Notwithstanding Section 1950.5, when a landlord or his or her agent receives a request to rent a residential property from an applicant, the landlord or his or her agent may charge that applicant an application screening fee to cover the costs of obtaining information about the applicant. The information requested and obtained by the landlord or his or her agent may include, but is not limited to, personal reference checks and consumer credit reports produced by consumer credit reporting agencies as defined in Section 1785.3. A landlord or his or her agent may, but is not required to, accept and rely upon a consumer credit report presented by an applicant.

(b) The amount of the application screening fee shall not be greater than the actual out-of-pocket costs of gathering information concerning the applicant, including, but not limited to, the cost of using a tenant screening service or a consumer credit reporting service, and the reasonable value of time spent by the landlord or his or her agent in obtaining information on the applicant. In no case shall the amount of the application screening fee charged by the landlord or his or her agent be greater than thirty dollars ($30) per applicant. The thirty dollar ($30) application screening fee may be adjusted annually by the landlord or his or her agent commensurate with an increase in the Consumer Price Index, beginning on January 1, 1998.

(c) Unless the applicant agrees in writing, a landlord or his or her agent may not charge an applicant an application screening fee when he or she knows or should have known that no rental unit is available at that time or will be available within a reasonable period of time.

(d) The landlord or his or her agent shall provide, personally, or by mail, the applicant with a receipt for the fee paid by the applicant, which receipt shall itemize the out-of-pocket expenses and time spent by the landlord or his or her agent to obtain and process the information about the applicant.

(e) If the landlord or his or her agent does not perform a personal reference check or does not obtain a consumer credit report, the landlord or his or her agent shall return any amount of the screening fee that is not used for the purposes authorized by this section to the applicant.

(f) If an application screening fee has been paid by the applicant and if requested by the applicant, the landlord or his or her agent shall provide a copy of the consumer credit report to the applicant who is the subject of that report.

(g) As used in this section, "landlord" means an owner of residential rental property.

(h) As used in this section, "application screening fee" means any nonrefundable payment of money charged by a landlord or his or her agent to an applicant, the purpose of which is to purchase a consumer credit report and to validate, review, or otherwise process an application for the rent or lease of residential rental property.

(i) As used in this section, "applicant" means any entity or individual who makes a request to a landlord or his or her agent to rent a residential housing unit, or an entity or individual who agrees to act as a guarantor or cosignor on a rental agreement.

(j) The application screening fee shall not be considered an "advance fee" as that term is used in Section 10026 of the Business and Professions Code, and shall not be considered "security" as that term is used in Section 1950.5.

(k) This section is not intended to preempt any provisions or regulations that govern the collection of deposits and fees under federal or state housing assistance programs.

SEC. 2. This bill shall become operative only if Assembly Bill 2384 is enacted and becomes effective on or before January 1, 1997.

CHAPTER 526

An act to amend Sections 7180 and 7187 of the Business and Professions Code, relating to health and safety.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 7180 of the Business and Professions Code is amended to read:

7180. (a) No person shall, on or after July 1, 1992, engage in the practice of an asbestos consultant as defined in Section 7181, or as a site surveillance technician as defined in Section 7182, unless he or she is certified by the Division of Occupational Safety and Health

pursuant to regulations required by subdivision (b) of Section 9021.5 of the Labor Code.

(b) Certification as an asbestos consultant or site surveillance technician shall not be required when a licensed contractor or registered asbestos abatement contractor takes no more than 12 bulk samples of suspected asbestos-containing material that is required to be removed, repaired, or disturbed as part of a construction project in a residential dwelling solely for any of the following purposes: (1) bid preparation for asbestos abatement; (2) evaluating exposure to its own employees during construction or asbestos abatement; or (3) determining for its own purposes or for the purpose of communicating whether or not a contract for asbestos abatement has been satisfactorily completed. Persons taking samples for the purposes described in this section shall be certified building inspectors under the Asbestos Hazard Emergency Response Act, as specified in Section 763 of Title 40 of the Code of Federal Regulations, appendix (c) to subpart (e). No licensed contractor or asbestos abatement contractor may provide professional health and safety services or perform any asbestos risk assessment. A bid for asbestos abatement may communicate the results and location of sampling for the presence of asbestos and how the asbestos will be abated. This section does not affect the requirement that asbestos abatement contractors be registered under Section 6501.5 of the Labor Code, nor does it permit a licensed contractor or asbestos abatement contractor to perform clearance air monitoring following asbestos abatement, unless otherwise permitted by law.

SEC. 2. Section 7187 of the Business and Professions Code is amended to read:

7187. When a building owner or operator contracts with an asbestos consultant or site surveillance technician for performance of the activities described in Sections 7181 and 7182, that asbestos consultant or site surveillance technician shall not have any financial or proprietary interest in an asbestos abatement contractor hired for the same project. However, this section shall not preclude the hiring of a consultant by a contractor for the purpose of providing health and safety services for the personnel of the contractor. This section shall not apply when a licensed contractor or registered asbestos abatement contractor takes no more than 12 bulk samples of suspected asbestos-containing material that is required to be removed, repaired, or disturbed as part of a construction project in a residential dwelling solely for any of the following purposes: (1) bid preparation for asbestos abatement; (2) evaluating exposure to its own employees during construction or asbestos abatement; or (3) determining for its own purposes or for the purpose of communicating whether or not a contract for asbestos abatement has been satisfactorily completed. Persons taking samples for the purposes described in this section shall be certified building inspectors under the Asbestos Hazard Emergency Response Act, as

specified in Section 763 of Title 40 of the Code of Federal Regulations, appendix (c) to subpart (e). No licensed contractor or asbestos abatement contractor may provide professional health and safety services or perform any asbestos risk assessment. A licensed contractor or asbestos abatement contractor may seek compensation for bid preparation, including the cost of laboratory analysis of asbestos-containing material.

It is the intent of the Legislature in enacting this section to make certain that the asbestos-related work performed by a consultant, including, but not limited to, clearance air monitoring, project design, and contract administration, is performed in a manner which provides for independent professional judgment undertaken without consideration of the financial or beneficial interest of the contractor.

CHAPTER 527

An act to add Section 1368.5 to the Health and Safety Code, and to add Section 10125.1 to the Insurance Code, relating to health care coverage.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 1368.5 is added to the Health and Safety Code, to read:

1368.5. (a) Every health care service plan that offers coverage for a service that is within the scope of practice of a duly licensed pharmacist may pay or reimburse the cost of the service performed by a pharmacist for the plan if the pharmacist otherwise provides services for the plan.

(b) Payment or reimbursement may be made pursuant to this section for a service performed by a duly licensed pharmacist only when all of the following conditions are met:

(1) The service performed is within the lawful scope of practice of the pharmacist.

(2) The coverage otherwise provides reimbursement for identical services performed by other licensed health care providers.

(c) Nothing in this section shall require the plan to pay a claim to more than one provider for duplicate service or be interpreted to limit physician reimbursement.

SEC. 2. Section 10125.1 is added to the Insurance Code, to read:

10125.1. (a) Every insurer issuing group disability insurance that covers hospital, medical, or surgical expenses that offers coverage for a service that is within the scope of practice of a duly licensed pharmacist may pay or reimburse the cost of the service performed

by a pharmacist for the insurer if the pharmacist otherwise provides services for the insurer.

(b) Payment or reimbursement may be made pursuant to this section for a service performed by a duly licensed pharmacist only when all of the following conditions are met:

(1) The service performed is within the lawful scope of practice of the pharmacist.

(2) The coverage otherwise provides reimbursement for identical services performed by other licensed health care providers.

(c) Nothing in this section shall require the insurer to pay a claim to more than one provider for duplicate service or be interpreted to limit physician reimbursement.

CHAPTER 528

An act to add Section 7138.1 to the Business and Professions Code, relating to contractors.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 7138.1 is added to the Business and Professions Code, to read:

7138.1. Notwithstanding Section 7137, the board, on or before July 1, 1997, shall reduce the amount of fees to be collected pursuant to that section in order to generate revenues sufficient to maintain the board's reserve fund at a level approximately equal to three months of annual authorized board expenditures. Thereafter, similar fee collection adjustments shall be made on a biennial basis.

SEC. 2. It is not the intent of the Legislature in adding Section 7138.1 to the Business and Professions Code to permit the Contractors' State License Board to increase fees, but rather it is the intent of the Legislature to lower reserve levels and, thereby, to trigger lower fees, or to provide for credits by the board.

CHAPTER 529

An act to amend Section 14085.6 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 14085.6 of the Welfare and Institutions Code is amended to read:

14085.6. (a) Except as stated in subdivision (g), each hospital contracting to provide services under this article that meets the criteria contained in the state medicaid plan for disproportionate share hospital status shall be eligible to negotiate with the commission for distributions from the Emergency Services and Supplemental Payments Fund, which is hereby created. All distributions from the fund shall be pursuant to this section.

(b) (1) To the extent permitted by federal law, the department shall administer the fund in accordance with this section.

(2) The money in this fund shall be available for expenditure by the department for the purposes of this section, subject to approval through the regular budget process.

(c) The fund shall include all of the following:

(1) Subject to subdivision (*l*), all public funds transferred by public agencies to the department for deposit in the fund, as permitted under Section 433.51 of Title 42 of the Code of Federal Regulations or any other applicable federal medicaid laws. These transfers shall constitute local government financial participation in Medi-Cal as permitted under Section 1902 (a)(2) of the Social Security Act (Title 42 U.S.C. Sec. 1396a (a)(2)) and other applicable federal medicaid laws.

(2) Subject to subdivision (*l*), all private donated funds transferred by private individuals or entities for deposit in the fund as permitted under applicable federal medicaid laws.

(3) Any amounts appropriated to the fund by the Legislature.

(4) Interest that accrues on amounts in the fund.

(5) Moneys appropriated to the fund, or appropriated for poison control center grants and transferred to the fund, pursuant to the annual Budget Act.

(d) Amounts in the fund shall be used as the source for the nonfederal share of payments to hospitals under this section. Moneys shall be allocated from the fund by the department and matched by federal funds in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section.

(e) Distributions from the fund shall be supplemental to any and all other amounts that hospitals would have received under the contracting program, and under the state medicaid plan, including contract rate increases and supplemental payments and payment adjustments under distribution programs relating to disproportionate share hospitals.

(f) Distributions from the fund shall not serve as the state's payment adjustment program under Section 1923 of the Social Security Act (42 U.S.C. Sec. 1396 r-4). To the extent permitted by federal law, and except as otherwise provided in this section,

distributions from the fund shall not be subject to requirements contained in or related to Section 1923 of the Social Security Act (42 U.S.C. Sec. 1396 r-4). Distributions from the fund shall be supplemental contract payments and may be structured on any federally permissible basis, as negotiated between the commission and the hospital.

(g) In order to qualify for distributions from the fund, a hospital shall meet all of the following criteria:

(1) Be a contracting hospital under this article.

(2) Satisfy the state medicaid plan criteria referred to in subdivision (a).

(3) Be one of the following:

(A) A licensed provider of basic emergency services as described in Sections 70411 and following of Title 22 of the California Code of Regulations.

(B) A licensed provider of comprehensive emergency medical services as defined in Sections 70451 and following of Title 22 of the California Code of Regulations.

(C) A children's hospital as defined in Section 14087.21 that satisfies subparagraph (A) or (B) or that jointly provides basic or comprehensive emergency services in conjunction with another licensed hospital.

(D) A hospital owned and operated by a public agency that operates two or more hospitals that qualify under subparagraph (A) or (B) with respect to the particular state fiscal year.

(E) A hospital designated by the National Cancer Institute as a comprehensive or clinical cancer research center that primarily treats acutely ill cancer patients and that is exempt from the federal Medicare prospective payment system pursuant to Section 1886(d)(1)(B)(v) of the Social Security Act (42 U.S.C. Sec. 1395ww(d)(1)(B)(v)).

(4) Be able to demonstrate a purpose for additional funding under the selective provider contracting program including proposals relating to emergency services and other health care services that are made available, or will be made available, to Medi-Cal beneficiaries.

(h) (1) The department shall seek federal financial participation for expenditures made from the fund to the full extent permitted by federal law.

(2) The department shall promptly seek any necessary federal approvals regarding this section.

(i) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in following fiscal years.

(j) For purposes of this section, "fund" means the Emergency Services and Supplemental Payments Fund.

(k) (1) Any public agency transferring amounts to the fund, as specified in paragraph (1) of subdivision (c), may for that purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by

law. A public agency may also utilize its general funds or any other public funds or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(2) Notwithstanding paragraph (1), a public agency may transfer to the fund only those moneys that have a source that will qualify for federal financial participation under the provisions of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or other applicable federal medicaid laws.

(*l*) Public funds transferred pursuant to paragraph (1) of subdivision (c), and private donated funds transferred pursuant to paragraph (2) of subdivision (c), shall be deposited into the fund, and expended pursuant to this section. The director may accept only those funds that are certified by the transferring entity as qualifying for federal financial participation under the terms of the Medicaid Voluntary Contributions and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) and may return any funds transferred in error.

(m) The department may adopt emergency regulations, if necessary, for the purposes of this section.

(n) The state shall be held harmless from any federal disallowance resulting from this section. A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section with respect to that hospital. The state may recoup that federal disallowance from the hospital in any manner authorized by law or contract.

CHAPTER 530

An act relating to agriculture.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) Olive oil produced from California olives is of the finest quality, meeting the world's highest standards of excellence.

(b) California olive oil production and sales are increasing and represent a very important segment of the state's economy.

(c) The continued promotion of California olive oil will further enhance the reputation and sales of the oil around the world.

(d) State laws and regulations should enhance the ability of California's olive growers, canneries, processors, bottlers, and other oil marketers to compete in the international market against producers of less expensive imported oil.

(e) Consumers of olive oil have an important right to receive accurate and truthful information stated on the labels of olive oil sold in this state.

SEC. 2. (a) The State Director of Health Services shall convene a working group of industry leaders involved in the production and sale of olive oil. The Secretary of Food and Agriculture, or the secretary's representative, may participate in this working group. The director shall make recommendations to the Legislature by May 1, 1997, regarding the development of olive oil labeling standards. The standards to be considered shall include labeling requirements concerning oil made from all of the following:

(1) California (or a region thereof) olives.

(2) A particular varietal of olive.

(3) Olives grown on the producer's "estate."

(4) Olives harvested in a particular year.

(5) Olives grown or cultivated in a particular manner.

(b) The working group also shall consider and make recommendations on all of the following:

(1) Possible grading of California olive oil.

(2) Documentation needed to verify a claim made on the label of an olive oil container.

(3) Processes for resolving label disputes.

CHAPTER 531

An act to add Section 12801.8 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 12801.8 is added to the Vehicle Code, to read:

12801.8. (a) In the case of a legal, nonimmigrant driver's license applicant, the department shall issue a temporary driver's license, valid for 90 days, if the applicant has successfully completed the application and the related requirements for the issuance of a driver's license under this code, including subdivision (a) of Section 12805. If the United States Immigration and Naturalization Service is unable to verify the applicant's presence before the temporary driver's license expires, the department shall, at least 15 days before the temporary driver's license expires, extend the temporary driver's license for an additional 120 days and notify the applicant by mail that the temporary driver's license is being extended.

(b) If the department adjusts the expiration date of any driver's license issued pursuant to this code so that the date does not exceed the expiration date of a federal document submitted pursuant to subdivision (a) of Section 12801.5, the applicant may, upon receipt of a notice of renewal of the driver's license by the department sent prior to the expiration of the license, request an extension of the term of the driver's license by submitting to the department satisfactory proof that the applicant's presence in the United States has been reauthorized or extended under federal law. After verifying that the applicant's presence in the United States has been reauthorized or extended by federal law, the department shall adjust the expiration date of the driver's license so that it does not exceed the expiration date of the revised federal document submitted pursuant to subdivision (a) of Section 12801.5 and complies with the related requirements of this code.

(c) On or before July 1, 1997, the department shall establish a procedure for receiving mailed requests for the extension of driver's licenses as described in this section.

CHAPTER 532

An act to amend Section 56.17 of the Civil Code, to amend Section 1374.7 of the Health and Safety Code, and to amend Sections 742.24, 10123.3, 10123.35, 10140, and 10140.1 of, and to add Sections 742.405 and 742.407 to, the Insurance Code, relating to health insurance.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 56.17 of the Civil Code is amended to read:

56.17. (a) This section shall apply to the disclosure of genetic test results contained in an applicant or enrollee's medical records by a health care service plan.

(b) Any person who negligently discloses results of a test for a genetic characteristic to any third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), shall be assessed a civil penalty in an amount not to exceed one thousand dollars ($1,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(c) Any person who willfully discloses the results of a test for a genetic characteristic to any third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described

in subdivision (g), shall be assessed a civil penalty in an amount not less than one thousand dollars ($1,000) and no more than five thousand dollars ($5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(d) Any person who willfully or negligently discloses the results of a test for a genetic characteristic to a third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), that results in economic, bodily, or emotional harm to the subject of the test, is guilty of a misdemeanor punishable by a fine not to exceed ten thousand dollars ($10,000).

(e) In addition to the penalties listed in subdivisions (b) and (c), any person who commits any act described in subdivision (b) or (c) shall be liable to the subject for all actual damages, including damages for economic, bodily, or emotional harm which is proximately caused by the act.

(f) Each disclosure made in violation of this section is a separate and actionable offense.

(g) The applicant's "written authorization," as used in this section, shall satisfy the following requirements:

(1) Is written in plain language.

(2) Is dated and signed by the individual or a person authorized to act on behalf of the individual.

(3) Specifies the types of persons authorized to disclose information about the individual.

(4) Specifies the nature of the information authorized to be disclosed.

(5) States the name or functions of the persons or entities authorized to receive the information.

(6) Specifies the purposes for which the information is collected.

(7) Specifies the length of time the authorization shall remain valid.

(8) Advises the person signing the authorization of the right to receive a copy of the authorization. Written authorization is required for each separate disclosure of the test results.

(h) This section shall not apply to disclosures required by the Department of Health Services necessary to monitor compliance with Chapter 1 (commencing with Section 124975) of Part 5 of Division 106 of the Health and Safety Code, nor to disclosures required by the Department of Corporations necessary to administer and enforce compliance with Section 1374.7 of the Health and Safety Code.

SEC. 2. Section 1374.7 of the Health and Safety Code, as amended by Section 1 of Chapter 761 of the Statutes of 1994, is amended to read:

1374.7. (a) No plan shall refuse to enroll any person or accept any person as a subscriber or renew any person as a subscriber after appropriate application on the basis of a person's genetic

characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring. No plan shall require a higher rate or charge, or offer or provide different terms, conditions, or benefits, on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring.

(b) No plan shall seek information about a person's genetic characteristics for any nontherapeutic purpose.

(c) No discrimination shall be made in the fees or commissions of a solicitor or solicitor firm for an enrollment or a subscription or the renewal of an enrollment or subscription of any person on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring.

(d) "Genetic characteristics" as used in this section means any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder, or determined to be associated with a statistically increased risk of development of a disease or disorder, or inherited characteristics that may derive from the individual or family member, that is presently not associated with any symptoms of any disease or disorder.

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

SEC. 3. Section 742.24 of the Insurance Code is amended to read:

742.24. To be eligible for a certificate of compliance, a self-funded or partially self-funded multiple employer welfare arrangement shall meet all of the following requirements:

(a) Be nonprofit.

(b) Be established and maintained by a trade association, industry association, professional association, or by any other business group or association of any kind that has a constitution or bylaws specifically stating its purpose, and have been organized and maintained in good faith with at least 200 paid members and operated actively for a continuous period of five years, for purposes other than that of obtaining or providing health care coverage benefits to its members. An association is a California mutual benefit corporation 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 do not condition membership directly or indirectly on the health or claims history of any person, and which uses membership dues solely for and in consideration of the membership and membership benefits.

(c) Be organized and maintained in good faith with at least 2,000 employees and 50 paid employer members and operated actively for a continuous period of five years.

(d) Have been operating in compliance with ERISA on a self-funded or partially self-funded basis for a continuous period of five years pursuant to a trust agreement by a board of trustees that shall have complete fiscal control over the multiple employer welfare arrangement, and that shall be responsible for all operations of the multiple employer welfare arrangement. The trustees shall be selected by vote of the participating employers and shall be owners, partners, officers, directors, or employees of one or more employers participating in the multiple employer welfare arrangement. A trustee may not be an owner, officer, or employee of the insurer, administrator, or service company providing insurance or insurance-related services to the association. The trustees shall have authority to approve applications of association members for participation in the multiple employer welfare arrangement and to contract with an authorized administrator or service company to administer the day-to-day affairs of the multiple employer welfare arrangement.

(e) Benefits shall be offered only to association members.

(f) Benefits may be offered only through life agents, as defined in Section 1622, licensed in the state whose names, addresses, and telephone numbers have been filed with the commissioner as licensed life agents for the multiple employer welfare arrangement.

(g) Be operated in accordance with sound actuarial principles and conform to the requirements of Section 742.31.

(h) File an application with the department for a certificate of compliance no later than November 30, 1995.

(i) The multiple employer welfare arrangement shall at all times maintain aggregate stop loss insurance providing the arrangement with coverage with an attachment point which is not greater than 125 percent of annual expected claims. The commissioner may, by regulation, define "expected claims" for purposes of this subdivision and provide for adjustments in the amount of the percentage in specified circumstances in which the arrangement specifically provides for and maintains reserves in accordance with sound actuarial principles as provided in Section 742.31.

(j) The multiple employer welfare arrangement shall establish and maintain specific stop loss insurance providing the arrangement with coverage with an attachment point which is not greater than 5 percent of annual expected claims. The commissioner may, by regulation, define "expected claims" for purposes of this subdivision and provide for adjustments in the amount of that percentage as may be necessary to carry out the purposes of this subdivision determined by sound actuarial principles as provided in Section 742.31.

(k) The multiple employer welfare arrangement shall establish and maintain appropriate loss and loss adjustment reserves determined by sound actuarial principles as provided in Section 742.31.

(*l*) The association has within its own organization adequate facilities and competent personnel to serve the multiple employer welfare arrangement, or has contracted with a licensed third-party administrator to provide those services.

(m) The association has established a procedure for handling claims for benefits in the event of the dissolution of the multiple employer welfare arrangement.

(n) On and after January 1, 1995, in addition to the requirements of this article, maintain a surplus of not less than two hundred fifty thousand dollars ($250,000); provided, however, that this amount be increased as follows: four hundred thousand dollars ($400,000) by January 1, 1996; five hundred fifty thousand dollars ($550,000) by January 1, 1997; seven hundred thousand dollars ($700,000) by January 1, 1998, if this article is still in effect; eight hundred fifty thousand dollars ($850,000) by January 1, 1999, if this article is still in effect; and one million dollars ($1,000,000) by January 1, 2000, if this article is still in effect.

(o) Submit all proposed rate levels to the department for informational purposes no later than 45 days prior to their implementation. The proposed rates shall contain an aggregate benefit structure which has a loss ratio experience of not less than 80 percent. The loss ratio experience shall be calculated as claims paid during the contract period plus a reasonable estimate of claims liability for the contract period at the end of the current year divided by contributions paid or collected for the contract period minus unearned contributions at the end of the current year.

(p) Comply with the investment requirements of Article 3 (commencing with Section 1170) of Chapter 2 of Part 2 of Division 1 and Section 1192.5.

SEC. 4. Section 742.405 is added to the Insurance Code, to read:

742.405. (a) No multiple employer welfare arrangement shall refuse to enroll any person or accept any person as a subscriber or renew any person as a subscriber after appropriate application on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring. No multiple employer welfare arrangement shall require a higher rate or charge, or offer or provide different terms, conditions, or benefits, on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring than is at that time required of any other individual in an otherwise identical classification, nor shall any multiple employer welfare arrangement make or require any rebate, discrimination, or discount upon the amount to be paid or the service to be rendered under the arrangement because the person carries those traits.

(b) No multiple employer welfare arrangement shall seek information about a person's genetic characteristics for any nontherapeutic purpose.

(c) No discrimination shall be made in the fees or commissions of a solicitor or solicitor firm for an enrollment or a subscription or the renewal of an enrollment or subscription of any person on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring.

(d) "Genetic characteristics" as used in this section shall have the same meaning as defined in Section 10123.3.

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

SEC. 5. Section 742.407 is added to the Insurance Code, to read:

742.407. (a) This section shall apply to the disclosure of genetic test results contained in an applicant or enrollee's medical records by a multiple employer welfare arrangement.

(b) Any person who negligently discloses results of a test for a genetic characteristic to any third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), shall be assessed a civil penalty in an amount not to exceed one thousand dollars ($1,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(c) Any person who willfully discloses the results of a test for a genetic characteristic to any third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), shall be assessed a civil penalty in an amount not less than one thousand dollars ($1,000) and no more than five thousand dollars ($5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(d) Any person who willfully or negligently discloses the results of a test for a genetic characteristic to a third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), that results in economic, bodily, or emotional harm to the subject of the test, is guilty of a misdemeanor punishable by a fine not to exceed ten thousand dollars ($10,000).

(e) In addition to the penalties listed in subdivisions (b) and (c), any person who commits any act described in subdivision (b) or (c) shall be liable to the subject for all actual damages, including damages for economic, bodily, or emotional harm which is proximately caused by the act.

(f) Each disclosure made in violation of this section is a separate and actionable offense.

(g) The applicant's "written authorization," as used in this section, shall satisfy the following requirements:

(1) Is written in plain language.

(2) Is dated and signed by the individual or a person authorized to act on behalf of the individual.

(3) Specifies the types of persons authorized to disclose information about the individual.

(4) Specifies the nature of the information authorized to be disclosed.

(5) States the name or functions of the persons or entities authorized to receive the information.

(6) Specifies the purposes for which the information is collected.

(7) Specifies the length of time the authorization shall remain valid.

(8) Advises the person signing the authorization of the right to receive a copy of the authorization. Written authorization is required for each separate disclosure of the test results, and the authorization shall set forth the person or entity to whom the disclosure would be made.

(h) This section shall not apply to disclosures required by the Department of Health Services necessary to monitor compliance with Chapter 1 (commencing with Section 124975) of Part 5 of Division 106 of the Health and Safety Code, nor to disclosures required by the Department of Corporations necessary to administer and enforce compliance with Section 1374.7 of the Health and Safety Code.

SEC. 6. Section 10123.3 of the Insurance Code, as amended by Section 3 of Chapter 761 of the Statutes of 1994, is amended to read:

10123.3. (a) No self-insured employee welfare benefit plan shall refuse to enroll any person or accept any person as a subscriber or renew any person as a subscriber after appropriate application on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring. No plan shall require a higher rate or charge, or offer or provide different terms, conditions, or benefits, on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring than is at the time required of any other individual in an otherwise identical classification, nor shall any plan make or require any rebate, discrimination, or discount upon the amount to be paid or the service to be rendered under the plan because the person carries those traits.

(b) No self-insured employee welfare benefit plan shall seek information about a person's genetic characteristics for any nontherapeutic purpose.

(c) No discrimination shall be made in the fees or commissions of a solicitor or solicitor firm for an enrollment or a subscription or the renewal of an enrollment or subscription of any person on the basis of a person's genetic characteristics that may, under some

circumstances, be associated with disability in that person or that person's offspring.

(d) "Genetic characteristics" as used in this section means any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder, or determined to be associated with a statistically increased risk of development of a disease or disorder, or inherited characteristics that may derive from the individual or family member, that is presently not associated with any symptoms of any disease or disorder.

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

SEC. 7. Section 10123.35 of the Insurance Code is amended to read:

10123.35. (a) This section shall apply to the disclosure of genetic test results contained in an applicant or enrollee's medical records by a self-insured welfare benefit plan.

(b) Any person who negligently discloses results of a test for a genetic characteristic to any third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), shall be assessed a civil penalty in an amount not to exceed one thousand dollars ($1,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(c) Any person who willfully discloses the results of a test for a genetic characteristic to any third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), shall be assessed a civil penalty in an amount not less than one thousand dollars ($1,000) and no more than five thousand dollars ($5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(d) Any person who willfully or negligently discloses the results of a test for a genetic characteristic to a third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), that results in economic, bodily, or emotional harm to the subject of the test, is guilty of a misdemeanor punishable by a fine not to exceed ten thousand dollars ($10,000).

(e) In addition to the penalties listed in subdivisions (b) and (c), any person who commits any act described in subdivision (b) or (c) shall be liable to the subject for all actual damages, including damages for economic, bodily, or emotional harm which is proximately caused by the act.

(f) Each disclosure made in violation of this section is a separate and actionable offense.

(g) The applicant's "written authorization," as used in this section, shall satisfy the following requirements:

(1) Is written in plain language.

(2) Is dated and signed by the individual or a person authorized to act on behalf of the individual.

(3) Specifies the types of persons authorized to disclose information about the individual.

(4) Specifies the nature of the information authorized to be disclosed.

(5) States the name or functions of the persons or entities authorized to receive the information.

(6) Specifies the purposes for which the information is collected.

(7) Specifies the length of time the authorization shall remain valid.

(8) Advises the person signing the authorization of the right to receive a copy of the authorization. Written authorization is required for each separate disclosure of the test results, and the authorization shall set forth the person or entity to whom the disclosure would be made.

(h) This section shall not apply to disclosures required by the Department of Health Services necessary to monitor compliance with Chapter 1 (commencing with Section 124975) of Part 5 of Division 106 of the Health and Safety Code, nor to disclosures required by the Department of Corporations necessary to administer and enforce compliance with Section 1374.7 of the Health and Safety Code.

SEC. 8. Section 10140 of the Insurance Code, as amended by Section 5 of Chapter 761 of the Statutes of 1994, is amended to read:

10140. (a) No admitted insurer, licensed to issue life or disability insurance, shall fail or refuse to accept an application for that insurance, to issue that insurance to an applicant therefor, or issue or cancel that insurance, under conditions less favorable to the insured than in other comparable cases, except for reasons applicable alike to persons of every race, color, religion, national origin, ancestry, or sexual orientation. Race, color, religion, national origin, ancestry, or sexual orientation shall not, of itself, constitute a condition or risk for which a higher rate, premium, or charge may be required of the insured for that insurance.

(b) Except as otherwise permitted by law, no admitted insurer, licensed to issue disability insurance policies for hospital, medical, and surgical expenses, shall fail or refuse to accept an application for that insurance, fail or refuse to issue that insurance to an applicant therefor, cancel that insurance, refuse to renew that insurance, charge a higher rate or premium for that insurance, or offer or provide different terms, conditions, or benefits, or place a limitation on coverage under that insurance, on the basis of a person's genetic

characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring. This subdivision shall not apply to life and disability income policies issued or delivered on or after January 1, 1995, that are contingent upon review or testing for other diseases or medical conditions.

(c) No admitted insurer, licensed to issue disability insurance for hospital, medical, and surgical expenses, shall seek information about a person's genetic characteristics for any nontherapeutic purpose.

(d) No discrimination shall be made in the fees or commissions of agents or brokers for writing or renewing a policy of disability insurance, other than disability income, on the basis of a person's genetic characteristics that may, under some circumstances, be associated with disability in that person or that person's offspring.

(e) It shall be deemed a violation of subdivision (a) for any insurer to consider sexual orientation in its underwriting criteria or to utilize marital status, living arrangements, occupation, gender, beneficiary designation, zip codes or other territorial classification within this state, or any combination thereof for the purpose of establishing sexual orientation or determining whether to require a test for the presence of the human immunodeficiency virus or antibodies to that virus, where that testing is otherwise permitted by law. Nothing in this section shall be construed to alter, expand, or limit in any manner the existing law respecting the authority of insurers to conduct tests for the presence of human immunodeficiency virus or evidence thereof.

(f) This section shall not be construed to limit the authority of the commissioner to adopt regulations prohibiting discrimination because of sex, marital status, or sexual orientation or to enforce these regulations, whether adopted before or on or after January 1, 1991.

(g) "Genetic characteristics" as used in this section shall have the same meaning as defined in Section 10123.3.

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

SEC. 9. Section 10140.1 of the Insurance Code is amended to read:

10140.1. (a) This section shall apply to the disclosure of genetic test results contained in an applicant or enrollee's medical records by an admitted insurer licensed to issue life or disability insurance, except life and disability income policies issued or delivered on or after January 1, 1995, that are contingent upon review or testing for other diseases or medical conditions.

(b) Any person who negligently discloses results of a test for a genetic characteristic to any third party in a manner that identifies or provides identifying characteristics, of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), shall be assessed a civil penalty in an amount not to exceed one thousand dollars ($1,000) plus court costs, as

determined by the court, which penalty and costs shall be paid to the subject of the test.

(c) Any person who willfully discloses the results of a test for a genetic characteristic to any third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), shall be assessed a civil penalty in an amount not less than one thousand dollars ($1,000) and no more than five thousand dollars ($5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(d) Any person who willfully or negligently discloses the results of a test for a genetic characteristic to a third party in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization as described in subdivision (g), that results in economic, bodily, or emotional harm to the subject of the test, is guilty of a misdemeanor punishable by a fine not to exceed ten thousand dollars ($10,000).

(e) In addition to the penalties listed in subdivisions (b) and (c), any person who commits any act described in subdivision (b) or (c) shall be liable to the subject for all actual damages, including damages for economic, bodily, or emotional harm which is proximately caused by the act.

(f) Each disclosure made in violation of this section is a separate and actionable offense.

(g) The applicant's "written authorization," as used in this section, shall satisfy the following requirements:

(1) Is written in plain language.

(2) Is dated and signed by the individual or a person authorized to act on behalf of the individual.

(3) Specifies the types of persons authorized to disclose information about the individual.

(4) Specifies the nature of the information authorized to be disclosed.

(5) States the name or functions of the persons or entities authorized to receive the information.

(6) Specifies the purposes for which the information is collected.

(7) Specifies the length of time the authorization shall remain valid.

(8) Advises the person signing the authorization of the right to receive a copy of the authorization. Written authorization is required for each separate disclosure of the test results, and the authorization shall set forth the person or entity to whom the disclosure would be made.

(h) This section shall not apply to disclosures required by the Department of Health Services necessary to monitor compliance with Chapter 1 (commencing with Section 124975) of Part 5 of Division 106 of the Health and Safety Code, nor to disclosures

required by the Department of Corporations necessary to administer and enforce compliance with Section 1374.7 of the Health and Safety Code.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 533

An act to add Section 1366.4 to the Health and Safety Code, relating to health care service plans.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 1366.4 is added to the Health and Safety Code, immediately following Section 1366, to read:

1366.4. (a) A medical group, physician, or independent practice association that contracts with a health care service plan may enter into contracts with licensed nonphysician providers to provide services, as defined in Section 1300.67(a)(1) of Title 10 of the California Code of Regulations, to plan enrollees covered by the contract between the plan and the group, physician, or association.

(b) The licensed nonphysician provider described in subdivision (a) that contracts with a medical group, physician, or independent practice association may directly bill, if direct billing is otherwise permitted by law, a health care service plan for covered services pursuant to a contract with the health care service plan that specifies direct billing. Direct billing pursuant to this subdivision is permitted only to the extent that the same services are not billed for by the medical group, physician, or independent practice association.

(c) A health care service plan may require the nonphysician provider to complete an appropriate credentialing process.

(d) Every health care service plan may either list licensed nonphysician providers that contract with medical groups, physicians, and independent practice associations pursuant to

subdivision (b) in any listing or directory of plan health care providers that is provided to enrollees or to the public, or may include a notification in the plan's evidence of coverage or provider list that the health care service plan has contracts with nonphysician providers, pursuant to subdivision (b), and may list the types of contracted nonphysician providers. The notification may inform an enrollee that he or she may obtain a list of the nonphysician providers by contacting his or her primary or specialist medical group. The listing may indicate whether licensed nonphysician providers may be accessed directly by enrollees.

(e) Nothing in this section shall be construed to authorize, or otherwise require the commissioner to approve, a risk-sharing arrangement between a plan and a provider.

CHAPTER 534

An act to amend Section 1368 of the Health and Safety Code, relating to health care services plans.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 1368 of the Health and Safety Code is amended to read:

1368. (a) Every plan shall do all of the following:

(1) Establish and maintain a grievance system approved by the department under which enrollees may submit their grievances to the plan. Each system shall provide reasonable procedures in accordance with department regulations that shall ensure adequate consideration of enrollee grievances and rectification when appropriate.

(2) Inform its subscribers and enrollees upon enrollment in the plan and annually thereafter of the procedure for processing and resolving grievances. The information shall include the location and telephone number where grievances may be submitted.

(3) Provide forms for complaints to be given to subscribers and enrollees who wish to register written complaints. The forms used by plans licensed pursuant to Section 1353 shall be approved by the commissioner in advance as to format.

(4) Keep in its files all copies of complaints, and the responses thereto, for a period of five years.

(b) (1) (A) After either completing the grievance process described in subdivision (a), or participating in the process for at least 60 days, a subscriber or enrollee may submit the grievance or complaint to the department for review. In any case determined by

the department to be a case involving an imminent and serious threat to the health of the patient, including, but not limited to, the potential loss of life, limb, or major bodily function, or in any other case where the department determines that an earlier review is warranted, a subscriber or enrollee shall not be required to complete the grievance process or participate in the process for at least 60 days.

(B) A grievance or complaint may be submitted to the department for review and resolution prior to any arbitration.

(C) Notwithstanding subparagraphs (A) and (B), the department may refer any grievance or complaint to the State Department of Health Services, the Department of Aging, the federal Health Care Financing Administration, or any other appropriate governmental entity for investigation and resolution.

(2) If the subscriber or enrollee is a minor, or is incompetent or incapacitated, the parent, guardian, conservator, relative, or other designee of the subscriber or enrollee, as appropriate, may submit the grievance or complaint to the department as the agent of the subscriber or enrollee. Further, a provider may join with, or otherwise assist, a subscriber or enrollee, or the agent, to submit the grievance or complaint to the department. In addition, following submission of the grievance or complaint to the department, the subscriber or enrollee, or the agent, may authorize the provider to assist, including advocating on behalf of the subscriber or enrollee. For purposes of this section, a "relative" includes the parent, stepparent, spouse, adult son or daughter, grandparent, brother, sister, uncle, or aunt of the subscriber or enrollee.

(3) Every health care service plan regulated by the department shall prominently display in every plan contract, on enrollee and subscriber evidence of coverage forms, on the complaint forms required under paragraph (3) of subdivision (a), and on all written responses to grievances and complaints, a notice of the right to submit unresolved grievances and complaints to the department for review.

(4) The department shall review the written documents submitted with the subscriber's or the enrollee's request for review, or submitted by the agent on behalf of the subscriber or enrollee. The department may ask for additional information, and may hold an informal meeting with the involved parties, including providers who have joined in submitting the grievance or complaint, or who are otherwise assisting or advocating on behalf of the subscriber or enrollee. The department shall send a written notice of the final disposition of the grievance or complaint, and the reasons therefor, to the subscriber or enrollee, the agent, to any provider that has joined with or is otherwise assisting the subscriber or enrollee, and to the plan, within 60 calendar days of receipt of the request for review unless the commissioner, in his or her discretion, determines that additional time is reasonably necessary to fully and fairly evaluate the relevant grievance or complaint. Distribution of the

written notice shall not be deemed a waiver of any exemption or privilege under existing law, including, but not limited to, Section 6254.5 of the Government Code, for any information in connection with and including the written notice, nor shall any person employed or in any way retained by the department be required to testify as to that information or notice. On or before January 1, 1997, the commissioner shall establish and maintain a system of aging of complaints that are pending and unresolved for 60 days or more, that shall include a brief explanation of the reasons each complaint is pending and unresolved for 60 days or more.

(5) A subscriber or enrollee, or the agent acting on behalf of a subscriber or enrollee, may also request voluntary mediation with the plan prior to exercising the right to submit a grievance or complaint to the department. The use of mediation services shall not preclude the right to submit a grievance or complaint to the department upon completion of mediation. In order to initiate mediation, the subscriber or enrollee, or the agent acting on behalf of the subscriber or enrollee, and the plan shall voluntarily agree to mediation. Expenses for mediation shall be borne equally by both sides. The department shall have no administrative or enforcement responsibilities in connection with the voluntary mediation process authorized by this paragraph.

(c) The plan's grievance system shall include a system of aging of complaints that are pending and unresolved for 30 days or more. On or before January 1, 1997, the plan shall provide a quarterly report to the commissioner of complaints pending and unresolved for 30 or more days with separate categories of complaints for Medicare enrollees and Medi-Cal enrollees. The plan shall include with the report a brief explanation of the reasons each complaint is pending and unresolved for 30 days or more. The plan may include the following statement in the quarterly report that is made available to the public by the commissioner:

> "Under Medicare and Medi-Cal law, Medicare enrollees and Medi-Cal enrollees each have separate avenues of appeal that are not available to other enrollees. Therefore, complaints pending and unresolved may reflect enrollees pursuing their Medicare or Medi-Cal appeal rights."

If requested by a plan, the commissioner shall include this statement in a written report made available to the public and prepared by the commissioner that describes or compares complaints that are pending and unresolved with the plan for 30 days or more. Additionally, the commissioner shall, if requested by a plan, append to that written report a brief explanation, provided in writing by the plan, of the reasons why complaints described in that written report are pending and unresolved for 30 days or more. The commissioner shall not be required to include a statement or append a brief

explanation to a written report that the commissioner is required to prepare under this chapter, including Sections 1380 and 1397.5.

(d) Subject to subparagraph (C) of paragraph (1) of subdivision (b), the grievance, complaint, or resolution procedures authorized by this section shall be in addition to any other procedures that may be available to any person, and failure to pursue, exhaust, or engage in the procedures described in this section shall not preclude the use of any other remedy provided by law.

(e) Nothing in this section shall be construed to allow the submission to the department of any provider complaint or grievance under this section. However, as part of a provider's duty to advocate for medically appropriate health care for his or her patients pursuant to Sections 510 and 2056 of the Business and Professions Code, nothing in this subdivision shall be construed to prohibit a provider from contacting and informing the department about any concerns he or she has regarding compliance with or enforcement of this chapter.

CHAPTER 535

An act to amend Section 1701 of the Fish and Game Code, relating to fishing, and making an appropriation therefor.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 1701 of the Fish and Game Code is amended to read:

1701. (a) The Legislature declares that California's marine sport and commercial fisheries, and the resources upon which they depend, are important to the people of the state and should be managed in accordance with the policies of Section 1700.

(b) The department shall conduct research and management studies of marine fishery resources.

(c) Consistent with the policies established in Section 1700, the department shall closely monitor changes in the status of any marine fishery resource.

(d) When the department determines, based on the best available scientific information, that a marine fishery resource cannot be maintained at levels necessary to meet the policies and objectives established in Section 1700, the department shall report that determination to the Legislature.

(e) Determinations made by the department pursuant to subdivision (d) shall be based on, but not limited to, an analysis of catch and effort data, the age and size composition of the catch,

information about the relative contribution of individual year classes to the fishery, and estimates of maximum sustainable yield when that information is available or when other fishery dependent or fishery independent information, which can describe changes in the fishery resource, is available.

(f) Any report to the Legislature pursuant to subdivision (d) shall include, but not be limited to, recommendations on measures necessary to rehabilitate the resource to levels necessary to meet the policies and objectives established in Section 1700.

(g) The Legislature finds and declares that recent efforts to protect anadromous fish have altered their availability to ocean recreational and commercial fisheries. This alteration has increased the need to assess and prioritize existing research and management activities involving state-managed ocean fisheries. Therefore, the department shall assess all of the current recreational fisheries management and research programs for ocean finfish fisheries north of Point Arguello and California halibut fisheries south of Point Arguello and, on or before January 1, 1998, report to the Legislature its recommendations for prioritizing and undertaking marine fisheries management programs and preparing and implementing marine fisheries management plans. The assessment and report shall address the important state-managed nearshore marine fisheries resources, including, but not limited to, California halibut and rockfish, and shall include an estimate of the resources required by the department to prepare management plans for those fisheries. Any management plan prepared pursuant to this section shall, to the extent possible, identify the amount of funding necessary to implement the management plan.

SEC. 2. The sum of sixty-five thousand dollars ($65,000) is hereby appropriated from the California Environmental License Plate Fund to the Department of Fish and Game for a grant to pay the costs of the Big Creek hatchery operated by the volunteer-based Monterey Bay Salmon and Trout Project.

CHAPTER 536

An act to amend Section 25117.5 of, to amend and renumber Sections 25020.5, 25021.9, 25022.8, 25023.2, 25023.8, 25024, 25025.9, 25027, 25027.5, 25030.5, 25041, 25055, 25061, 25062.5, 25063, 25070.4, 25080, 25081, 25088, 25090, 25090.5, and 25090.6 of, and to add Sections 117747 and 117924 to, the Health and Safety Code, relating to medical waste.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 25020.5 of the Health and Safety Code is amended and renumbered to read:

117635. "Biohazardous waste" means any of the following:

(a) Laboratory waste, including, but not limited to, all of the following:

(1) Human or animal specimen cultures from medical and pathology laboratories.

(2) Cultures and stocks of infectious agents from research and industrial laboratories.

(3) Wastes from the production of bacteria, viruses, spores, discarded live and attenuated vaccines used in human health care or research, discarded animal vaccines, including Brucellosis and Contagious Ecthyma, as identified by the department, and culture dishes and devices used to transfer, inoculate, and mix cultures.

(b) Human surgery specimens or tissues removed at surgery or autopsy, which are suspected by the attending physician and surgeon or dentist of being contaminated with infectious agents known to be contagious to humans.

(c) Animal parts, tissues, fluids, or carcasses suspected by the attending veterinarian of being contaminated with infectious agents known to be contagious to humans.

(d) Waste, which at the point of transport from the generator's site, at the point of disposal, or thereafter, contains recognizable fluid blood, fluid blood products, containers or equipment containing blood that is fluid, or blood from animals known to be infected with diseases which are highly communicable to humans.

(e) Waste containing discarded materials contaminated with excretion, exudate, or secretions from humans or animals that are required to be isolated by the infection control staff, the attending physician and surgeon, the attending veterinarian, or the local health officer, to protect others from highly communicable diseases or diseases of animals that are highly communicable to humans.

(f) (1) Waste which is hazardous only because it is comprised of human surgery specimens or tissues which have been fixed in formaldehyde or other fixatives, or only because the waste is contaminated through contact with, or having previously contained, chemotherapeutic agents, including, but not limited to, gloves, disposable gowns, towels, and intravenous solution bags and attached tubing which are empty. A biohazardous waste which meets the conditions of this paragraph is not subject to Chapter 6.5 (commencing with Section 25100) of Division 20.

(2) For purposes of this subdivision, "chemotherapeutic agent" means an agent that kills or prevents the reproduction of malignant cells.

(3) For purposes of this subdivision, a container, or inner liner removed from a container, which previously contained a

chemotherapeutic agent, is empty if the container or inner liner removed from the container has been emptied by the generator as much as possible, using methods commonly employed to remove waste or material from containers or liners, so that the following conditions are met:

(A) If the material which the container or inner liner held is pourable, no material can be poured or drained from the container or inner liner when held in any orientation, including, but not limited to, when tilted or inverted.

(B) If the material which the container or inner liner held is not pourable, no material or waste remains in the container or inner liner that can feasibly be removed by scraping.

(g) Waste that is hazardous only because it is comprised of pharmaceuticals, as defined in Section 117747. Notwithstanding subdivision (a) of Section 117690, medical waste includes biohazardous waste that meets the conditions of this subdivision. Biohazardous waste that meets the conditions of this subdivision is not subject to Chapter 6.5 (commencing with Section 25100) of Division 20.

SEC. 2. Section 25021.9 of the Health and Safety Code is amended and renumbered to read:

117662. "Health care professional" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act, as set forth in Chapter 8 (commencing with Section 3600) of Division 2 of the Business and Professions Code, or pursuant to the Chiropractic Initiative Act, as set forth in Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code; and any person certified pursuant to Division 2.5 (commencing with Section 1797).

SEC. 3. Section 25022.8 of the Health and Safety Code is amended and renumbered to read:

117680. "Large quantity generator" means a medical waste generator that generates 200 or more pounds of medical waste in any month of a 12-month period.

SEC. 4. Section 25023.2 of the Health and Safety Code is amended and renumbered to read:

117690 (a) "Medical waste" means waste which meets both of the following requirements:

(1) The waste is composed of waste which is generated or produced as a result of any of the following actions:

(A) Diagnosis, treatment, or immunization of human beings or animals.

(B) Research pertaining to the activities specified in subparagraph (A).

(C) The production or testing of biologicals.

(D) The accumulation of properly contained home-generated sharps waste that is brought by a patient, a member of the patient's

family, or by a person authorized by the enforcement agency, to a point of consolidation approved by the enforcement agency pursuant to Section 117904 or authorized pursuant to Section 118147.

(2) The waste is either of the following:

(A) Biohazardous waste.

(B) Sharps waste.

(b) For purposes of this section, "biologicals" means medicinal preparations made from living organisms and their products, including, but not limited to, serums, vaccines, antigens, and antitoxins.

SEC. 5. Section 25023.8 of the Health and Safety Code is amended and renumbered to read:

117700. Medical waste does not include any of the following:

(a) Waste generated in food processing or biotechnology that does not contain an infectious agent as defined in Section 117675.

(b) Waste generated in biotechnology that does not contain human blood or blood products or animal blood or blood products suspected of being contaminated with infectious agents known to be communicable to humans.

(c) Urine, feces, saliva, sputum, nasal secretions, sweat, tears, or vomitus, unless it contains fluid blood, as provided in subdivision (d) of Section 117635.

(d) Waste which is not biohazardous, such as paper towels, paper products, articles containing nonfluid blood, and other medical solid waste products commonly found in the facilities of medical waste generators.

(e) Hazardous waste, radioactive waste, or household waste.

(f) Waste generated from normal and legal veterinarian, agricultural, and animal livestock management practices on a farm or ranch.

SEC. 6. Section 25024 of the Health and Safety Code is amended and renumbered to read:

117705. "Medical waste generator" means any person whose act or process produces medical waste and includes, but is not limited to, a provider of health care, as defined in subdivision (d) of Section 56.05 of the Civil Code. All of the following are examples of businesses that generate medical waste:

(a) Medical and dental offices, clinics, hospitals, surgery centers, laboratories, research laboratories, unlicensed health facilities, those facilities required to be licensed pursuant to Division 2 (commencing with Section 1200), chronic dialysis clinics, as regulated pursuant to Division 2 (commencing with Section 1200), and education and research facilities.

(b) Veterinary offices, veterinary clinics, and veterinary hospitals.

(c) Pet shops.

SEC. 7. Section 25025.9 of the Health and Safety Code is amended and renumbered to read:

117742. "Parent organization" means an organization that employs or contracts with health care professionals who provide health care services at a location other than at a health care facility specified in subdivision (a) of Section 117705.

SEC. 8. Section 25027 of the Health and Safety Code is amended and renumbered to read:

117765. "Storage" means the holding of medical wastes, in accordance with Chapter 9 (commencing with Section 118275), at a designated accumulation area, offsite point of consolidation, transfer station, other registered facility, or in a vehicle detached from its means of locomotion.

SEC. 9. Section 25027.5 of the Health and Safety Code is amended and renumbered to read:

117775. (a) "Transfer station" means any offsite location where medical waste is loaded, unloaded, stored, or consolidated by a registered hazardous waste hauler, or a holder of a limited quantity hauling exemption granted pursuant to Section 118030, during the normal course of transportation of the medical waste.

(b) "Transfer station" does not include any onsite facility, including, but not limited to, common storage facilities, facilities of medical waste generators employed for the purpose of consolidation, or onsite treatment facilities.

SEC. 10. Section 25030.5 of the Health and Safety Code is amended and renumbered to read:

117904. (a) In addition to the consolidation points authorized pursuant to Section 118147, the enforcement agency may approve a location as a point of consolidation for the collection of home-generated sharps waste, which, after collection, shall be transported and treated as medical waste.

(b) A consolidation location approved pursuant to this section shall be known as a "home-generated sharps consolidation point."

(c) A home-generated sharps consolidation point is not subject to the requirements of Chapter 9 (commencing with Section 118275), to the permit or registration requirements of this part, or to any permit or registration fees, with regard to the activity of consolidating home-generated sharps waste pursuant to this section.

(d) A home-generated sharps consolidation point shall comply with all of the following requirements:

(1) All sharps waste shall be placed in sharps containers.

(2) Sharps containers ready for disposal shall not be held for more than seven days without the written approval of the enforcement agency.

(e) An operator of a home-generated sharps consolidation point approved pursuant to this section shall not be considered the generator of that waste.

(f) The medical waste treatment facility which treats the sharps waste subject to this section shall maintain the tracking documents

required by Sections 118040 and 118165 with regard to that sharps waste.

SEC. 11. Section 25041 of the Health and Safety Code is amended and renumbered to read:

117930. Small quantity generators that treat waste onsite, pursuant to subdivision (a) of Section 117925, shall register with the enforcement agency prior to the commencement of treatment.

SEC. 12. Section 25055 of the Health and Safety Code is amended and renumbered to read:

117975. A medical waste generator required to register pursuant to this chapter shall maintain individual treatment, and tracking records, if medical waste is removed from the generator's site for treatment, for three years or for the period specified in the regulations.

SEC. 13. Section 25061 of the Health and Safety Code is amended and renumbered to read:

118030. (a) A medical waste generator or parent organization that employs health care professionals who generate medical waste may apply to the enforcement agency for a limited-quantity hauling exemption, if the generator or health care professional meets all of the following requirements:

(1) The generator or health care professional generates less than 20 pounds of medical waste per week, transports less than 20 pounds of medical waste at any one time, and the generator or parent organization has on file one of the following:

(A) If the generator or parent organization is a small quantity generator required to register pursuant to Chapter 4 (commencing with Section 117915), a medical waste management plan prepared pursuant to Section 117935.

(B) If the generator or parent organization is a small quantity generator not required to register pursuant to Chapter 4 (commencing with Section 117915), the information document maintained pursuant to subdivision (a) of Section 117945.

(C) If the parent organization is a large quantity generator, a medical waste management plan prepared pursuant to Section 117960.

(2) The generator or health care professional who generated the medical waste transports the medical waste himself or herself, or directs a member of his or her staff to transport the medical waste, to a permitted medical waste treatment facility, a transfer station, a parent organization, or another health care facility for the purpose of consolidation before treatment and disposal.

(3) Except as provided in paragraph (4), the generator maintains a tracking document, as specified in Section 118040.

(4) (A) Notwithstanding paragraph (3), if a health care professional who generates medical waste returns the medical waste to the parent organization, a single-page form or multiple entry log

may be substituted for the tracking document, if the form or log contains all of the following information:

(i) The name of the person transporting the medical waste.

(ii) The number of containers and type of medical waste. This subparagraph does not require any generator to maintain a separate medical waste container for every patient or to maintain records as to the specified source of the medical waste in any container.

(iii) The date that the medical waste was returned.

(B) This paragraph does not prohibit the use of a single document to verify the return of more than one container over a period of time, if the form or log is maintained in the files of the parent organization once the page is completed.

(b) The limited-quantity hauling exemption authorized by this section is valid for a period of one year.

(c) An application for an initial or a renewal of a limited-quantity hauling exemption shall be accompanied by a fee of twenty-five dollars ($25). The application shall identify each person who will transport medical waste for the transporter. If the generator or parent organization identifies more than four persons who will be transporting medical waste, the generator or parent organization shall pay an additional fee of five dollars ($5) for each person, up to a maximum additional fee of twenty-five dollars ($25).

SEC. 14. Section 25062.5 of the Health and Safety Code is amended and renumbered to read:

118035. For the purpose of transferring medical waste prior to reaching a permitted medical waste treatment facility, medical waste shall not be unloaded, reloaded, or transferred to another vehicle at any location, except at a permitted medical waste transfer station or in the case of a vehicle breakdown or other emergency.

SEC. 15. Section 25063 of the Health and Safety Code is amended and renumbered to read:

118040. (a) Except with regard to sharps waste consolidated by a home-generated sharps consolidation point approved pursuant to Section 117904, a hazardous waste transporter or generator transporting medical waste shall maintain a completed tracking document of all medical waste removed for treatment or disposal. A hazardous waste transporter or generator who transports medical waste to a facility, other than the final medical waste treatment facility, shall also maintain tracking documents which show the name, address, and telephone number of the medical waste generator, for purposes of tracking the generator of medical waste when the waste is transported to the final medical waste treatment facility. At the time that the medical waste is received by a hazardous waste transporter, the transporter shall provide the medical waste generator with a copy of the tracking document for the generator's medical waste records. The transporter or generator transporting medical waste shall maintain its copy of the tracking document for three years.

(b) The tracking document shall include, but not be limited to, all of the following information:

(1) The name, address, telephone number, and registration number of the transporter, unless transported pursuant to Section 118030.

(2) The type and quantity of medical waste transported.

(3) The name, address, and telephone number of the generator.

(4) The name, address, telephone number, permit number, and the signature of an authorized representative of the permitted facility receiving the medical waste.

(5) The date that the medical waste is collected or removed from the generator's facility, the date that the medical waste is received by the transfer station, the registered large quantity generator, or point of consolidation, if applicable, and the date that the medical waste is received by the treatment facility.

(c) Any hazardous waste transporter or generator transporting medical waste in a vehicle shall have a tracking document in his or her possession while transporting the medical waste. The tracking document shall be shown upon demand to any enforcement agency personnel or officer of the Department of the California Highway Patrol. If the medical waste is transported by rail, vessel, or air, the railroad corporation, vessel operator, or airline shall enter on the shipping papers any information concerning the medical waste that the enforcement agency may require.

(d) A hazardous waste transporter or a generator transporting medical waste shall provide the facility receiving the medical waste with the original tracking document.

(e) Each hazardous waste transporter and each medical waste treatment facility shall provide tracking data periodically and in a format as determined by the department.

(f) Medical waste transported out of state shall be consigned to a permitted medical waste treatment facility in the receiving state. If there is no permitted medical waste treatment facility in the receiving state or if the medical waste is crossing an international border, the medical waste shall be treated in accordance with Chapter 8 (commencing with Section 118215) prior to being transported out of the state.

SEC. 16. Section 25070.4 of the Health and Safety Code is amended and renumbered to read:

118147. Notwithstanding any other provision of this chapter, a registered medical waste generator, which is a facility specified in subdivisions (a) and (b) of Section 117705, may accept home-generated sharps waste, to be consolidated with the facility's medical waste stream, subject to all of the following conditions:

(a) The generator of the sharps waste, a member of the generator's family, or a person authorized by the enforcement agency transports the sharps waste to the medical waste generator's facility.

(b) The sharps waste is accepted at a central location at the medical waste generator's facility.

(c) A reference to, and a description of, the actions taken pursuant to this section are included in the facility's medical waste management plan adopted pursuant to Section 117960.

SEC. 17. Section 25080 of the Health and Safety Code is amended and renumbered to read:

118275. To containerize or store medical waste, a person shall do all of the following:

(a) Medical waste shall be contained separately from other waste at the point of origin in the producing facility. Sharps containers may be placed in biohazard bags or in containers with biohazard bags.

(b) Biohazardous waste, except biohazardous waste as defined in subdivision (g) of Section 117635, shall be placed in a red biohazard bag conspicuously labeled with the words "Biohazardous Waste" or with the international biohazard symbol and the word "BIOHAZARD."

(c) Sharps waste shall be contained in a sharps container pursuant to Section 118285.

(d) (1) Biohazardous waste, which meets the conditions of subdivision (f) of Section 117635 because it is contaminated through contact with, or having previously contained, chemotherapeutic agents, shall be segregated for storage, and, when placed in a secondary container, that container shall be labeled with the words "Chemotherapy Waste", "CHEMO", or other label approved by the department on the lid and on the sides, so as to be visible from any lateral direction, to ensure treatment of the biohazardous waste pursuant to Section 118222.

(2) Biohazardous waste, which meets the conditions of subdivision (f) of Section 117635 because it is comprised of human surgery specimens or tissues which have been fixed in formaldehyde or other fixatives, shall be segregated for storage and, when placed in a secondary container, that container shall be labeled with the words "Pathology Waste", " PATH", or other label approved by the department on the lid and on the sides, so as to be visible from any lateral direction, to ensure treatment of the biohazardous waste pursuant to Section 118222.

(e) Sharps waste, which meets the conditions of subdivision (f) of Section 117635, shall be placed in sharps containers labeled in accordance with the industry standard with the words "Chemotherapy Waste", "Chemo", or other label approved by the department, and segregated to ensure treatment of the sharps waste pursuant to Section 118222.

(f) Biohazardous waste, which are recognizable human anatomical parts, as specified in Section 118220, shall be segregated for storage and, when placed in a secondary container for treatment as pathology waste, that container shall be labeled with the words "Pathology Waste", "PATH", or other label approved by the

department on the lid and on the sides, so as to be visible from any lateral direction, to ensure treatment of the biohazardous waste pursuant to Section 118222.

(g) Biohazardous waste, which meets the conditions specified in subdivision (g) of Section 117635, shall be segregated for storage and, when placed in a container or secondary container, that container shall be labeled with the words "INCINERATION ONLY" or other label approved by the department on the lid and on the sides, so as to be visible from any lateral direction, to ensure treatment of the biohazardous waste pursuant to Section 118222.

SEC. 18. Section 25081 of the Health and Safety Code is amended and renumbered to read:

118280. To containerize biohazard bags, a person shall do all of the following:

(a) The bags shall be tied to prevent leakage or expulsion of contents during all future storage, handling, or transport.

(b) Biohazardous waste, except biohazardous waste as defined in subdivision (g) of Section 117635, shall be bagged in accordance with subdivision (b) of Section 118275 and placed for storage, handling, or transport in a rigid container which may be disposable, reusable, or recyclable. Containers shall be leak resistant, have tight-fitting covers, and be kept clean and in good repair. Containers may be recycled with the approval of the enforcement agency. Containers may be of any color and shall be labeled with the words "Biohazardous Waste" or with the international biohazard symbol and the word "BIOHAZARD" on the lid and on the sides so as to be visible from any lateral direction. Containers meeting the requirements specified in Section 66840 of Title 22 of the California Code of Regulations, as it read on December 31, 1990, may also be used until the replacement of the containers is necessary or existing stock has been depleted.

(c) Biohazardous waste shall not be removed from the biohazard bag until treatment as prescribed in Chapter 8 (commencing with Section 118215) is completed, except to eliminate a safety hazard, or by the enforcement officer in performance of an investigation pursuant to Section 117820. Biohazardous waste shall not be disposed of before being treated as prescribed in Chapter 8 (commencing with Section 118215).

(d) (1) Except as provided in paragraph (5), a person generating biohazardous waste shall comply with the following requirements:

(A) If the person generates 20 or more pounds of biohazardous waste per month, the person shall not contain or store biohazardous or sharps waste above 0° Centigrade (32° Fahrenheit) at any onsite location for more than seven days without obtaining prior written approval of the enforcement agency.

(B) If a person generates less than 20 pounds of biohazardous waste per month, the person shall not contain or store biohazardous

waste above 0° Centigrade (32° Fahrenheit) at any onsite location for more than 30 days.

(2) A person may store biohazardous or sharps waste at or below 0° Centigrade (32° Fahrenheit) at an onsite location for not more than 90 days without obtaining prior written approval of the enforcement agency.

(3) A person may store biohazardous or sharps waste at a permitted transfer station at or below 0° Centigrade (32° Fahrenheit) for not more than 30 days without obtaining prior written approval of the enforcement agency.

(4) A person shall not store biohazardous or sharps waste above 0° Centigrade (32° Fahrenheit) at any location or facility which is offsite from the generator for more than seven days before treatment.

(5) Notwithstanding paragraphs (1) to (4), inclusive, if the odor from biohazardous or sharps waste stored at a facility poses a nuisance, the enforcement agency may require more frequent removal.

(e) Waste that meets the definition of biohazardous waste in subdivision (g) of Section 117635 shall not be subject to the limitations on storage time prescribed in subdivision (d). A person may store that biohazardous waste at an onsite location for not longer than 90 days without obtaining prior written approval from the enforcement agency or the department, except that persons generating not more than 10 pounds of that biohazardous waste per calendar year may store less than 10 pounds of the biohazardous waste at any onsite location for not longer than one year without obtaining prior written approval from the enforcement agency or the department. A person may store that biohazardous waste at a permitted transfer station for not longer than 30 days without obtaining prior written approval from the enforcement agency or the department. A person shall not store that biohazardous waste at any location or facility that is offsite from the generator for more than 30 days before treatment.

SEC. 19. Section 25088 of the Health and Safety Code is amended and renumbered to read:

118320. (a) Except as provided in subdivision (b), compactors or grinders shall not be used to process medical waste until after the waste has been treated pursuant to Chapter 8 (commencing with Section 118215) and rendered solid waste.

(b) (1) Grinding or compacting may be used when it is an integral part of an alternative treatment method approved by the department.

(2) A compactor may be used to compact medical waste if the type of medical waste compactor proposed to be used is evaluated by the department, and approved by the department prior to its use pursuant to the following criteria:

(A) The compactor operates without the release of liquids or pathogenic microorganisms from the medical waste during

placement of the medical waste into, or removal of the medical waste from, the compactor units, and during the compaction process.

(B) The compacted medical waste will not release liquids or pathogens during any subsequent handling and no residual waste will be left in the compactor unit after the process is completed.

(C) Compactor operations and maintenance personnel will not be at any substantial increased risk of exposure to pathogens.

(D) The compactor has been demonstrated not to have any adverse effects on any treatment method. If only specific treatment methods are compatible with the compaction process, the department shall condition its approval of the compactor for use only in conjunction with treatment methods, with regard to which no adverse effects have been demonstrated.

(c) Medical waste in bags or other containers shall not be subject to compaction by any compacting device and shall not be placed for storage or transport in a portable or mobile trash compactor, except as allowed pursuant to subdivision (b).

SEC. 20. Section 25090 of the Health and Safety Code is amended and renumbered to read:

118215. A person generating or treating medical waste shall ensure that the medical waste is treated by one of the following methods, thereby rendering it solid waste, as defined in Section 40191 of the Public Resources Code, prior to disposal:

(a) (1) Incineration at a permitted medical waste treatment facility in a controlled-air, multichamber incinerator, or other method of incineration approved by the department which provides complete combustion of the waste into carbonized or mineralized ash.

(2) Treatment with an alternative technology approved pursuant to subdivision (d), which, due to the extremely high temperatures of treatment in excess of 1300 degrees Fahrenheit, has received express approval from the department.

(b) (1) Discharge to a public sewage system if the medical waste is liquid or semiliquid, and not either of the following:

(A) Liquid or semiliquid laboratory waste, as defined in subdivision (a) of Section 117635.

(B) Microbiological specimens, including those specified in subdivision (b) of Section 117635.

(2) Medical waste discharge shall be consistent with the waste discharge requirements placed on the public sewer system by the California regional water quality control board with jurisdiction.

(c) Steam sterilization at a permitted medical waste treatment facility or by other sterilization, in accordance with all of the following operating procedures for steam sterilizers or other sterilization:

(1) Standard written operating procedures shall be established for biological indicators, or for other indicators of adequate sterilization approved by the department, for each steam sterilizer, including

time, temperature, pressure, type of waste, type of container, closure on container, pattern of loading, water content, and maximum load quantity.

(2) Recording or indicating thermometers shall be checked during each complete cycle to ensure the attainment of 121° Centigrade (250° Fahrenheit) for at least one-half hour, depending on the quantity and density of the load, to achieve sterilization of the entire load. Thermometers shall be checked for calibration annually. Records of the calibration checks shall be maintained as part of the facility's files and records for a period of three years or for the period specified in the regulations.

(3) Heat-sensitive tape, or another method acceptable to the enforcement agency, shall be used on each biohazard bag or sharps container that is processed onsite to indicate the attainment of adequate sterilization conditions.

(4) The biological indicator Bacillus stearothermophilus, or other indicator of adequate sterilization as approved by the department, shall be placed at the center of a load processed under standard operating conditions at least monthly to confirm the attainment of adequate sterilization conditions.

(5) Records of the procedures specified in paragraphs (1), (2), and (4) shall be maintained for a period of not less than three years.

(d) (1) Other alternative medical waste treatment methods which are both of the following:

(A) Approved by the department.

(B) Result in the destruction of pathogenic micro-organisms.

(2) Any alternative medical waste treatment method proposed to the department shall be evaluated by the department and either approved or rejected pursuant to the criteria specified in this subdivision.

SEC. 21. Section 25090.5 of the Health and Safety Code is amended and renumbered to read:

118220. Recognizable human anatomical parts, with the exception of teeth not deemed infectious by the attending physician and surgeon or dentist, shall be disposed of by interment or in accordance with subdivision (a) of Section 118215, unless otherwise hazardous.

SEC. 22. Section 25090.6 of the Health and Safety Code is amended and renumbered to read:

118222. (a) Biohazardous waste that meets the conditions of paragraph (1) of subdivision (f) of Section 117635 shall be treated pursuant to subdivision (a) of Section 118215 prior to disposal.

(b) Biohazardous waste that meets the conditions specified in subdivision (g) of Section 117635 shall be treated pursuant to subdivision (a) or (d) of Section 118215 prior to disposal.

SEC. 23. Section 25117.5 of the Health and Safety Code is amended to read:

25117.5. (a) Waste that is hazardous only because it is medical waste, as defined in the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104) shall not be governed by, subject to fees assessed by, or otherwise subject to, the requirements of this chapter or regulations adopted pursuant to this chapter.

(b) Biohazardous waste that meets the conditions specified in subdivision (f) or (g) of Section 117635 is not subject to this chapter.

SEC. 24. Section 117747 is added to the Health and Safety Code, to read:

117747. (a) "Pharmaceutical" means a prescription or over-the-counter human or veterinary drug, including, but not limited to, a drug as defined in Section 109925 or the Federal Food, Drug, and Cosmetic Act, as amended, (21 U.S.C.A. Sec. 321(g)(1)).

(b) For purposes of this part, "pharmaceutical" does not include any pharmaceutical that is regulated pursuant to either of the following:

(1) The federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C.A. Sec. 6901 et seq.).

(2) The Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9).

SEC. 25. Section 117924 is added to the Health and Safety Code, to read:

117924. (a) When the department is the enforcement agency, the department shall impose and cause the collection of an annual medical waste generator fee in an amount not to exceed twenty-five dollars ($25) on small quantity generators of medical waste, except for those small quantity generators that are required to register pursuant to Section 117925 and those generators generating only biohazardous waste as defined in subdivision (g) of Section 117635. Nothing in this part shall prevent the department from contracting with entities other than the department for these fee collection activities or from entering into agreements with medical waste transporters or providers of medical waste mail-back systems for the collection of these fees, if the department determines that such a fee collection arrangement would be cost-effective.

(b) If the department determines to enter into a contract with a medical waste transporter or provider of medical waste mail-back systems for the collection of the fees, the department shall do all of the following:

(1) Establish that not more than 5 percent of the fees collected may be recovered by the medical waste transporter or provider of medical waste mail-back systems as administrative costs for the collection of those fees.

(2) Establish that the administrative costs for the collection of the fees shall be the same for all medical waste transporters and providers of medical waste mail-back systems.

(3) Prohibit any medical waste transporter or provider of medical waste mail-back systems from waiving the generator fee without the written approval of the department and only if the medical waste generator has made a written request for the waiver.

(4) Require the medical waste transporter or provider of medical waste mail-back systems to report the fees collected pursuant to subdivision (a) to the department.

(5) Prohibit the medical waste transporter or provider of medical waste mail-back systems from assuming the role of the department as an enforcement agent for purposes of collecting the medical waste generator fees.

(6) Require medical waste transporters or providers of medical waste mail-back systems to include the following language in at least 12-point type on their invoices to medical waste generators.

"Pursuant to Section 117924 of the California Health and Safety Code, the State Department of Health Services has contracted with us to collect your annual medical waste generator fee. The department may offset our costs of collection and administration in an amount that may not exceed 5 percent of the fee collected. We may not waive the fee without written approval of the department, and only if you have made a written request for the waiver."

CHAPTER 537

An act to amend Sections 3009, 3201, 3202, 3208.1, 3237, 3251, 3352, 3353, and 3354 of, to add Section 3238 to, and to repeal Sections 3010 and 3011 of, the Public Resources Code, relating to oil and gas.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 3009 of the Public Resources Code is amended to read:

3009. "Operator" means any person who, by virtue of ownership, or under the authority of a lease or any other agreement, has the right to drill, operate, maintain, or control a well.

SEC. 2. Section 3010 of the Public Resources Code is repealed.

SEC. 3. Section 3011 of the Public Resources Code is repealed.

SEC. 4. Section 3201 of the Public Resources Code is amended to read:

3201. The operator of any well shall notify the supervisor or the district deputy, in writing, in such form as the supervisor or the district deputy may direct, of the sale, assignment, transfer, conveyance, exchange, or other disposition of the well by the operator of the well as soon as is reasonably possible, but in no event

later than the date that the sale, assignment, transfer, conveyance, exchange, or other disposition becomes final. The operator shall not be relieved of responsibility for the well until the supervisor or the district deputy acknowledges the sale, assignment, transfer, conveyance, exchange, or other disposition, in writing, and the person acquiring the well is in compliance with Section 3202. The operator's notice shall contain all of the following:

(a) The name and address of the person to whom the well was or will be sold, assigned, transferred, conveyed, exchanged, or otherwise disposed.

(b) The name and location of the well, and a description of the land upon which the well is situated.

(c) The date that the sale, assignment, transfer, conveyance, exchange, or other disposition becomes final.

(d) The date when possession was or will be relinquished by the operator as a result of that disposition.

SEC. 5. Section 3202 of the Public Resources Code is amended to read:

3202. Every person who acquires the right to operate a well, whether by purchase, transfer, assignment, conveyance, exchange, or other disposition, shall, as soon as it's reasonably possible, but in no event later than the date that the acquisition of the well becomes final, notify the supervisor or the district deputy, in writing, of the person's operation. The acquisition of a well shall not be recognized as complete by the supervisor or the district deputy 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, and a description of the land upon which the well is situated.

(c) The date that the acquisition becomes final.

(d) The date when possession was or will be acquired.

(e) 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 immediately prior to the date of acquisition. The bond or deposit shall be in an amount as provided in Section 3204 or 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. 6. Section 3208.1 of the Public Resources Code is amended to read:

3208.1. (a) To prevent, as far as possible, damage to life, health, and property, the supervisor or district deputy may order the reabandonment of any previously abandoned well if the supervisor or the district deputy has reason to question the integrity of the

previous abandonment and any proposed construction, including the erection of a structure or the placement of fill over or near the well that may prevent or impede access to the well for purposes of remedying any hazard. The cost of the reabandonment operations shall be the responsibility of the owner of the property upon which the proposed construction will be located. However, if the well was not abandoned in accordance with the requirements of the division in effect at the time of the abandonment, the last operator having an economic interest in, or receiving any benefit from, the well, if the operator is still in business in this state, shall be responsible for the reabandonment; otherwise the owner of the property shall be responsible.

(b) This section does not preclude the application of Article 4.2 (commencing with Section 3250), except in the following cases:

(1) To remedy any problem posing a danger to life, health, or property from a previously abandoned well where construction over or near the well has begun on or after January 1, 1988, and the property owner, developer, or local agency permitting the construction failed to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned. In those situations, responsibility for correcting problems posing a danger to life, health, or property from the previously abandoned well shall rest with the developer or the owner of the property at the time of construction, unless that developer or owner is deceased, defunct, or no longer in business in, or a resident of, this state.

(2) To remedy any problems posing danger to life, health, or property, if the supervisor or district deputy finds, from evidence obtained by, or made available to, the supervisor or district deputy, that (A) after the well was properly abandoned, development of the surface of the property on which the well is located by someone other than the operator or an affiliate of the operator likely disturbed the integrity of the abandonment, and (B) the supervisor can identify the party or parties responsible for disturbing the integrity of the abandonment.

SEC. 7. Section 3237 of the Public Resources Code is amended to read:

3237. (a) (1) The supervisor or district deputy may order the plugging and abandonment of any well that has been deserted whether or not any damage is occurring or threatened by reason of that deserted well. The supervisor or district deputy shall determine from credible evidence whether a well is deserted.

(2) For purposes of paragraph (1), "credible evidence" includes, but is not limited to, the operational history of the well, the response or lack of response of the operator to inquiries and requests from the supervisor or district deputy, the extent of compliance by the operator with the requirements of this chapter, and other actions of the operator with regard to the well.

(3) A rebuttable presumption of desertion shall arise in any of the following situations:

(A) If a well has not been completed to production or injection and drilling machinery have been removed from the well site for at least six months.

(B) If a well's production or injection equipment has been removed from the well site for at least two years.

(C) If an operator has failed to comply with an order of the supervisor within the time provided by the order or has failed to challenge the order on a timely basis.

(D) If an operator fails to designate an agent as required by Section 3200.

(E) If a person who is to acquire a well that is subject to a purchase, transfer, assignment, conveyance, exchange, or other disposition fails to comply with Section 3202.

(4) The operator may rebut the presumptions of desertion set forth in paragraph (3) by demonstrating with credible evidence compliance with the division and that the well has the potential for commercial production, including specific and detailed plans for future operations, and by providing a reasonable timetable for putting those plans into effect.

(b) An order to plug and abandon a deserted well may be appealed to the director pursuant to the procedures specified in Article 6 (commencing with Section 3350).

(c) (1) The current operator, as determined by the records of the supervisor, of a deserted well that produced oil, gas, or other hydrocarbons or was used for injection shall be responsible for the proper plugging and abandonment of the well. If the supervisor determines that the current operator does not have the financial resources to fully cover the cost of plugging and abandoning the well, the immediately preceding operator shall be responsible for the cost of plugging and abandoning the well.

(2) The supervisor may continue to look seriatim to previous operators until an operator is found that the supervisor determines has the financial resources to cover the cost of plugging and abandoning the well. However, the supervisor may not hold an operator responsible that has made a valid transfer of ownership of the well prior to January 1, 1996.

(3) For purposes of this subdivision, "operator" shall include a mineral interest owner who shall be held jointly liable for the well if the mineral interest owner has or had leased or otherwise conveyed the working interest in the well to another person if in the lease or other conveyance the mineral interest owner retained a right to control the well operations that exceeds the scope of an interest customarily reserved in a lease or other conveyance in the event of a default.

(4) No prior operator shall be liable for any of the costs of plugging and abandoning a well by a subsequent operator if those costs are necessitated by the subsequent operator's illegal operation of a well.

(5) If the supervisor is unable to determine that an operator that acquired ownership of a well after January 1, 1996, has the financial resources to fully cover the costs of plugging and abandonment, the supervisor may undertake plugging and abandonment pursuant to Article 4.2 (commencing with Section 3250).

SEC. 8. Section 3238 is added to the Public Resources Code, to read:

3238. (a) For oil and gas produced in this state from a well that qualifies under Section 3251 or which has been inactive for a period of at least the preceding five consecutive years, the rate of the charges imposed pursuant to Sections 3402 and 3403 shall be reduced to zero for a period of 10 years. The supervisor or district deputy shall not permit an operator to undertake any work on wells qualifying under Section 3251 unless the mineral rights owner consents, in writing, to the work plan.

(b) An operator who undertakes any work on a well qualifying under Section 3251 shall have up to 90 days from the date the operator receives written consent from the supervisor to evaluate the well. On or before the 90 day evaluation period ends, the operator shall file with the supervisor a bond or deposit in an amount specified in Section 3204, 3205, or 3205.1, in accordance with the requirements of whichever of those sections is applicable to the well, if the well operations are to continue for a period in excess of the 90-day evaluation period. The conditions of the bond shall be the same as the conditions stated in Section 3204.

SEC. 9. Section 3251 of the Public Resources Code is amended to read:

3251. For the purposes of this article, an oil or gas well is a "hazardous well" if the supervisor determines that the well is a potential danger to life, health, or natural resources and there is no operator determined by the supervisor to be responsible for plugging and abandoning the well under subdivision (c) of Section 3237. Also, for the purposes of this article, an oil or gas well is an "idle-deserted well" if the supervisor determines that the well is deserted under Section 3237 and there is no operator responsible for its plugging and abandonment under Section 3237.

SEC. 10. Section 3352 of the Public Resources Code is amended to read:

3352. Within 10 days from the date of the taking of the appeal, a minimum 20 days notice in writing shall be given to the appellant of the time and place of the hearing. In cases where the director determines that there is an immediate threat to human health and safety or to the environment, the director may shorten the notice period to 10 days. For good cause, and if the director determines that there is not such an immediate threat, the director may postpone the

hearing, on the application of the appellant, the supervisor, or the district deputy, for a period not to exceed 10 days.

SEC. 11. Section 3353 of the Public Resources Code is amended to read:

3353. (a) The director, after hearing, shall affirm, set aside, or modify the order from which the appeal is taken.

(b) Within 20 days from the date of hearing the evidence, the director shall make a written decision with respect to the order appealed from, unless the appellant and the director agree to a longer period within which the decision may be made. The decision of the director shall forthwith be filed with the supervisor, and upon that filing shall be final. In case the order is affirmed or modified, the director shall retain jurisdiction until such time as the work ordered to be done by the order is finally completed.

(c) The written decision shall be served upon the appellant and shall supersede the previous order of the supervisor or district deputy. In case no written decision is made by the director pursuant to subdivision (b), the order of the supervisor or district deputy shall be effective and subject only to review by writ of administrative mandamus from the superior court as provided in this article.

SEC. 12. Section 3354 of the Public Resources Code is amended to read:

3354. The decision of the director may be reviewed by writ of administrative mandamus from the superior court of the county in which the district is situated, if taken within 10 days from the date of the service of the decision upon the appellant, as provided in Section 3353.

CHAPTER 538

An act to add Section 24013.5 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 24013.5 is added to the Business and Professions Code, to read:

24013.5. (a) No license shall be issued for any premises for which a license has been denied or revoked, for reasons pertaining to the premises, unless one year has elapsed from the date the order becomes final.

(b) No license shall be issued for any premises for which a license has been denied, for reasons pertaining to the premises, twice within

a 36-month period, unless two years have elapsed from the date that the last order becomes final.

CHAPTER 539

An act to amend Sections 25160, 25161, 25166, 25167.3, 25174, 25180, 25191, 25207.5, 25207.8, 25218.4, 25250.11, and 25250.15 of, to amend and repeal Sections 25163 and 25169.1 of, to add Section 25167.4 to, and to repeal Sections 25168, 25168.1, 25168.3, 25168.4, 25168.5, 25168.6, and 25201.2 of, the Health and Safety Code, and to amend Sections 2502, 34000, 34060, and 34064 of, to amend and renumber Section 34102 of, to repeal and add Section 34061 of, to repeal Sections 2560, 34020, 34062, 34063, 34100, 34101, and 34101.5 of, and to repeal Article 3 (commencing with Section 34040) of, and Article 6 (commencing with Section 34120) of, Division 14.7 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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 from the date of transport, or submission for transport, of hazardous waste, 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 from the date of the transport, or submission for transport, of the hazardous waste.

(3) Within 30 days from the date of transport, or submission for transport, of hazardous waste 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 from the date of 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 from the date of the initial shipment or, for exports by water to foreign countries, 90 days from the date of 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.

(4) For shipments of waste that do not require a manifest pursuant to Title 40 of the Code of Federal Regulations, the department, by regulation, may establish manifest requirements that differ from the requirements of this subdivision. The requirements for an alternative form of manifest shall ensure that the hazardous waste is transported by a registered hazardous waste transporter, that the hazardous waste is tracked, and that human health and safety and the environment are protected.

(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 federal act 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.

(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 from the date of receipt of 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 hazardous waste for treatment, storage, disposal, or any combination thereof, if the hazardous waste is accompanied by a completed standard California Uniform Hazardous Waste Manifest.

(3) A facility operator may accept hazardous waste generated offsite that is not accompanied by a properly completed and signed standard California Uniform Hazardous Waste Manifest if the facility operator meets both of the following conditions:

(A) The facility operator is authorized to accept the hazardous waste pursuant to a hazardous waste facilities permit or other grant of authorization from the department.

(B) The facility operator is in compliance with the regulations adopted by the department specifying the conditions and procedures applicable to the receipt of hazardous waste under these circumstances.

(4) This subdivision applies only to shipments of hazardous waste for which a manifest is required pursuant to this section and the regulations adopted pursuant to this section.

(f) The department shall make available for review, by any interested party, information regarding the department's progress in adopting revised regulations relating to hazardous waste manifests, including specific requirements for milkrun operations set forth in Section 66263.42 of Title 22 of the California Code of Regulations.

(g) (1) The department shall make available for review, by any interested party, the department's plans for revising and enhancing its system for tracking hazardous waste for the purposes of protecting human health and the environment, enforcing laws, collecting revenue, and generating necessary reports.

(2) On or before April 1, 1997, the department shall make available for review, by any interested party, information regarding the department's progress in revising and enhancing its system for tracking hazardous waste.

SEC. 2. Section 25161 of the Health and Safety Code is amended to read:

25161. (a) The department shall adopt and enforce those regulations that are necessary and appropriate to achieve consistency with the findings made by the Federal Highway Administration and the federal Department of Transportation pursuant to Chapter 51 (commencing with Section 5101) of Title 49 of the United States Code regarding a uniform program for hazardous waste transportation.

(b) The department shall adopt and enforce all rules and regulations that are necessary and appropriate to accomplish the purposes of Section 25160.

(c) The department shall develop a data base that tracks all hazardous waste shipped in and out of state for handling, treatment, storage, disposal, or any combination thereof, which includes all of the following information:

(1) The state or country receiving the waste.

(2) Month and year of shipment.

(3) Type of hazardous waste shipped.

(4) The manner in which the hazardous waste was handled at its final destination, such as incineration, treatment, recycling, land disposal, or a combination thereof.

(d) The department shall include in the biennial report specified in Section 25178 all of the following information:

(1) The total volume in tons of hazardous waste generated in the state and shipped offsite for handling, treatment, storage, disposal, or any combination thereof.

(2) The total volume in tons of hazardous waste generated in the state and shipped in and out of the state for handling, treatment, storage, disposal, or any combination thereof, including all of the following information:

(A) The state or country receiving the hazardous waste.

(B) Month and year of shipment.

(C) Type of hazardous waste shipped.

(D) The manner in which the hazardous waste was handled at its final destination, such as incineration, treatment, recycling, land disposal, or a combination thereof.

SEC. 3. Section 25163 of the Health and Safety Code, as amended by Section 1 of Chapter 672 of the Statutes of 1995, is amended to read:

25163. (a) (1) Except as otherwise provided in subdivisions (b), (c), (e), and (f), it is unlawful for any person to carry on, or engage in, the transportation of hazardous wastes unless the person holds a valid registration issued by the department, and it shall be unlawful for any person to transfer custody of a hazardous waste to a transporter who does not hold a valid registration issued by the department. A person who holds a valid registration issued by the department pursuant to this section is a registered hazardous waste transporter for purposes of this chapter. Any registration issued by the department to a transporter of hazardous waste is not transferable from the person to whom it was issued to any other person.

(2) Any person who transports hazardous waste in a vehicle shall have a valid registration issued by the department in his or her possession while transporting the hazardous waste. The registration certificate shall be shown upon demand to any representative of the department, officer of the Department of the California Highway Patrol, any local health officer, or any public officer designated by the department. Any person registered pursuant to this section may obtain additional copies of the registration certificate from the department upon the payment of a fee of two dollars ($2) for each

copy requested, in accordance with Section 12196 of the Government Code.

(3) The hazardous waste information required and collected for registration pursuant to this subdivision shall be recorded and maintained in the management information system operated by the Department of the California Highway Patrol.

(b) Persons transporting only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or the health officer's authorized representative pursuant to Chapter 6 (commencing with Section 25000) are exempt from the requirements of subdivision (a).

(c) Except as provided in subdivision (f), persons transporting hazardous wastes to a permitted hazardous waste facility for transfer, treatment, recycling, or disposal, which wastes do not exceed a total volume of five gallons or do not exceed a total weight of 50 pounds, are exempt from the requirements of subdivision (a) and from the requirements of Section 25160 concerning possession of the manifest while transporting hazardous waste, upon meeting all of the following conditions:

(1) The hazardous wastes are transported in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during the transporting.

(2) Different hazardous waste materials are not mixed within a container during the transporting.

(3) If the hazardous waste is extremely hazardous waste or acutely hazardous waste, the extremely hazardous waste or acutely hazardous waste was not generated in the course of any business, and is not more than 2.2 pounds.

(4) The person transporting the hazardous waste is the producer of that hazardous waste, and the person produces not more than 100 kilograms of hazardous waste in any month.

(5) The person transporting the hazardous waste does not accumulate more than a total of 1,000 kilograms of hazardous waste onsite at any one time.

(d) Any person registered as a hazardous waste transporter pursuant to subdivision (a) is not subject to the registration requirements of Chapter 6 (commencing with Section 25000), but shall comply with those terms, conditions, orders, and directions that the health officer or the health officer's authorized representative may determine to be necessary for the protection of human health and comfort, and shall otherwise comply with the requirements for statements as provided in Section 25007. Violations of those requirements of Section 25007 shall be punished as provided in Section 25010. Proof of registration pursuant to subdivision (a) shall be submitted by mail or in person to the local health officer in the city

or county in which the registered hazardous waste transporter will be conducting the activities described in Section 25001.

(e) Any person authorized to collect solid waste, as defined in Section 40191 of the Public Resources Code, who unknowingly transports hazardous waste to a solid waste facility, as defined in Section 40194 of the Public Resources Code, incidental to the collection of solid waste is not subject to subdivision (a).

(f) Any person transporting household hazardous waste or a conditionally exempt small quantity generator transporting hazardous waste to an authorized household hazardous waste collection facility pursuant to Section 25218.5 is exempt from subdivision (a) and from paragraph (1) of subdivision (d) of Section 25160 requiring possession of the manifest while transporting hazardous waste.

SEC. 4. Section 25163 of the Health and Safety Code, as amended by Section 2 of Chapter 672 of the Statutes of 1995, is repealed.

SEC. 5. Section 25166 of the Health and Safety Code is amended to read:

25166. (a) Each person who carries on, or engages in, the business of transporting hazardous waste or who handles hazardous waste as a part of, or incidental to, any business, for a calendar year or any portion thereof shall pay a registration fee to the department of two hundred dollars ($200) if the registered hazardous waste transporter has fewer than 10 vehicles and five hundred dollars ($500) if the registered hazardous waste transporter has 10 or more vehicles.

(b) A person who is registered as a hazardous waste transporter may voluntarily surrender a registration by submitting a letter signed and dated by the registered hazardous waste transporter indicating that the transporter no longer wishes to transport hazardous waste.

(c) A person whose registration has expired for a period of more than 90 days shall be considered an applicant for an original registration when the person applies for registration.

SEC. 6. Section 25167.3 of the Health and Safety Code is amended to read:

25167.3. It is the intent of the Legislature that this article preempt all local regulations and all conflicting state regulations concerning the transportation of hazardous waste, including all inspection, licensing, and registration of trucks, trailers, semitrailers, vacuum tanks, cargo tanks, and containers used to transport all types of hazardous wastes. No state or local agency, including, but not limited to, a chartered city or county, shall adopt or enforce any ordinance or regulation which is inconsistent with the rules and regulations adopted by the Department of Toxic Substances Control, the Department of the California Highway Patrol, or the State Fire Marshal pursuant to this article.

SEC. 7. Section 25167.4 is added to the Health and Safety Code, to read:

25167.4. For purposes of this article, the following terms have the following meaning:

(a) "Vehicle" means a truck, trailer, semitrailer, or vacuum tank. "Vehicle" does not include a truck tractor unless it is capable of containing a portion of the cargo.

(b) "Container" means a cargo tank or rolloff bin.

SEC. 8. Section 25168 of the Health and Safety Code is repealed.

SEC. 9. Section 25168.1 of the Health and Safety Code, as amended by Section 3 of Chapter 738 of the Statutes of 1994, is repealed.

SEC. 10. Section 25168.1 of the Health and Safety Code, as amended by Section 4 of Chapter 738 of the Statutes of 1994, is repealed.

SEC. 11. Section 25168.3 of the Health and Safety Code is repealed.

SEC. 12. Section 25168.4 of the Health and Safety Code is repealed.

SEC. 13. Section 25168.5 of the Health and Safety Code is repealed.

SEC. 14. Section 25168.6 of the Health and Safety Code is repealed.

SEC. 15. Section 25169.1 of the Health and Safety Code, as amended by Section 5 of Chapter 738 of the Statutes of 1994, is amended to read:

25169.1. Notwithstanding Section 25186.2, the department shall deny, suspend, or revoke the registration of any hazardous waste transporter pursuant to Section 25186.1 if necessary to prevent or mitigate an imminent and substantial danger to human health and safety or to the environment.

SEC. 16. Section 25169.1 of the Health and Safety Code, as amended by Section 6 of Chapter 738 of the Statutes of 1994, is repealed.

SEC. 17. Section 25174 of the Health and Safety Code is amended to read:

25174. (a) There is in the General Fund the Hazardous Waste Control Account, which shall be administered by the director. In addition to any other money that may be deposited in the Hazardous Waste Control Account, pursuant to statute, all of the following amounts shall be deposited in the account:

(1) The fees collected pursuant to Sections 25187.2, 25205.2, 25205.5, 25205.6, 25205.7, 25205.8, and 25221.

(2) The surcharges collected pursuant to Section 25205.9.

(3) Any interest earned upon the money deposited in the Hazardous Waste Control Account.

(4) Any money received from the federal government pursuant to the federal act.

(5) Any fines or penalties collected pursuant to this chapter.

(6) All money received from the sources described in subdivisions (a) to (h), inclusive, of Section 25330, subject to transfer to the Hazardous Substance Account pursuant to paragraph (6) of subdivision (b).

(b) The funds deposited in the Hazardous Waste Control Account may be appropriated by the Legislature, for expenditure as follows:

(1) To the department for the administration of this chapter and Chapter 6.8 (commencing with Section 25300) and for state operational costs.

(2) To the department for allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Sections 43051 and 43053 of the Revenue and Taxation Code.

(3) To the department for allocation to the State Board of Equalization to pay any refunds due relating to the surcharges collected pursuant to Section 43055 of the Revenue and Taxation Code.

(4) To the department for the costs of performance or review of analyses of past, present, or potential environmental public health effects related to toxic substances, including extremely hazardous waste, as defined in Section 25115, and hazardous waste, as defined in Section 25117.

(5) (A) To the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of this chapter and Chapter 6.8 (commencing with Section 25300).

(B) Notwithstanding subdivision (c), expenditures for the purpose of this paragraph shall not be subject to an interagency or interdepartmental agreement.

(C) On or before October 1 of each year, the Attorney General shall report to the Legislature on the expenditure of any funds appropriated to the office of the Attorney General pursuant to this paragraph for the preceding fiscal year.

(6) Upon transfer to the Hazardous Substance Account or the Site Remediation Account, to the department for purposes of Chapter 6.8 (commencing with Section 25300).

(7) (A) To the department for all purposes for which funds may be expended from the Hazardous Substance Account or the Hazardous Substance Cleanup Fund pursuant to Chapter 6.8 (commencing with Section 25300), with the exceptions of repayments of principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385), and payments to contractors for site investigation, characterization, removal, or remediation.

(B) Funds expended pursuant to this paragraph shall be subject to the restrictions provided by Chapter 6.8 (commencing with Section 25300) on expenditures from the Hazardous Substance Account or the Hazardous Substance Cleanup Fund.

(c) Except for the appropriation to the office of the Attorney General pursuant to paragraph (5) of subdivision (b), all expenditures from the Hazardous Waste Control Account for support of state agencies other than the department shall, upon appropriation by the Legislature to the department, be subject to an interagency or interdepartmental agreement between the department and the state agency receiving the support.

(d) The department shall, at the time of the release of the annual Governor's Budget, describe the budgetary amounts proposed to be allocated to the State Board of Equalization or the office of the Attorney General, as specified in paragraphs (2), (3), and (5) of subdivision (b), for the upcoming fiscal year. With respect to expenditures for the purposes of paragraphs (1), (4), (6), and (7) of subdivision (b), the department shall also make available the budgetary amounts and allocations of staff resources of the department proposed for the following activities:

(1) The department shall identify, with regard to the permitting of hazardous waste facilities, closure plans, and postclosure permits, the projected allocations of budgets and permitting staff resources for all of the following facilities:

(A) Hazardous waste facilities managing RCRA hazardous waste.

(B) Hazardous waste facilities managing non-RCRA hazardous waste.

(C) Facilities under each tier of the hazardous waste permitting system established pursuant to Article 9 (commencing with Section 25200).

(2) The department shall identify, with regard to surveillance and enforcement activities, the projected allocations of budgets and staff resources for the management of RCRA and non-RCRA hazardous waste for all of the following types of regulated facilities and activities:

(A) Hazardous waste facilities by permit tier.

(B) Interim status facilities and operations.

(C) Generators.

(D) Transporters.

(E) Response to complaints.

(3) The department shall identify, with regard to the transportation of hazardous waste, the projected allocations of budgets and staff resources for both of the following activities:

(A) The regulation of hazardous waste transporters.

(B) The operation and maintenance of the hazardous waste manifest system.

(4) The department shall identify, with regard to site mitigation, corrective action, and remedial and removal actions, the projected allocations of budgets and staff resources for the oversight and implementation of the following activities:

(A) Removal and remedial actions at military bases.

(B) Voluntary removal and remedial actions.

(C) Removal and remedial actions under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

(D) Corrective actions at hazardous waste facilities.

(E) Other state removal and remedial actions.

(5) The department shall identify, with regard to the regulation of hazardous waste, the projected allocation of budgets and staff resources for the following activities:

(A) Determinations pertaining to the classification of hazardous wastes.

(B) Determinations for variances made pursuant to Section 25143.

(C) Other determinations and responses to public inquiries made by the department regarding the regulation of hazardous waste and hazardous substances.

(6) The department shall identify projected allocations of budgets and staff resources needed to identify, clean up, store, and dispose of, suspected hazardous substances associated with the investigation of clandestine drug laboratories and other hazardous materials spills.

(7) The department shall identify projected allocations of budgets and staff resources that are necessary for the department to comply with the California Environmental Quality Act (Division 21 (commencing with Section 21000) of the Public Resources Code) when making discretionary decisions pursuant to this chapter.

(8) The department shall identify the total projected allocations of budgets and staff resources that are necessary for all other activities proposed to be conducted by the department.

(e) Notwithstanding this chapter, or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, for any fees, surcharges, fines, penalties, and funds which are required to be deposited into the Hazardous Waste Control Account, the department, with the approval of the Secretary for Environmental Protection, may take any of the following actions:

(1) Assume responsibility for, or enter into a contract with a private party or with another public agency, other than the State Board of Equalization for, the collection of any fees, surcharges, fines, penalties and funds described in subdivision (a) or otherwise described in this chapter or Chapter 6.8 (commencing with Section 25300), for deposit into the Hazardous Waste Control Account.

(2) Administer, or by mutual agreement, contract with a private party or another public agency, for the making of those determinations and the performance of functions that would otherwise be the responsibility of the State Board of Equalization pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, if those activities and functions for which the State Board of Equalization would otherwise be responsible become the responsibility of the department or, by mutual agreement, the contractor selected by the department.

(f) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall be responsible for ensuring that persons who are subject to the fees specified in subdivision (e) have equivalent rights to public notice and comment, and procedural and substantive rights of appeal, as afforded by the procedures of the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Final responsibility for the administrative adjustment of fee rates and the administrative appeal of any fees or penalty assessments made pursuant to this section may only be assigned by the department to a public agency.

(g) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall have equivalent authority to make collections and enforce judgments as provided to the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Unpaid amounts, including penalties and interest, shall be a perfected and enforceable state tax lien in accordance with Section 43413 of the Revenue and Taxation Code.

(h) The department, with the concurrence of the Secretary for Environmental Protection, shall determine which administrative functions should be retained by the State Board of Equalization, administered by the department, or assigned to another public agency or private party pursuant to subdivisions (e), (f), and (g).

(i) The department may adopt regulations to implement subdivisions (e) to (h), inclusive.

SEC. 18. Section 25180 of the Health and Safety Code is amended to read:

25180. (a) (1) Except as provided in paragraph (2), the standards in this chapter and the regulations adopted by the department to implement this chapter shall be enforced by the department, and by any local health officer or any local public officer designated by the director.

(2) The standards of this chapter listed in paragraph (1) of subdivision (c) of Section 25404, and the regulations adopted to implement the standards of this chapter listed in paragraph (1) of subdivision (c) of Section 25404, shall be enforced by the department and one of the following:

(A) If there is no CUPA, the officer or agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(B) Within the jurisdiction of a CUPA, the unified program agencies, to the extent provided by this chapter and Sections 25404.1 and 25404.2. Within the jurisdiction of a CUPA, the unified program agencies shall be the only local agencies authorized to enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(b) (1) In addition to the persons specified in subdivision (a), any traffic officer, as defined by Section 625 of the Vehicle Code, and any peace officer specified in Section 830.1 of the Penal Code, may enforce Section 25160, subdivision (a) of Section 25163, and Sections 25250.8, 25250.18, 25250.19, and 25250.23. Traffic officers and peace officers are authorized representatives of the department for purposes of enforcing the provisions set forth in this subdivision.

(2) A peace officer specified in subdivision (a) of Section 830.37 of the Penal Code may, upon approval of the local district attorney, enforce the standards in this chapter and regulations adopted by the department to implement this chapter. A peace officer authorized to enforce those standards and regulations pursuant to this paragraph shall perform these duties in coordination with the appropriate local officer or agency authorized to enforce this chapter pursuant to subdivision (a), and shall complete a training program which is equivalent to that required by the department for local officers and agencies authorized to enforce this chapter pursuant to subdivision (a).

(c) Notwithstanding any limitations in subdivision (b), a member of the California Highway Patrol may enforce Sections 25185, 25189, 25189.2, 25189.5, 25191, and 25195, and Article 6 (commencing with Section 25160) and Article 6.5 (commencing with Section 25167.1), as those provisions relate to the transportation of hazardous waste.

(d) In enforcing this chapter, including, but not limited to, the issuance of orders imposing administrative penalties, the referral of violations to prosecutors for civil or criminal prosecution, the settlement of cases, and the adoption of enforcement policies and standards related to those matters, the department and the local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) shall exercise their enforcement authority in such a manner that generators, transporters, and operators of storage, treatment, transfer, and disposal facilities are treated equally and consistently with regard to the same types of violations.

SEC. 19. Section 25191 of the Health and Safety Code is amended to read:

25191. (a) (1) Any person who knowingly does any of the acts specified in subdivision (b) shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(2) If the conviction is for a second or subsequent violation of subdivision (b), the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not more than one year, or by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by both that fine and imprisonment.

(3) Each day or partial day that a violation occurs is a separate violation.

(b) A person who does any of the following is subject to the punishment prescribed in subdivision (a):

(1) Makes any false statement or representation in any application, label, manifest, record, report, permit, notice to comply, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter, that has been altered or concealed.

(3) Destroys, alters, or conceals any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter.

(4) Withholds information regarding a real and substantial danger to the public health or safety when that information has been requested by the department, or by a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180, and is required to carry out the responsibilities of the department or the authorized local officer or agency pursuant to this chapter in response to a real and substantial danger.

(5) Except as otherwise provided in this chapter, engages in transportation of hazardous waste in violation of Section 25160 or 25161, or subdivision (a) of Section 25163, or in violation of any regulation adopted by the department pursuant to those provisions, including, but not limited to, failing to complete or provide the manifest in the form and manner required by the department.

(6) Except as otherwise provided in this chapter, produces, receives, stores, or disposes of hazardous waste, or submits hazardous waste for transportation, in violation of Section 25160 or 25161 or any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete, provide, or submit the manifest in the form and manner required by the department.

(7) Transports any waste, for which there is provided a manifest, if the transportation is in violation of this chapter or the regulations adopted by the department pursuant thereto.

(8) Violates Section 25162.

(c) (1) The penalties imposed pursuant to subdivision (a) on any person who commits any of the acts specified in paragraph (5), (7), or (8) of subdivision (b) shall be imposed only (A) on the owner or

lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled or (B) on the person who authorizes or causes the transporting, carrying, or handling. These penalties shall not be imposed on the driver of the vehicle, unless the driver is also the owner or lessee of the vehicle or authorized or caused the transporting, carrying, or handling.

(2) If any person other than the person producing the hazardous waste prepares the manifest specified in Section 25160, that other person is also subject to the penalties imposed on a person who commits any of the acts specified in paragraph (6) of subdivision (b).

(d) Any person who knowingly does any of the following acts, each day or partial day that a violation occurs constituting a separate violation, shall, upon conviction, be punished by a fine of not more than five hundred dollars ($500) for each day of violation, or by imprisonment in the county jail for not to exceed six months, or by both that fine and imprisonment:

(1) Carries or handles, or authorizes the carrying or handling of, a hazardous waste without having in the driver's possession the manifest specified in Section 25160.

(2) Transports, or authorizes the transportation of, hazardous waste without having in the driver's possession a valid registration issued by the department pursuant to Section 25163.

(e) Whenever any person is prosecuted for a violation pursuant to paragraph (5), (6), (7), or (8) of subdivision (b), subdivision (d), or subdivision (c) of Section 25189.5, the prosecuting attorney may take appropriate steps to make the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled, the driver of the vehicle, or any other person who authorized or directed the loading, maintenance, or operation of the vehicle, who is reasonably believed to have violated these provisions, a codefendant. If a codefendant is held solely responsible and found guilty, the court may dismiss the charge against the person who was initially so charged.

SEC. 20. Section 25201.2 of the Health and Safety Code is repealed.

SEC. 21. Section 25207.5 of the Health and Safety Code is amended to read:

25207.5. (a) Except as provided in subdivision (b), for purposes of this article, all eligible participants who transport banned, unregistered, or outdated agricultural wastes which are identified in the survey conducted pursuant to Section 25207.3, and which are prepackaged in accordance with the federal regulations specified in subdivision (a) of Section 25207.6 and transported to the collection site in accordance with subdivision (c) of Section 25207.6, or who transport banned, unregistered, or outdated agricultural wastes which are rejected at the collection site and required to be transported back to the point of origin, are exempt from all of the following:

(1) The requirements for hazardous waste transporter registration specified in Section 25163.

(2) The manifest requirement specified in subdivision (c) of Section 25160.

(3) The volume and weight limits specified in subdivision (c) of Section 25163.

(4) The requirement to obtain an extremely hazardous waste disposal permit pursuant to Chapter 43 (commencing with Section 67430.1) of Division 4.5 of Title 22 of the California Code of Regulations.

(b) Notwithstanding subdivision (a), any eligible participant who generates more than 100 kilograms per month of any RCRA hazardous waste or more than one kilogram per month of any extremely hazardous waste shall obtain a hazardous waste identification number and use a manifest as specified in subdivision (a) of Section 25160, when transporting banned, unregistered, or outdated agricultural wastes subject to a collection program, which shall be completed in accordance with the regulations set forth in Part B (commencing with Section 262.20) of Part 262 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations. The eligible participant shall complete and process the manifest in the following manner:

(1) The blue copy of the manifest shall be sent to the department.

(2) The designated site for the collection of the banned, unregistered, or outdated agricultural wastes shall be listed in Block 9 of the manifest.

(3) The eligible participant shall sign the manifest as both the generator and the transporter, and sign in both Block 16 and Block 17 of the manifest.

(c) Any eligible participant who transports banned, unregistered, or outdated agricultural wastes pursuant to this section shall transport the waste by himself or herself or by an employee of the eligible participant, and the vehicle shall be owned by the eligible participant.

SEC. 22. Section 25207.8 of the Health and Safety Code is amended to read:

25207.8. The banned, unregistered, or outdated agricultural wastes transported from the collection site shall be transported by a registered hazardous waste transporter to an offsite hazardous waste disposal facility and a manifest shall be completed for the wastes in accordance with Sections 25160 and 25163. The wastes shall also be handled and transported in accordance with the regulations adopted by the Environmental Protection Agency pertaining to the management of hazardous waste, including, but not limited to, the regulations specified in Part 260 (commencing with Section 260.1) to Part 270 (commencing with Section 270.1), inclusive, of Subchapter I of Chapter 1 of the Code of Federal Regulations, the regulations adopted by the federal Department of Transportation concerning

the transportation of hazardous materials, and any applicable state laws or regulations.

SEC. 23. Section 25218.4 of the Health and Safety Code is amended to read:

25218.4. Except as provided in subdivision (f) of Section 25218.5, any person who transports household hazardous waste, and any CESQG that transports hazardous waste to an authorized household hazardous waste collection facility, who meets the conditions of Section 25218.5, is exempt from subdivision (a) of Section 25163 and from the requirement for possession of a manifest in paragraph (1) of subdivision (d) of Section 25160.

SEC. 24. Section 25250.11 of the Health and Safety Code is amended to read:

25250.11. (a) Any person who receives used oil from consumers or other used oil generators, is exempt from hazardous waste facility permit requirements imposed pursuant to Article 9 (commencing with Section 25200) with respect to any location at which used oil is received if all of the following conditions are met:

(1) Each shipment of used oil received does not exceed 20 gallons, and the contents of any single container does not exceed five gallons.

(2) No other hazardous wastes are received at the location, unless authorized by other provisions of law.

(3) The used oil is transported by the generator of the used oil.

(b) Any person who transports used oil is exempt from the requirements of subdivision (a) of Section 25163 and from the requirements of Section 25160 concerning the possession of a manifest while transporting used oil to a location described in subdivision (a) if all of the following conditions are met:

(1) The contents of any single container do not exceed five gallons.

(2) Each shipment of used oil does not exceed 20 gallons.

(3) The person transporting the used oil had generated the oil.

SEC. 25. Section 25250.15 of the Health and Safety Code is amended to read:

25250.15. (a) Any person operating a refuse removal vehicle or a curbside collection vehicle used to collect or transport used oil which has been generated as a household waste or as part of a curbside recycling program, as defined by the board, is exempt from the requirements of Sections 25160 and 25250.8, and subdivision (a) of Section 25163 of this code and Chapter 2.5 (commencing with Section 2500) of Division 2 of, Division 14.1 (commencing with Section 32000) of, and subdivision (g) of Section 34500 of, the Vehicle Code.

(b) Refuse removal and other curbside collection operations exempted under subdivision (a) are also exempt from permit requirements pursuant to Article 9 (commencing with Section 25200), if the storage location meets all applicable hazardous waste

generator, container, and tank requirements, except for the generator fee requirement specified in subdivision (d).

(c) Used oil collected pursuant to this section shall be deemed to be generated by the storage location upon receipt.

(d) Used oil collected pursuant to this section is exempt from the generator fee imposed pursuant to Section 25205.5.

SEC. 26. Section 2502 of the Vehicle Code is amended to read:

2502. (a) Except as otherwise provided in this section, each application for a new or renewal license shall be accompanied by a fee of ten dollars ($10) for a new license or five dollars ($5) for a renewal license. This subdivision does not apply to licenses for transportation of hazardous material or operation of ambulances.

(b) Each application for a new or renewal license for the operation of ambulances shall be accompanied by a fee not to exceed two hundred dollars ($200) for a new license or one hundred fifty dollars ($150) for a renewal license.

(c) Each application for a new or renewal license to transport hazardous material shall be accompanied by a fee of not to exceed one hundred dollars ($100) for a new license and not to exceed seventy-five dollars ($75) for a renewal license.

(d) Each application shall be made upon a form furnished by the commissioner. It shall contain information concerning the applicant's background and experience which the commissioner may prescribe, in addition to other information required by law.

SEC. 27. Section 2560 of the Vehicle Code is repealed.

SEC. 28. Section 34000 of the Vehicle Code is amended to read:

34000. It is the intent of the Legislature to provide additional protection to the public and reduce the risk of possible hazards in the highway transportation of hazardous waste and of flammable and combustible liquids in tank vehicles. It is further the intent of the Legislature that the Department of the California Highway Patrol shall place as a high priority the random inspection of cargo tanks and hazardous waste transport vehicles and containers for compliance with this code.

SEC. 29. Section 34020 of the Vehicle Code is repealed.

SEC. 30. Article 3 (commencing with Section 34040) of Division 14.7 of the Vehicle Code is repealed.

SEC. 31. Section 34060 of the Vehicle Code is amended to read:

34060. The commissioner shall provide for the establishment, operation, and enforcement of random on- and off-highway inspections of cargo tanks and hazardous waste transport vehicles and containers. The commissioner shall also provide training in the inspection of cargo tanks and hazardous waste transport vehicles and containers to employees of the department whose primary duties include the enforcement of laws and regulations relating to commercial vehicles and who, thereafter, are required to perform random inspections of cargo tanks and hazardous waste transport vehicles and containers to determine whether or not the cargo tanks

and hazardous waste transport vehicles and containers are designed, constructed, and maintained in accordance with the regulations adopted by the commissioner pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code and this code, and otherwise comply with this division.

SEC. 32. Section 34061 of the Vehicle Code is repealed.

SEC. 33. Section 34061 is added to the Vehicle Code, to read:

34061. The department shall compile data and annually publish a report relating to the level of cargo tank and hazardous waste transport vehicle and container inspections conducted during the previous year. The data included in the report shall include, but need not be limited to, all of the following:

(a) The number of inspections conducted.

(b) The number of violations recorded.

(c) The number of on-highway incidents involving cargo tanks and hazardous waste transport vehicles and containers that were reported to the Office of Emergency Services under Section 8574.17 of the Government Code.

SEC. 34. Section 34062 of the Vehicle Code is repealed.

SEC. 35. Section 34063 of the Vehicle Code is repealed.

SEC. 36. Section 34064 of the Vehicle Code is amended to read:

34064. Any duly authorized employee of the department may inspect cargo tanks and hazardous waste transport vehicles and containers, or the appurtenances and equipment thereof, in terminals, yards, or similar places, as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions likely to cause damage to any personal or real property or injury or death to any person or animal or any violation of the provisions or intent of this division. Any duly authorized employee of the department may enter upon private property to conduct those inspections. The owner, lessee, bailee, manager, or operator of that property shall permit any duly authorized employee of the department to enter the property and inspect cargo tanks and hazardous waste transport vehicles and containers for the purpose stated in this division.

SEC. 37. Section 34100 of the Vehicle Code is repealed.

SEC. 38. Section 34101 of the Vehicle Code is repealed.

SEC. 39. Section 34101.5 of the Vehicle Code is repealed.

SEC. 40. Section 34102 of the Vehicle Code is amended and renumbered to read:

34100. A violation of this division or of any regulation adopted by the commissioner pursuant to this division is a misdemeanor. No person shall operate a tank vehicle upon a highway in violation of this division or of any regulation adopted by the commissioner pursuant to this division.

SEC. 41. Article 6 (commencing with Section 34120) of Division 14.7 of the Vehicle Code is repealed.

SEC. 42. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 540

An act to amend Section 445 of the Streets and Highways Code, relating to highways.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 445 of the Streets and Highways Code is amended to read:

445. (a) Route 145 is from:

(1) Route 5 near Oilfields to Route 99 near Madera, passing near Five Points and Kerman.

(2) Route 99 near Madera to Route 41.

(b) (1) The commission may relinquish to the City of Madera the portion of Route 145 located between Gateway Drive and Lake Street within the city, upon terms and conditions the commission finds to be in the best interest of the state.

(2) A relinquishment under this subdivision shall become effective on the first day of the next calendar or fiscal year, whichever occurs first, after the effective date of the commission's approval of the terms.

(3) The relinquished section shall cease to be a state highway on the effective date of the relinquishment.

(4) The portion of Route 145 described in this subdivision may be relinquished to the City of Madera only upon the condition that the city agrees to both of the following:

(A) Maintenance of signs directing motorists to the continuation of State Highway Route 145.

(B) No reduction of the number of lanes within the relinquished section.

CHAPTER 541

An act to amend Sections 10250.1, 10250.2, 10260, 11003.5, and 11023 of, and to add Sections 10250.8, 10250.10, 10250.11, 10250.52, 10250.53, 10250.54, 11018.8, 11018.9, 11018.10, and 11018.11 to, the Business and Professions Code, and to amend Sections 2188.8 and 2188.9 of the Revenue and Taxation Code, relating to real estate.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 10250.1 of the Business and Professions Code is amended to read:

10250.1. "Subdivision," as used in this article, includes all of the following:

(a) A time-share project as defined in subdivision (a) of Section 11003.5 and subdivision (e) of Section 11004.5, situated outside this state, including, without limitation, a project situated outside the United States but only if it consists of, or will consist of, two or more distinct geographic locations, one of which is located within the United States.

(b) A qualified resort vacation club as defined in Section 10260.

(c) A multisite time-share project as defined in subdivision (f) of Section 11003.5, which includes accommodations and facilities located either entirely outside of this state or both within and outside of this state.

SEC. 2. Section 10250.2 of the Business and Professions Code is amended to read:

10250.2. (a) The sale or lease, or the offering for sale or lease, of lots or parcels in a subdivision shall be governed by Chapter 1 (commencing with Section 11000) of Part 2, insofar as applicable.

(b) Subject to the provisions of Sections 11018.8, 11018.9, 11018.10, 11018.11, and 10250.8, the commissioner shall apply the provisions of Sections 11018 and 11018.5, after taking into consideration the differences in the applicable laws of the various states with respect to subdivisions, to afford substantially the same level of public protection to purchasers of an interest in a subdivision offering governed by this article as is afforded to purchasers of subdivision interests situated entirely within this state. The commissioner may adopt regulations reasonably necessary to enforce this article.

SEC. 3. Section 10250.8 is added to the Business and Professions Code, to read:

10250.8. In determining whether to issue a permit or a public report for a subdivision as defined in Section 10250.1, the commissioner may accept information submitted to another state in order to qualify the subdivision or project for sale within that state. The commissioner may use or incorporate information contained in a disclosure statement issued by another state.

SEC. 4. Section 10250.10 is added to the Business and Professions Code, to read:

10250.10. For purposes of this chapter, exchange programs shall not be considered to be a part of a subdivision offering. If a purchaser of a time-share interest in a subdivision subject to this article is offered the opportunity to become a member of an exchange program, the provisions of Section 11018.8 shall apply to the sale of time-share interests.

SEC. 5. Section 10250.11 is added to the Business and Professions Code, to read:

10250.11. Incidental benefits shall not be a part of the offering of interests in a subdivision. If a purchaser of a time-share interest in a subdivision subject to this article is offered the opportunity to acquire an incidental benefit in connection with a time-share interest, the provisions of Section 11018.9 shall apply.

SEC. 6. Section 10250.52 is added to the Business and Professions Code, to read:

10250.52. No interest in a subdivision, as defined in Section 10250.1, shall be sold to the public unless either the subdivider or person offering the interest for sale first obtains a permit from the commissioner.

SEC. 7. Section 10250.53 is added to the Business and Professions Code, to read:

10250.53. If the commissioner finds that the proposed offering of interest in a subdivision, as defined in Section 10250.1, meets the applicable requirements of this article, the commissioner shall issue to the applicant a permit authorizing the sale or the offering for sale of the subdivision interest upon those terms and conditions as the commissioner may provide in the permit. Otherwise, the commissioner shall deny the application and refuse the permit, and notify the applicant in writing of his or her decision.

SEC. 8. Section 10250.54 is added to the Business and Professions Code, to read:

10250.54. Any applicant objecting to the denial of a permit or the conditions of a permit may apply for a hearing and shall be granted a hearing by the commissioner upon the legality or reasonableness of the denial or the conditions.

SEC. 9. Section 10260 of the Business and Professions Code is amended to read:

10260. A "qualified resort vacation club" shall be deemed to be a time-share project as defined in Section 11003.5 irrespective of how vacation club interests may be qualified for offering in another state

or jurisdiction. No permit may be issued under this article for a qualified resort vacation club unless the commissioner determines that the project conforms to each of the following:

(a) A project for which vacation club interests are sold or offered for sale, each incorporating access (in accordance with the purchaser's vacation club interest) to the reservation of use and occupancy of any accommodations at any individual resort property which is part of the project, irrespective of the one, or any one, of those distinct individual resort properties in which the individual purchaser or owner holds or may hold a vacation club interest, and in which, by acquiring the vacation club interest the use of that vacation club interest is committed to the reservation system as provided in subdivision (d). That access to the reservation system shall be without priority among owners of the vacation club interests at the individual resort property at which that applicant for a reservation holds a vacation club interest, or at any other individual resort property that is part of the project after a limited period of time which may be reserved exclusively for owners who hold vacation club interests at that specific individual resort property, and then uniformly applied among all owners irrespective of the individual resort properties in which they hold a vacation club interest. The vacation club interest shall be (1) an undivided real property interest in a dwelling unit or structure containing more than one dwelling unit, as a tenant in common with other purchasers of undivided interests which have an attached nonseverable membership interest pursuant to subdivision (g) of Section 11004.5 providing rights of access to each and every individual resort property which is part of the project, or (2) as determined by the commissioner, a similar interest pursuant to the law of the jurisdiction in which the individual resort property outside of California is located. Nothing contained herein shall preclude a vacation club interest in an individual resort property in a qualified resort vacation club from being classified as interests in real property or other classification as may be permitted under applicable law.

(b) A project in which there are included dwelling units located outside of this state, and in which there may also be included dwelling units located inside of this state.

(c) A project in which a system exists for allocation of all costs and expenses (1) for the operation and management of the reservation system for more than one individual resort property, and including each individual resort property which is part of the project, pursuant to which all owners may reserve use and occupancy of accommodations at any individual resort property which is part of the qualified resort vacation club, and (2) for the operation, maintenance, repair, and management of the individual resort properties.

(d) A project which includes a sufficient number of dwelling units to accommodate the aggregate rights of use or occupancy of all

owners of vacation club interests, and provides a reservation system for the reservation of those accommodations and a management system for the management of those accommodations, which systems provide adequately for the reservation and management of more than one individual resort property and including each individual resort property which is part of the project.

(e) The offering will be accompanied by a full and detailed disclosure, on a form included within the permit, that the purchase of a vacation club interest should be based on the value of the vacation club interest as a vacation or leisure time experience and not as an appreciating investment or an expectation of resale.

(f) A project in which, on and after the closing of the first sale subject to this article of a vacation club interest in that individual resort property, there is no blanket encumbrance affecting land on which any individual resort property which is part of the project is situated.

(g) A project for which the initial permit application shall include not less than 175 dwelling units, and not less than 8,750 time-share use periods. For the purposes of this section, a time-share use period shall be considered to be the minimum time segment measured in days for which units in that individual resort property may be reserved for use, but not less than seven days. Nothing in this section shall prohibit a reservation system from being implemented in any qualified resort vacation club that permits actual use and use periods shorter than seven days.

(h) A project in which there is more than one individual resort property, each situated at a distinct geographic location, providing time-share use periods of residential accommodations for member use, and common areas at each individual resort property which include an amenity package of recreational or health facilities specified in the offering, except that an initial application may be approved where only one such individual resort property exists or is being developed if the commissioner determines that the applicant has demonstrated an intent through the planning process, or other organizational preparation, to develop one or more additional individual resort properties.

(i) A project in which vacation club interests in each individual resort property which is part of the offering shall be offered for sale, and initially managed by the applicant for a permit under this article or a holding company of the applicant or a subsidiary of either the applicant or its holding company.

If upon renewal of any permit under this article, the commissioner determines that any individual resort property is not managed by the applicant or a subsidiary of the applicant or its holding company, that factor shall be considered in determining whether the application for renewal conforms to subdivision (h) of Section 11018 or Section 11018.5.

(j) As used in this section, the following terms have the following meanings:

(1) "Individual resort property" means a specific geographic site where a portion of the accommodations and facilities of a qualified resort vacation club are located. If permitted under applicable law, separate phases operated as a single subdivision located at a specific geographic site under common management shall be deemed a single individual resort property for purposes of this article.

(2) "Project" means all of the individual resort properties comprising a qualified resort vacation club.

SEC. 10. Section 11003.5 of the Business and Professions Code is amended to read:

11003.5. (a) A "time-share project" is one in which a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, or segment of real property, annually or on some other periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided.

(b) A "time-share estate" is a right of occupancy in a time-share project which is coupled with an estate in the real property.

(c) A "time-share use" is a license or contractual or membership right of occupancy in a time-share project which is not coupled with an estate in the real property.

(d) An "exchange program" is any method, arrangement, or procedure for the voluntary exchange of the right to use and occupy accommodations and facilities among purchasers of time-share interests or other property interests. An "exchange program" does not include the assignment of the right to use and occupy accommodations and facilities to purchasers of time-share interests pursuant to a reservation system. Any method, arrangement, or procedure that otherwise meets this definition, wherein the purchaser's total contractual financial obligation exceeds three thousand dollars ($3,000) per time-share interest shall be regulated as a multisite time-share project and shall be subject to the provisions of this article.

(e) An "incidental benefit" is an accommodation, product, service, discount, or other benefit, other than an exchange program, which is offered to a prospective purchaser of a time-share interest prior to the end of the rescission period set forth in Section 11024, the continuing availability of which for the use and enjoyment of owners of time-share interests in the time-share project is limited to a term of not more than five years.

(f) A "multisite time-share project" is any method, arrangement, or procedure, with respect to which a purchaser obtains, by any means, a recurring right to use and occupy accommodations or facilities in a time-share project consisting of more than one component site, only through use of a reservation system, on a nonpriority basis. The term does not include an exchange program

wherein the purchaser's total contractual financial obligation does not exceed three thousand dollars ($3,000) per time-share interest, a single-site time-share project, or a qualified resort vacation club.

(g) A "reservation system" is the method, arrangement, or procedure by which a purchaser of a time-share interest, (1) in order to reserve the use and occupancy of any accommodation or facility of a multisite time-share project or qualified resort vacation club for one or more use periods is required to compete with other owners of time-share interests in that multisite time-share project or qualified resort vacation club or (2) in order to reserve the use and occupancy of any accommodation or facility of a component site associated with a single-site time-share project is required to compete with other owners of time-share interests in those component sites, regardless of whether that reservation system is operated and maintained by (A) the person responsible for the operation and administration of that time-share project, (B) an exchange company, or (C) any other person. In the event that an owner of a time-share interest is required to use an exchange program as the owner's principal means of obtaining the right to use and occupy the accommodations and facilities of any time-share project, that arrangement shall be a reservation system.

(h) A "single-site time-share project" is a time-share project consisting of a single geographic site wherein a purchaser of a time-share interest in that site receives a right to reserve, on a priority basis, the use or occupancy of accommodations and facilities at that site. A single-site time-share project may be associated with other time-share projects, or other accommodations under a contractual or membership program through a reservation system.

SEC. 11. Section 11018.8 is added to the Business and Professions Code, to read:

11018.8. (a) Notwithstanding Section 11004.5 or 11018, or subdivisions (d) and (e) of Section 11018.5, an exchange program is not a part of a time-share project offering, except as provided in this section, and shall not be subject to the provisions of this part nor to regulations of the commissioner adopted pursuant thereto.

(b) If a purchaser of an interest in a time-share project is offered the opportunity to become a member of an exchange program, the subdivider shall include with the application for a public report the following information:

(1) The name and address of the exchange company.

(2) A copy of the form of the contract between the purchaser and the exchange company.

(3) A copy of any materials which will be used in promoting the exchange program.

(4) Whether the exchange company or any of its officers or directors have any legal or beneficial interest in any developer, seller, or managing entity for any time-share project participating in the

exchange program and, if so, the identity of the time-share project and the nature of the interest.

(5) Whether the purchaser's participation in the exchange program is dependent upon the continued affiliation of the applicable time-share project with the exchange program.

(6) A fair and accurate description of the terms and conditions of the purchaser's contractual relationship with the exchange program and the procedure by which changes to the contract may be made.

(7) A fair and accurate description of the procedures necessary to qualify for and effectuate exchanges.

(8) Whether exchanges are arranged on a space-available basis and whether any guarantees of fulfillment of specific requests for exchanges are made by the exchange program.

(9) Whether and under what circumstances an owner of a time-share interest, in dealing with the exchange program, may lose the right to use and occupy an accommodation of the time-share project during a reserved use period with respect to any property applied for exchange without his or her being provided with substitute accommodations by the exchange program.

(10) The standard fees for participation by owners in the exchange program, a statement of whether any of those fees may be altered by the exchange company, and the circumstances under which alterations may be made.

(11) The name and address of the site of each accommodation or facility included within any time-share project.

(12) Any other information as the subdivider shall elect to include.

SEC. 12. Section 11018.9 is added to the Business and Professions Code, to read:

11018.9. (a) Notwithstanding anything to the contrary contained in subdivision (g) of Section 11004.5, Section 11018, and subdivisions (d) and (e) of Section 11018.5, an incidental benefit is not a part of the offering, and except as provided in this section shall not be subject to the provisions of this part nor to regulations of the commissioner adopted pursuant thereto.

(b) If a purchaser of an interest in a time-share project is offered the opportunity to acquire an incidental benefit in connection with a time-share interest, the subdivider shall include with the application for a public report a description of each incidental benefit, including the nature and amount of any user fees or costs associated therewith, and, any restrictions upon use or availability.

(c) Incidental benefits may only be offered if:

(1) The continued availability of any incidental benefit for the use and enjoyment of owners of time-share interests is not necessary in order for any accommodation or facility which is not an incidental benefit to be used, occupied, or enjoyed by the owners in a manner consistent in all material respects with the plan of use and enjoyment set forth in the time-share documents or represented by or on behalf

of the subdivider, in writing in a purchaser's purchase contract, in the permit, or in any advertisement or promotion, or otherwise.

(2) The use of or participation in the incidental benefit by an owner of a time-share interest is completely voluntary, and payment of any fee or other cost associated with the incidental benefit is required only upon that use or participation.

(3) No costs of acquisition, operation, maintenance, or repair of the incidental benefit are passed on to purchasers of time-share interests in the time-share project as common expenses of the time-share project.

(d) The commissioner may issue a disclosure statement relating to any incidental benefits. A copy of the disclosure statement of the commissioner, when issued, shall be given to the prospective purchaser by the owner, subdivider, or agent prior to the execution of a binding contract or agreement for the sale of any interest in the time-share project.

SEC. 13. Section 11018.10 is added to the Business and Professions Code, to read:

11018.10. No person shall sell or lease, or offer for sale or lease in this state any interest in a multisite time-share project without first obtaining a public report covering each component site from the Real Estate Commissioner. For purposes of this section, the sale of an interest in a single-site time-share project coupled with a representation that a purchaser shall obtain a guaranteed right to use and occupy accommodations or facilities at more than one geographic site, shall be deemed to be the sale of an interest in a multisite time-share project.

SEC. 14. Section 11018.11 is added to the Business and Professions Code, to read:

11018.11. (a) With respect to component sites available to purchasers of time-share interests in single-site time-share projects, it shall be unlawful for a subdivider to offer for sale or lease a time-share interest in the single-site time-share project unless, as to each component site affiliated through a reservation system, the subdivider has made reasonable arrangements to assure the following with respect to those component sites:

(1) That a purchaser has contractual or membership rights to use each component site, and that if a component site is or may become subject to a blanket encumbrance, that the blanket encumbrance is or will be subordinate to these rights.

(2) Adequate provisions exist for lien-free completion of all onsite and offsite improvements.

(3) That, on an annual basis, the sum of the nights which time-share interest owners are entitled to use does not exceed the number of nights available for use by those time-share interest owners.

(4) A mechanism exists to assure reasonable maintenance and operation of the component sites.

(5) Adequate provisions exist for funding the costs of operation and maintenance of the component sites, including reserves, if required, in compliance with the laws of the situs state of the component site.

(6) Each component site is in compliance with the requirements of the situs state applicable to the qualification and sale of time-share interests in the component site.

(b) A subdivider of a single-site time-share project which is associated with one or more component sites through a reservation system shall make the following true and correct disclosures to a purchaser of a time-share interest with respect to the component sites:

(1) Name and address of each component site.

(2) Number of accommodations and use periods expressed in periods of seven-day use availability and available for use by purchasers.

(3) Each type of accommodation in terms of the number of bedrooms, bathrooms, sleeping capacity, and whether the accommodation contains a full kitchen.

(4) A description of facilities available for use by the purchaser at each component site.

(5) A description of the reservation system and the rules and regulations governing reservations.

(6) A summary of restrictions, if any, to be imposed on a purchaser concerning the use of each component site.

(7) A description of any priority reservation rights at any component site which may affect the purchaser's odds of obtaining a reservation at that component site.

SEC. 15. Section 11023 of the Business and Professions Code is amended to read:

11023. Any person who violates Section 11010, 11010.1, 11010.8, 11013.1, 11013.2, 11013.4, 11018.2, 11018.7, 11018.9, 11018.10, 11018.11, 11019, or 11022 is guilty of a public offense punishable by a fine not exceeding ten thousand dollars ($10,000) or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both that fine and imprisonment.

SEC. 16. Section 2188.8 of the Revenue and Taxation Code is amended to read:

2188.8. (a) Whenever the assessor receives a written request for separate assessment of time-share estates in a time-share project, as defined in Section 11003.5 of the Business and Professions Code and as specified in subdivision (h) of this section, the assessor shall, on the first lien date that occurs more than 60 days following the request, and on each lien date thereafter, separately assess each time-share estate in the project if the assessor determines that the conditions specified in subdivision (c) have been met. Whenever estates in a time-share project are separately assessed, they shall continue to be separately assessed in subsequent fiscal years and once a request for

separate assessment is made with respect to a project, it is binding on all future time-share estate owners.

(b) The interest that is to be separately assessed is the value of the right of recurrent, exclusive use or occupancy of real property, annually or on some other periodic basis, for a specific period of time that has been, or will be, allotted from the use or occupancy periods into which the project has been divided.

(c) The separate assessment of a time-share estate may not be made by the assessor unless both of the following occur:

(1) The person making the request certifies that the request for separate assessment has been approved in the manner provided in the organizational documents of the organization involved for approval of matters affecting the affairs of the organization generally.

(2) A diagrammatic floor plan of the improvements, a copy of the documents setting forth the procedures for scheduling time and units to each time-share estate owner, and a list of every time-share estate owner, with a date notation thereon showing when, according to the organization's records, each time-share estate was acquired, have been filed with the assessor. A plot map of the land showing the location of the improvements on the land need not be filed unless requested by the assessor. The organization shall file an annual statement for each succeeding assessment year, on or before April 1, with the assessor setting forth any changes to the required information known to the organization. The list or other information provided pursuant to this section is not a public document and shall not be open to public inspection, except as provided in Section 408.

(d) Notwithstanding subdivision (c), this section shall not be construed to require any person making a request for separate assessment to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment.

(e) The tax on a time-share estate that is separately assessed pursuant to this section shall be a lien solely on the time-share estate and shall be entered on and be subject to all provisions of law applicable to taxes on the secured roll, provided:

(1) If the taxes on any time-share estate that is separately assessed remain unpaid at the time set for declaration of default for delinquent taxes, the taxes on the time-share estate, together with any penalties and costs that may have accrued thereon while on the secured roll, may be transferred to the unsecured roll.

(2) Defaulted time-share estate taxes remaining unpaid on any prior year secured tax roll may be transferred to the unsecured roll and collected like any other tax on the unsecured roll.

(f) The assessor shall provide to the principal office of each time-share project within the taxing jurisdiction, at the time and in the manner as he or she deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(g) The county may charge a fee for processing an application for separate assessment and for the initial and the ongoing costs, not to exceed the actual cost, of the separate assessment and billing, and mailings, with respect to a time-share project. This fee shall be subject to Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code, and shall be proportionately allocated to each of the time-share estate owners. This fee may be collected commencing with the initial separate tax bills, and on subsequent tax bills, and deposited in the county's general fund.

(h) For purposes of this section, "timeshare estate" applies to time-share estates, as defined in Section 11003.5 of the Business and Professions Code, that include a fee simple interest in the underlying property involved. However, "timeshare estate" does not include time-share estates that are coupled with a leasehold interest or an estate for years.

(i) Notwithstanding subdivision (a), when the assessor receives a written request to terminate the separate assessment of time-share estates in a time-share project under subdivision (a), the assessor shall, on the first lien date that occurs more than 60 days following the request, and on each lien date thereafter, prepare a single assessment for all time-share estates in the project. In order to obtain a single assessment, the person making the request shall provide certification that the request for a single consolidated assessment has been approved in the manner provided in the organization's documents. The person making the request shall also state the name and address of that organization as the organization to receive the single consolidated assessment. On the first lien date, and continuing thereafter, the county shall assess the time-share project. Any lien for taxes shall attach as if the election previously made under subdivision (a) had not been made, and the county shall no longer charge the fees described in subdivision (g).

SEC. 17. Section 2188.9 of the Revenue and Taxation Code is amended to read:

2188.9. (a) Whenever the assessor receives a written request for separate assessment of a time-share project, as defined in Section 11003.5 of the Business and Professions Code, the assessor shall, on the first lien date which occurs more than 60 days following the request, and on each lien date thereafter, separately assess the individual interests in the project described in subdivision (b) if the conditions specified in subdivision (c) have been met. Whenever a time-share project becomes subject to separate assessment, it shall continue to be so subject in subsequent fiscal years and once a request for separate assessment is made, it is binding on all future owners and occupants of the project.

(b) The interest in a time-share project that is to be separately assessed is the value of the right of recurrent, exclusive use or occupancy of real property, annually or on some other periodic basis,

for a period of time that has been, or will be, allotted from the use or occupancy periods into which the project has been divided.

(c) A separate assessment may not be made by the assessor under this section unless:

(1) The person making the request certifies that the request for separate assessment has been approved in the manner provided in the organizational documents of the organization involved for approval of matters affecting the affairs of the organization generally; and

(2) A diagrammatic floor plan of the improvements, a copy of the documents setting forth the procedures for scheduling time and units to each time-share interest owner, and a list of every time-share interest owner, with a date notation thereon showing when, according to the organization's records, each interest was acquired, have been filed with the assessor. A plot map of the land showing the location of the improvements on the land need not be filed unless requested by the assessor. The organization shall file an annual statement for each succeeding assessment year, on or before April 1, with the assessor, setting forth any changes to the required information known to the organization. The list or other information provided pursuant to this section is not a public document and shall not be open to public inspection, except as provided in Section 408 of the Revenue and Taxation Code.

(d) Notwithstanding the provisions of subdivision (c), this section shall not be construed to require applicants for separate assessments to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment except for the assessor's approval.

(e) The assessor shall cumulate all the separate assessments in a time-share project and enter the total assessment on the secured roll in the name of the organization or time-share owners' association. The assessor shall notify each owner of a time-share interest subject to separate assessment under this section of the amount of an increased assessment pursuant to Section 619.

(f) The tax on the total assessment with respect to a time-share project shall be a lien on the entire time-share project and shall be subject to all provisions of law applicable to taxes on the secured roll.

(g) The tax collector shall send a single tax bill, with an itemized breakdown detailing the taxes applicable to each separate assessment, to the time-share project organization or owners' association.

(h) The assessor shall provide to the principal office of each time-share project within the taxing jurisdiction, at that time and in that manner as he or she deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(i) The county may charge a fee for processing the application for separate assessment and for the initial and ongoing costs of separate

assessment and implementing subdivision (g), not to exceed the actual costs. Fees shall be subject to Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code, and may be collected commencing with the initial separate tax bills, and on subsequent tax bills, and shall be deposited in the county's general fund.

(j) This section shall not apply to time-share estates or to time-share projects that are subject to the provisions of Section 2188.8.

(k) Notwithstanding subdivision (a), when the assessor receives a written request to terminate the separate assessment of a time-share project under subdivision (a), the assessor shall, on the first lien date that occurs more than 60 days following the request, and on each lien date thereafter, prepare a single assessment for the time-share project without an itemized breakdown detailing the taxes applicable to each separate assessment in the time-share project. In order to obtain a single assessment, the person making the request shall provide certification that the request for a single consolidated assessment has been approved in the manner provided in the organization's documents. The person making the request shall also state the name and address of that organization as the organization to receive the single consolidated assessment. On the first lien date, and continuing thereafter, the county shall assess the time-share project. Any lien for taxes shall attach as if the election previously made under subdivision (a) had not been made, and the county shall no longer charge the fees described in subdivision (i).

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 542

An act to add Section 40106 to the Health and Safety Code, relating to air pollution.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 40106 is added to the Health and Safety Code, to read:

40106. (a) Notwithstanding Section 40410 or any other provision of this part, that portion of the Antelope Valley which is located in northern Los Angeles County shall not be within the south coast district. That territory shall constitute the territory of the Antelope Valley Air Pollution Control District, which is hereby created.

(b) The territory of the Antelope Valley Air Pollution Control District has the following boundaries: The San Bernardino County line to the east, the Kern County line to the north, the San Gabriel Mountains to the south, and the Sierra Nevada Mountains to the west. The south and west boundaries shall coincide with the boundaries of the Southeast Desert Air Basin, as determined in regulations of the state board.

(c) The Antelope Valley Air Pollution Control District shall be governed by a district board consisting of seven members, as follows:

(1) Two members of the City Council of the City of Lancaster appointed by the city council.

(2) Two members of the City Council of the City of Palmdale appointed by the city council.

(3) Two persons appointed by the member of the Board of Supervisors of the County of Los Angeles who represents a majority of the population of the Antelope Valley Air Pollution Control District, one of whom may be that supervisor.

(4) A public member who shall be appointed by the members who have been appointed pursuant to paragraphs (1) to (3), inclusive.

(d) Except as otherwise provided in this section, the Antelope Valley Air Pollution Control District is a county district.

(e) The rules and regulations of the south coast district shall remain in effect in the Antelope Valley Air Pollution Control District on and after July 1, 1997, until the Antelope Valley Air Pollution Control District board adopts new rules and regulations which supersede them.

(f) This section shall become operative on July 1, 1997.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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CHAPTER 543

An act to add Article 1 (commencing with Section 104145) to Chapter 2 of Part 1 of Division 103 of the Health and Safety Code, and to repeal Section 9 of Chapter 661 of the Statutes of 1993, relating to public health.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Article 1 (commencing with Section 104145) is added to Chapter 2 of Part 1 of Division 103 of the Health and Safety Code, to read:

Article 1. The Breast Cancer Research Program

104145. (a) The Legislature hereby requests the University of California to establish and administer the Breast Cancer Research Program, which is created by this act, as a comprehensive grant and contract program to support research efforts into the cause, cure, treatment, earlier detection, and prevention of breast cancer. It is the intent of the Legislature that this program incorporate the principles and organizational elements specified in this act, including, but not limited to, a research program office with a director and other necessary staff, a Breast Cancer Research Council, and research review panels.

(b) For the purposes of this section:

(1) "Breast cancer research" includes, but is not limited to, research in the fields of biomedical science and engineering, the social, economic and behavioral sciences, epidemiology, technology development and translation, and public health.

(2) "Council" means the Breast Cancer Research Council.

(3) "Grantee" means any qualifying public, private, or nonprofit agency or individual, including, but not limited to, colleges, universities, hospitals, laboratories, research institutions, local health departments, voluntary health agencies, health maintenance organizations, corporations, students, fellows, entrepreneurs, and individuals conducting research in California.

(4) "Program" means the Breast Cancer Research Program.

(5) "University" means the University of California.

(c) It is the intent of the Legislature that this program be administered pursuant to the following principles:

(1) The university shall work in close collaboration with the council and seek the consent of the council before taking an action different from the action recommended by the council.

(2) The council shall develop the strategic objectives and priorities of the program, actively participate in the overall management of the program, and make final recommendations on which research grants should be funded based on the research priorities established for the program and the technical merits of the proposals as determined by peer review panels.

(3) The program shall fund innovative and creative research, with a special emphasis on research that complements, rather than duplicates, the research funded by the federal government and other entities.

(4) The university and the council shall work in close collaboration with the Breast Cancer Early Detection Program.

(5) All research funds shall be awarded on the basis of the research priorities established for the program and the scientific merit of the proposed research, as determined by an open, competitive peer review process that ensures objectivity, consistency, and high quality. All investigators, regardless of affiliation, shall have equal access and opportunity to compete for program funds.

(6) The peer review process for the selection of research grants awarded under this program shall be generally modeled on that used by the National Institutes of Health in its grantmaking process.

(7) An awardee shall be awarded grants for the full cost, both direct and indirect, of conducting the sponsored research consistent with those federal guidelines governing all federal research grants and contracts. All intellectual property assets developed under this program shall be treated in accordance with state and federal law.

(8) In establishing its research priorities, the council shall consider a broad range of cross-disciplinary breast cancer research, as defined in paragraph (1) of subdivision (b), including, but not limited to, research into the cause, cure, and prevention of breast cancer; translational and technological research, including research regarding the development and translation of technologies of earlier detection; research regarding the cultural, economic, and legal barriers to accessing the health care system for early detection and treatment of breast cancer; and research examining the link between breast cancer and environmental factors, including both natural and industrial chemicals, estrogen imitators, and electromagnetic fields.

(d) It is the intent of the Legislature that the university, as lead agency, do all of the following:

(1) Establish the Breast Cancer Research Council in accordance with the following:

(A) The council shall consist of at least 13 and no more than 15 members representing a range of expertise and experience, appointed by the President of the University of California. Individuals and organizations may submit nominations to the council, and the University of California shall solicit nominations from relevant organizations and individuals. The council shall be comprised of the following members:

(i) Four members from breast cancer survivor and breast cancer-related advocacy groups, including, but not limited to, the California Breast Cancer Organizations (CABCO).

(ii) Four members drawn from the ranks of scientists or clinicians, including one from an independent research university in California. The scientists shall have expertise covering the various fields of scientific endeavor, including, but not limited to, the fields of biomedical research and engineering, social, economic, and behavioral research, epidemiology, and public health.

(iii) Two members from nonprofit health organizations with a commitment to breast cancer research and control.

(iv) One member who is a practicing breast cancer medical specialist.

(v) Two members from private industry with a commitment to breast cancer research and control, including, but not limited to, entrepreneurs, or persons from the science or high technology industry or persons from the health care sector.

(vi) One ex officio, nonvoting member from the Breast Cancer Early Detection Program.

(B) If the president appoints more than 13 members, it is the intent of the Legislature that the proportional representation remain substantially the same as set forth in subparagraph (A).

(C) Members shall serve without compensation, but may receive reimbursement for travel and other necessary expenses actually incurred in the performance of their official duties. Any member of the Breast Cancer Research Council shall be ineligible to apply for or receive funding for breast cancer research from the Breast Cancer Research Program during his or her term of service on the council, and for one cycle immediately following his or her term of service on the council, if the council member helped plan that subsequent cycle.

(D) Membership shall be staggered in such a way as to maintain a full council while ensuring a reasonable degree of continuity of expertise and consistency of direction.

(2) Provide overall coordination of the program.

(3) Provide staff assistance to the program and council.

(4) Develop administrative procedures relative to the solicitation, review, and awarding of grants to ensure an impartial, high quality peer review system.

(5) Recruit and supervise research review panels. The membership of these panels shall vary depending on the subject matter of the proposals and the review requirements, and shall draw on the most qualified individuals. The work of the review panels shall be administered pursuant to policies and procedures established for the implementation of the program. In order to avoid conflicts of interest and to ensure access to qualified reviewers, the university may utilize reviewers not only from California but also from outside the state. When serving on review panels, institutions, corporations, or individuals who have submitted grant applications for funding by

this program shall be governed by conflict-of-interest provisions consistent with the National Institutes of Health Manual (Chapter 4510 (item h)), and any applicable conflict-of-interest provisions in state law.

(6) Provide for periodic program evaluation to ensure that research funded is consistent with program goals.

(7) Maintain a system of financial reporting and accountability.

(8) Provide for the systematic dissemination of research results to the public and the health care community, and provide for a mechanism to disseminate the most current research findings in the areas of cause, treatment, cure, earlier detection, and prevention of breast cancer, in order that these findings may be applied to the planning, implementation, and evaluation of the breast cancer-related programs of the State Department of Health Services, including the Breast Cancer Early Detection Program authorized by this act.

(9) Develop policies and procedures to facilitate the translation of research results into commercial, alternate technological, and other applications wherever appropriate and consistent with state and federal law.

(10) Transmit annually on or before each December 31, a report to the Legislature on grants made, grants in progress, program accomplishments, and future program directions. Each report shall include, but not be limited to, the following information:

(A) The number and dollar amounts of research grants, including the amount allocated to indirect costs.

(B) The subject of research grants.

(C) The relationship between federal and state funding for breast cancer research.

(D) The relationship between each project and the overall strategy of the research program.

(E) A summary of research findings including discussion of promising new areas.

(F) The institutions and campuses receiving grant awards.

In addition, the first annual report shall include an evaluation and recommendations concerning the desirability and feasibility of requiring for-profit grantees to compensate the state in the event that a grant results in the development of a profit-making product. This evaluation shall include, but not be limited to, the costs and benefits of requiring a for-profit grantee to repay the grant, to provide the product at cost to Medi-Cal and other state programs serving low-income breast cancer patients, and to pay the state a percentage of the royalties derived from the product.

(e) It is the intent of the Legislature that no more than 5 percent of the allocation to the university be used for the purposes of administration of this program.

(f) It is the intent of the Legislature that the responsibilities of the council shall include, but not be limited to, the following:

(1) Development and review of the strategic objectives and research priorities of the program.

(2) Delineation of resource allocation across the various priorities established for the program.

(3) Participation in periodic program and financial review, including the report transmitted pursuant to paragraph (10) of subdivision (d).

(4) Development and review of guidelines to ensure fairness, neutrality, and adherence to the principles of merit and quality in the conduct of the program.

(5) Development of appropriate linkages to nonacademic entities, including, but not limited to, voluntary organizations, health care delivery systems, industry, government agencies, research entrepreneurs, and public officials.

(6) Development and review of criteria and standards for granting awards.

(7) Oversight and review of the request for applications (RFA).

(8) Review of research review panel reports and recommendations for grant awards.

(9) Making of final recommendations on which grants are to be awarded.

(10) Development and review of oversight mechanisms for the dissemination of research results.

(11) Development and review of policies and liaison programs to facilitate the translation of research results into commercial, alternate technological, or other applications wherever appropriate.

(12) Establishment of its own internal rules of operation.

(13) Participation in the identification and recruitment of breast cancer advocates and survivors, clinicians, scientists, and persons from the science, high technology, or health care sector with relevant expertise for possible participation in a peer review panel. The council may propose to assign a member of the council to sit as a nonvoting member of the peer review panels.

(g) (1) The State Auditor shall conduct an audit of the Breast Cancer Research Program 1996–97 fiscal year grant award process. Prior to conducting the audit, the State Auditor shall review laws, rules, and regulations relevant to the Breast Cancer Research Program. The audit by the State Auditor shall make the following determinations:

(A) Whether the Breast Cancer Research Program has adequate controls to ensure that the program is administered in a manner designed to minimize any potential conflicts that may arise from the university's dual role as program administrator and grant recipient.

(B) Whether the Breast Cancer Research Program has adequate controls to safeguard the program's funds and assets, and whether those controls are operating as intended.

(2) The State Auditor shall conduct its audit and report its findings to the Legislature on or before January 1, 1998.

(3) The program shall retain documents received and prepared in connection with grant applications or awards until the State Auditor has completed its audit. The university, the State Auditor, and their respective employees shall maintain these documents in a manner that will protect these documents from public disclosure.

(4) Nothing in this subdivision shall be construed to prevent the university from making publicly available, after awards for a cycle of funding have been publicly announced, those applicants receiving funding for that cycle from the Breast Cancer Research Program, the names and affiliations of the peer reviewers of each study section, an abstract of grant awards, the amount of funding received from the program, and any other information the university released in prior grant award cycles.

(5) The actual and reasonable costs incurred by the audit shall be paid by the State Auditor.

SEC. 2. Section 9 of Chapter 661 of the Statutes of 1993, as amended by Section 2 of Chapter 483 of the Statutes of 1994, is repealed.

CHAPTER 544

An act to amend Section 12725 of, and to add Sections 10198.61 and 10701 to, the Insurance Code, relating to insurance.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 10198.61 is added to the Insurance Code, to read:

10198.61. (a) For purposes of this article, "health benefit plan" does not include policies or certificates of specified disease or hospital confinement indemnity provided that the carrier offering those policies or certificates complies with the following:

(1) The carrier files, on or before March 1 of each year, a certification with the commissioner that contains the statement and information described in paragraph (2).

(2) The certification required in paragraph (1) shall contain the following:

(A) A statement from the carrier certifying that policies or certificates described in this section (i) are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance, health care service plans, or major medical expense insurance, (ii) the disclosure forms as described in Section 10603 contains the following statement prominently on the first page: "This is a supplement to health

insurance. It is not a substitute for hospital or medical expense insurance, a health maintenance organization (HMO) contract, or major medical expense insurance," and (iii) are not being offered, marketed, or sold in a manner that would make the purchase of the policies contingent upon the sale of any product sold under Sections 10700 and 10718, or under Section 1357 of the Health and Safety Code.

(B) A summary description of each policy or certificate described in this section, including the average annual premium rates, or range of premium rates in cases where premiums vary by age, gender, or other factors, charged for the policies and certificates in this state.

(3) In the case of a policy or certificate described in this section and that is offered for the first time in this state on or after January 1, 1997, the carrier files with the commissioner the information and statement required in paragraph (2) at least 30 days prior to the date such a policy or certificate is issued or delivered in this state.

(b) As used in this section, "policies or certificates of specified disease" and "policies or certificates of hospital confinement indemnity" mean policies or certificates of insurance sold to an insured to supplement other health insurance coverage as specified in this section. An insurer issuing a "policy or certificate of specified disease" or a "policy or certificate of hospital confinement indemnity" shall require that the person to be insured is covered by an individual or group policy or contract that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans.

SEC. 2. Section 10701 is added to the Insurance Code, to read:

10701. (a) For purposes of this chapter, "health benefit plan" does not include policies or certificates of specified disease or hospital confinement indemnity provided that the carrier offering those policies or certificates complies with the following:

(1) The carrier files, on or before March 1 of each year, a certification with the commissioner that contains the statement and information described in paragraph (2).

(2) The certification required in paragraph (1) shall contain the following:

(A) A statement from the carrier certifying that policies or certificates described in this section (i) are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance, health care service plans, or major medical expense insurance, (ii) the disclosure forms as described in Section 10603 contains the following statement prominently on the first page: "This is a supplement to health insurance. It is not a substitute for hospital or medical expense insurance, a health maintenance organization (HMO) contract, or major medical expense insurance," and (iii) are not being offered, marketed, or sold in a manner that would make the purchase of the policies contingent upon the sale of any product sold under Sections 10700 and 10718, or under Section 1357 of the Health and Safety Code.

(B) A summary description of each policy or certificate described in this section, including the average annual premium rates, or range of premium rates in cases where premiums vary by age, gender, or other factors, charged for the policies and certificates in this state.

(3) In the case of a policy or certificate that is described in this section and that is offered for the first time in this state on or after January 1, 1997, the carrier files with the commissioner the information and statement required in paragraph (2) at least 30 days prior to the date such a policy or certificate is issued or delivered in this state.

(b) As used in this section, "policies or certificates of specified disease" and "policies or certificates of hospital confinement indemnity" mean policies or certificates of insurance sold to an insured to supplement other health insurance coverage as specified in this section. An insurer issuing a "policy or certificate of specified disease" or a "policy or certificate of hospital confinement indemnity" shall require that the person to be insured is covered by an individual or group policy or contract that arranges or provides medical, hospital, and surgical coverage not designed to supplement other private or governmental plans.

SEC. 3. Section 12725 of the Insurance Code is amended to read:

12725. Each resident of the state meeting the eligibility criteria of this section and who is unable to secure adequate private health coverage is eligible to apply for major risk medical coverage through the program. To be eligible for enrollment in the program an applicant shall have been rejected for health care coverage by at least one private health plan. An applicant shall be deemed to have been rejected if the only private health coverage which the applicant could secure would (1) impose substantial waivers which the program determines would leave a subscriber without adequate coverage for medically necessary services, or (2) would afford such limited coverage, as the program determines would leave the subscriber without adequate coverage for medically necessary services, or (3) would afford coverage only at an excessive price, which the board determines is significantly above standard average individual coverage rates. Rejection for policies or certificates of specified disease or policies or certificates of hospital confinement indemnity, as described in Section 10198.61, shall not be deemed to be rejection for the purposes of eligibility for enrollment. The board may permit dependents of eligible subscribers to enroll in major risk medical coverage through the program if the board determines the enrollment can be carried out in an actuarially and administratively sound manner.

CHAPTER 545

An act to amend Section 11837 of the Health and Safety Code, relating to alcohol and drug programs.

[Approved by Governor September 14, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. 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, that 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. When preparing a presentence report for the court, the probation department may consider the suitability of placing the defendant in a treatment program that includes the administration of nonscheduled nonaddicting medications to ameliorate an alcohol or controlled substance problem. If the probation department recommends that this type of program is a suitable option for the defendant, the defendant who would like the court to consider this

option shall obtain from his or her physician a prescription for the medication, and a finding that the treatment is medically suitable for the defendant, prior to consideration of this alternative by the court.

(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.

CHAPTER 546

An act to amend Section 65050 of the Government Code, relating to economic development.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 65050 of the Government Code is amended to read:

65050. (a) As used in this article, the following phrases have the following meanings:

(1) "Military base" means a military base that is designated for closure or downward realignment pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (P.L. 100-526), the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510), or any subsequent closure or realignment approved by the President of the United States without objection by the Congress.

(2) "Effective date of a base closure" means the date a base closure decision becomes final under the terms specified by federal law.

These decisions become final 45 legislative days after the date the federal Base Closure Commission submits its recommendations to the President, he or she approves those recommendations, and the Congress does not disapprove those recommendations or adjourns.

(b) It is not the intent of the Legislature in enacting this section to preempt local planning efforts or to supersede any existing or subsequent authority invested in the Defense Conversion Council, as established by Article 3.7 (commencing with Section 15346). It is the intent of this article to provide a means of conflict resolution.

(c) For the purposes of this article, a single local base reuse entity shall be recognized pursuant to the provisions of this section for each military base closure in this state.

(d) The following entities or their successors, including, but not limited to, separate airport or port authorities, are recognized as the single local reuse entity for the military bases listed:

Military Base	Local Reuse Entity
George Air Force Base	Victor Valley Economic Development Authority
Hamilton Army Base	City of Novato
Mather Air Force Base	County of Sacramento
Norton Air Force Base	Inland Valley Development Authority
Presidio Army Base	City and County of San Francisco
Salton Sea Navy Base	Imperial County
Castle Air Force Base	Castle Joint Powers Authority
Hunters Point Naval Annex	City and County of San Francisco
Long Beach Naval Station	City of Long Beach
MCAS Tustin	City of Tustin
Sacramento Army Depot	City of Sacramento
MCAS El Toro	Local redevelopment authority recognized by the United States Department of Defense, Office of Economic Adjustment
March Air Force Base	March Joint Powers Authority
Mare Island Naval Shipyard	City of Vallejo
Naval Training Center, San Diego	City of San Diego

NS Treasure Island	City and County of San Francisco
NAS Alameda, San Francisco Bay Public Works Center, Alameda Naval Aviation Depot	Alameda Reuse and Redevelopment Authority
Oakland Navy Hospital	City of Oakland
Fort Ord Army Base	Fort Ord Reuse Authority

Any military base reuse authority created pursuant to Title 7.86 (commencing with Section 67800).

(e) For any military base that is closed and not listed in subdivision (d), a single local reuse entity shall be recognized for the base by the state if resolutions acknowledging the entity as the single base reuse entity are adopted by the affected county board of supervisors and the city council of each city located wholly or partly within the boundaries of a military base or having a sphere of influence over any portion of the base and are forwarded to the Defense Conversion Council and the Office of Planning and Research within 60 days after the effective date of a base closure decision or by March 1, 1995, whichever date is later.

(f) If the necessary resolutions are not adopted within the time limit specified in subdivision (e), the Director of the Office of Planning and Research may select a mediator, from a list submitted by the Defense Conversion Council containing no fewer than seven recommendations, to reach agreement among the affected jurisdictions on a single local reuse entity. In selecting a mediator, the director shall appoint a neutral person or persons, with experience in local land use issues, to facilitate communication between the disputants and assist them in reaching a mutually acceptable agreement.

(g) As a last resort, and only if no recognition is made pursuant to the procedure specified in subdivisions (e) and (f) within 120 days after a base closure decision has become final or within 120 days after the date on which this section becomes operative, whichever date is later, the Defense Conversion Council, created pursuant to Article 3.6 (commencing with Section 15346) of Chapter 1 of Part 6.7 of Division 3 of Title 2, shall hold public hearings and recognize a single local base reuse entity for each closing base for which agreement is reached among the local jurisdictions with responsibility for complying with Chapter 3 (commencing with Section 65100) and Chapter 4 (commencing with Section 65800) on the base, or recommend legislation or action by the local agency formation commission if necessary to implement a proposed recognition.

(h) In recognizing a single local reuse entity pursuant to this section, preference shall be given to existing entities and entities with

responsibility for complying with Chapter 3 (commencing with Section 65100) and Chapter 4 (commencing with Section 65800).

(i) Any recognition of a single local reuse entity made pursuant to subdivision (e), (f), or (g) shall be submitted by the Director of the Office of Planning and Research to the Governor, the Legislature, and the United States Department of Defense.

CHAPTER 547

An act to amend Section 21080 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.

(b) This division does not apply to any of the following activities:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative

declaration, or other document, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located if the environmental impact report, negative declaration, or document includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) All classes of projects designated pursuant to Section 21084.

(10) A project for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities.

(11) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(12) Facility extensions not to exceed four miles in length which are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(13) A project for the development of a regional transportation improvement program, the state transportation improvement program, or a congestion management program prepared pursuant to Section 65089 of the Government Code.

(14) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in this state are subject to this division.

(15) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a

certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect on the environment in the plan or other written documentation required by Section 21080.5 is subject to this division.

(c) If a lead agency determines that a proposed project, not otherwise exempt from this division, would not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (B) there is no substantial evidence, in light of the whole record before the lead agency, that the project, as revised, may have a significant effect on the environment.

(d) If there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e) (1) For the purposes of this section and this division, substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.

(2) Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.

(f) As a result of the public review process for a mitigated negative declaration, including administrative decisions and public hearings, the lead agency may conclude that certain mitigation measures identified pursuant to paragraph (2) of subdivision (c) are infeasible or otherwise undesirable. In those circumstances, the lead agency, prior to approving the project, may delete those mitigation measures and substitute for them other mitigation measures that the lead agency finds, after holding a public hearing on the matter, are equivalent or more effective in mitigating significant effects on the environment to a less than significant level and that do not cause any potentially significant effect on the environment. If those new mitigation measures are made conditions of project approval or are otherwise made part of the project approval, the deletion of the former measures and the substitution of the new mitigation measures

shall not constitute an action or circumstance requiring recirculation of the mitigated negative declaration.

(g) Nothing in this section shall preclude a project applicant or any other person from challenging, in an administrative or judicial proceeding, the legality of a condition of project approval imposed by the lead agency. If, however, any condition of project approval set aside by either an administrative body or court was necessary to avoid or lessen the likelihood of the occurrence of a significant effect on the environment, the lead agency's approval of the negative declaration and project shall be invalid and a new environmental review process shall be conducted before the project can be reapproved, unless the lead agency substitutes a new condition that the lead agency finds, after holding a public hearing on the matter, is equivalent to, or more effective in, lessening or avoiding significant effects on the environment and that does not cause any potentially significant effect on the environment.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 548

An act to add Section 15122.5 to the Education Code, relating to education.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 15122.5 is added to the Education Code, to read:

15122.5. (a) Whenever an election is called on the question of whether bonds of a school district shall be issued and sold for the purposes specified in Section 15100 and the project to be funded by the bonds will require state matching funds for any phase of the project, the sample ballot shall contain a statement, as provided in subdivision (b), advising the voters that the project is subject to the approval of state matching funds and, therefore, passage of the bond measure is not a guarantee that the project will be completed.

(b) The words to appear in the sample ballot in satisfaction of the requirements of subdivision (a) are as follows:

"Approval of Measure _____ does not guarantee that the proposed project or projects in the _____ School District that are the subject of bonds under Measure _____ will be funded beyond the local revenues generated by Measure _____. The school district's proposal for the project or projects may assume the receipt of matching state funds, which could be subject to appropriation by the Legislature or approval of a statewide bond measure."

(c) This section does not apply to any election to incur bonded indebtedness pursuant to the Mello-Roos Community Facilities Act of 1982 contained in Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 of the Government Code.

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 549

An act to amend Sections 66000 and 66020 of the Government Code, relating to real property.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 66000 of the Government Code is amended to read:

66000. As used in this chapter:

(a) "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

(b) "Fee" means a monetary exaction other than a tax or special assessment, whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in Section 66477, fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements adopted pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4, or fees collected pursuant to agreements with redevelopment agencies which provide for the redevelopment of property in furtherance or for the benefit of a redevelopment project for which a redevelopment plan has been adopted pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code.

(c) "Local agency" means a county, city, whether general law or chartered, city and county, school district, special district, authority, agency, any other municipal public corporation or district, or other political subdivision of the state.

(d) "Public facilities" includes public improvements, public services and community amenities.

SEC. 2. Section 66020 of the Government Code is amended to read:

66020. (a) Any party may protest the imposition of any fees, dedications, reservations, or other exactions imposed on a development project, as defined in Section 66000, by a local agency by meeting both of the following requirements:

(1) Tendering any required payment in full or providing satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.

(2) Serving written notice on the governing body of the entity, which notice shall contain all of the following information:

(A) A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest.

(B) A statement informing the governing body of the factual elements of the dispute and the legal theory forming the basis for the protest.

(b) Compliance by any party with subdivision (a) shall not be the basis for a local agency to withhold approval of any map, plan, permit, zone change, license, or other form of permission, or concurrence, whether discretionary, ministerial, or otherwise, incident to, or necessary for, the development project. This section does not limit the ability of a local agency to ensure compliance with all applicable provisions of law in determining whether or not to approve or disapprove a development project.

(c) Where a reviewing local agency makes proper and valid findings that the construction of certain public improvements or facilities, the need for which is directly attributable to the proposed development, is required for reasons related to the public health, safety, and welfare, and elects to impose a requirement for construction of those improvements or facilities as a condition of approval of the proposed development, then in the event a protest is lodged pursuant to this section, that approval shall be suspended pending withdrawal of the protest, the expiration of the limitation period of subdivision (d) without the filing of an action, or resolution of any action filed. This subdivision confers no new or independent authority for imposing fees, dedications, reservations, or other exactions not presently governed by other law.

(d) (1) A protest filed pursuant to subdivision (a) shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees, dedications, reservations, or other exactions to be imposed on a development project. Each local agency shall provide to the project applicant a notice in writing at the time of the approval of the project or at the time of the imposition of the fees, dedications, reservations, or other exactions, a statement of the amount of the fees or a description of the dedications, reservations, or other exactions, and notification that the 90-day approval period in which the applicant may protest has begun.

(2) Any party who files a protest pursuant to subdivision (a) may file an action to attack, review, set aside, void, or annul the imposition of the fees, dedications, reservations, or other exactions imposed on a development project by a local agency within 180 days after the delivery of the notice. Thereafter, notwithstanding any other law to the contrary, all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the imposition. Any proceeding brought pursuant to this subdivision shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain, forcible entry, and unlawful detainer proceedings.

(e) If the court finds in favor of the plaintiff in any action or proceeding brought pursuant to subdivision (d), the court shall direct the local agency to refund the unlawful portion of the payment, with interest at the rate of 8 percent per annum, or return the unlawful portion of the exaction imposed.

(f) (1) If the court grants a judgment to a plaintiff invalidating, as enacted, all or a portion of an ordinance or resolution enacting a fee, dedication, reservation, or other exaction, the court shall direct the local agency to refund the unlawful portion of the payment, plus interest at an annual rate equal to the average rate accrued by the Pooled Money Investment Account during the time elapsed since the payment occurred, or to return the unlawful portion of the exaction imposed.

(2) If an action is filed within 120 days of the date at which an ordinance or resolution to establish or modify a fee, dedication, reservation, or other exactions to be imposed on a development project takes effect, the portion of the payment or exaction invalidated shall also be returned to any other person who, under protest pursuant to this section and under that invalid portion of that same ordinance or resolution as enacted, tendered the payment or provided for or satisfied the exaction during the period from 90 days prior to the date of the filing of the action which invalidates the payment or exaction to the date of the entry of the judgment referenced in paragraph (1).

(g) Approval or conditional approval of a development occurs, for the purposes of this section, when the tentative map, tentative parcel map, or parcel map is approved or conditionally approved or when the parcel map is recorded if a tentative map or tentative parcel map is not required.

(h) The imposition of fees, dedications, reservations, or other exactions occurs, for the purposes of this section, when they are imposed or levied on a specific development.

CHAPTER 550

An act to add Section 6411 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 6411 is added to the Revenue and Taxation Code, to read:

6411. (a) The storage, use, or other consumption in this state of tangible personal property becoming a component part of any railroad equipment in the course of repairing, cleaning, altering, or improving that railroad equipment outside of this state, and charges made for labor and services rendered with respect to that repairing, cleaning, altering, or improving, are exempt from the use tax.

(b) For purposes of this section, "railroad equipment" includes locomotives, freight and passenger cars, maintenance of way equipment, and any other equipment riding on flanged wheels and owned or used by a common carrier engaged in interstate or foreign commerce, or by any person for the purpose of leasing that equipment to a common carrier engaged in interstate or foreign commerce.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall

not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 551

An act to amend Section 19412 of the Business and Professions Code, relating to horseracing, and making an appropriation therefor.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 19412 of the Business and Professions Code is amended to read:

19412. (a) "Conventional parimutuel pool" means the total wagers under the parimutuel system on any horse or horses in a particular race to win, place, or show.

(b) "Exotic parimutuel pool" means the total wagers under the parimutuel system on the finishing position of two or more horses in a particular race, such as quinella or exacta wagers, or on horses to win two or more races, such as daily double wagers, pick six wagers, or on other wagers approved by the board.

(c) "Proposition parimutuel pool" means the total wagers under the parimutuel system on propositions approved by the board that are based on the results of a live quarter horse horserace. The total wagers made in the proposition parimutuel pool are subject to the same licensee fee as exotic wagers on a live quarter horse race, and commissions and purses shall be distributed in the amounts mutually agreed upon by the association and the organization representing the horsemen and horsewomen.

CHAPTER 552

An act to amend Section 8820 of the Education Code, relating to education.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 8820 of the Education Code is amended to read:

8820. This chapter shall remain in effect only until January 1, 2003, and, as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

CHAPTER 553

An act to add Chapter 6 (commencing with Section 31300) to Division 17 of the Streets and Highways Code, relating to highways, and making an appropriation therefor.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

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

(a) It is essential for the economic well-being of the state and for the maintenance of a high quality of life that the people of the State of California receive the full benefits of international trade under the North American Free Trade Agreement.

(b) International trade between California and Mexico is growing at a rapid rate and the number of commercial vehicles crossing the California-Mexico border is expected to double by the beginning of the 21st century.

(c) Trade passing through California's portion of the United States-Mexico border region benefits every state in the union and contributes heavily to the nation's trade with the countries of the Pacific Rim.

(d) Commercial traffic between the United States and Mexico using California's ports of entry is placing extreme demands on the state's border transportation assets which were not designated for these purposes.

(e) In ratifying the North American Free Trade Agreement, neither Congress nor the President provided border states with meaningful financial assistance to help states prepare for the increased commercial traffic.

(f) Public revenues to provide for an efficient border region transportation system have not kept pace with the growth of commercial traffic crossing the international border with Mexico.

(g) The state must seek all reasonable alternatives to address unmet border transportation needs and to improve existing transportation facilities.

(h) In the absence of adequate federal and state public funding, public toll transportation facilities should be encouraged as a temporary supplement to limited public resources.

SEC. 2. Chapter 6 (commencing with Section 31300) is added to Division 17 of the Streets and Highways Code, to read:

CHAPTER 6. BORDER REGION TOLL FACILITIES

31300. (a) Tolls may be imposed by the commission on segments of newly constructed state highway routes, as described in subdivision (b), if transportation facilities, including, but not limited to, additional highways and capacity enhancing improvements to existing highways, are needed to accommodate additional commercial traffic resulting from the North American Free Trade Agreement, and federal funds have not been made available to the state for those purposes. In addition, for state highway routes and transportation facilities constructed on or after January 1, 1997, the cost may be borne by a combination of tolls, toll-backed bonds, and any other state and federal funds that may be available for those purposes, on a project-by-project basis.

(b) The imposition of tolls pursuant to subdivision (a) is limited to Route 7, from the new international border crossing near Calexico to Route 8 near El Centro in Imperial County.

(c) Tolls imposed on any route described in this section shall be discontinued upon the happening of either of the following: (1) federal funds are received for the cost of the improvements to that route, which funds are in addition to the normal apportionment of federal funds to California and are for the specific purpose of mitigating the impacts of the North American Free Trade Agreement, or (2) the cost of those improvements is fully paid.

31302. The department shall be responsible for the collection of tolls imposed by the commission pursuant to Section 31300. The department shall transmit the toll revenues to the Controller for deposit in the Highway Toll Revenue Account, which is hereby created in the State Transportation Fund.

31304. Notwithstanding Section 13340 of the Government Code, funds in the Highway Toll Revenue Account required to meet the obligations assumed by the commission under any bond resolution adopted pursuant to Section 31306 are continuously appropriated to the commission for that purpose. Upon appropriation by the Legislature, the commission shall allocate the remaining funds to the department for the purpose of constructing additional highways or making capacity enhancing improvements to existing highways to accommodate additional commercial traffic resulting from the North American Free Trade Agreement.

31306. The commission may issue revenue bonds for the purpose of obtaining funds for constructing additional highways or for making capacity enhancing improvements to existing highways to

accommodate additional commercial traffic resulting from the North American Free Trade Agreement. The sole security for the payment of principal and interest on the bonds shall be revenues derived from the tolls imposed pursuant to Section 31300. In authorizing and issuing bonds pursuant to this chapter, the commission and the department shall, to the fullest extent feasible, follow the procedures and requirements of Article 5 (commencing with Section 30200) of Chapter 1 of Division 17.

CHAPTER 554

An act to amend Section 99285 of, and to add Section 99207.5 to, the Public Utilities Code, relating to transportation.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 99207.5 is added to the Public Utilities Code, to read:

99207.5. In Los Angeles County, an "eligible municipal operator" is a transit operator that has been designated eligible to receive formula-equivalent funds allocable for transit operating purposes, other than funds specifically included in the formula allocation program.

SEC. 2. Section 99285 of the Public Utilities Code is amended to read:

99285. (a) The county transportation commissions created pursuant to Division 12 (commencing with Section 130000), including those agencies in Los Angeles County created by statute that assume the same statutory obligations as county transportation commissions, shall submit to the transportation planning agency those claims to be funded, and the transportation planning agency shall approve only those claims submitted.

(b) Each commission shall adopt appropriate criteria by which claims shall be analyzed and evaluated, and shall approve only those claims which will provide for a coordinated public transportation system consistent with the adopted transportation improvement program and adopted regional transportation plan and which will not result in undesirable duplication of public transportation services.

(c) In considering proposals, the Los Angeles County Metropolitan Transportation Authority shall consider, among other things, the fare revenue to operating cost ratio and the public transit service mileage of each operator in the authority operating area, but under no circumstances shall the included municipal operators in existence and receiving formula allocation program funding on July

1, 1996, receive less than the percentage of state, federal, and local funds allocated in the 1995–96 fiscal year for bus services. An operator designated as an included municipal operator effective July 1, 1996, shall, under no circumstances, receive less than its percentage of state, federal, and local funds for eligible services pursuant to the formula specified in subdivision (d).

Under no circumstances shall included or eligible municipal operators, as defined in Sections 99207 and 99207.5, respectively, in existence on July 1, 1996, and receiving formula-equivalent funding from sources other than federal operating funds pursuant to Section 5307 of Title 49 of the United State Code, and funds claimed under Article 4 (commencing with Section 99260) and Article 6.5 (commencing with Section 99310) of this chapter receive less than the proportional share allocated during the 1995–96 fiscal year from the Proposition A 40 percent fund and other available funding sources.

(d) Commencing with the 1996–97 fiscal year, eligible and included municipal operators and the Los Angeles County Metropolitan Transportation Authority shall continue to be allocated not less than the amount that would be allocated to them under the formula allocation procedure in effect July 1, 1995, and under subdivision (i). Based upon audited transit performance data submitted for bus transit operations covering the most recent year for which audited data is available, each of those operator's share of the funds available for allocation shall be calculated as follows: 50 percent of the operator's vehicle service miles, and 50 percent of the operator's passenger revenues divided by its base cash fare.

(e) A three-fourths vote of the principal members of the Los Angeles County Metropolitan Transportation Authority shall be required to modify the formulas for allocating of funds available for bus service under this section to the authority operator and included and eligible municipal operators, as defined or described in Sections 99207, 99207.5, and 130050.2.

(f) (1) A two-thirds vote of the members shall be required in order to establish or change the criteria for admitting new included municipal operators for eligibility for funds allocated under Article 4 (commencing with Section 99260).

(2) A two-thirds vote of the members shall be required, based on the criteria in effect under paragraph (1), to allocate funds under Article 4 (commencing with Section 99260) to any "included municipal operator," as defined in subdivision (d) of Section 99207, which has not previously received funds under this article.

(g) The Los Angeles County Metropolitan Transportation Authority shall give equal consideration to the capital projects of all operators in the county, and shall allocate regional federal bus transit capital funds based on the authority's capital allocation procedure existing on July 1, 1995, exclusive of funds specifically earmarked by federal law for other purposes.

(h) It is the intent of the Legislature that neither this section nor the creation of the Los Angeles County Metropolitan Transportation Authority and its operating organizational unit shall impact the allocation of funds pursuant to Article 8 (commencing with Section 99400) by local agencies currently eligible to receive these funds.

(i) As part of the formula allocation procedure used to distribute from a state transit assistance fund, the Mills-Deddeh Transportation Development Act (Division 11 (commencing with Section 120000) of the Public Utilities Code), Section 5307 of Title 49 of the United States Code, and Proposition A 40 percent funds pursuant to this chapter, and federal operating funds to Los Angeles County operators, eligible and included municipal operators designated on September 25, 1991, or July 1, 1992, who, since that time, have received annual allocations of local sales tax funding in lieu of specified formula funds, shall continue to receive those same formula-equivalent levels of funding from local discretionary sources. Included municipal operators who receive annual allocations of local sales tax funding for specified services or service levels shall continue to receive equivalent levels of funding allocated from local sources for these services in the 1995–96 fiscal year.

(j) Ninety percent of the Proposition C 5 percent security funds shall be allocated to the included and eligible municipal operators and the Los Angeles County Metropolitan Transportation Authority according to their proportionate number of transit passengers served. The funds shall be allocated only to those operators which have filed with the Los Angeles County Metropolitan Transportation Authority a cost-effective program to provide transit security services. Any unallocated funds shall revert to the remaining balance of security funds which shall be disbursed at the discretion of the Los Angeles County Metropolitan Transportation Authority.

(k) This section shall not impact or restrict the use of those portions of Mills-Deddeh Transportation Development Act, Proposition A, or Proposition C local return or other transportation funds allocated to cities or counties by population nor shall this section restrict the level or source of funding programmed by local jurisdiction to operators.

CHAPTER 555

An act to amend Sections 980 and 1196 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 980 of the Penal Code is amended to read:

980. (a) At any time after the order for a bench warrant is made, whether the court is sitting or not, the clerk may issue a bench warrant to one or more counties.

(b) The clerk shall require the appropriate agency to enter each bench warrant issued on a private surety-bonded felony case into the national warrant system (National Crime Information Center (NCIC)).

SEC. 2. Section 1196 of the Penal Code is amended to read:

1196. (a) The clerk, or the judge or justice, if there is no clerk, must at any time after the order issue a bench warrant into one or more counties.

(b) The clerk, or the judge or justice, shall require the appropriate agency to enter each bench warrant issued on a private surety-bonded felony case into the national warrant system (National Crime Information Center (NCIC)).

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 556

An act to amend Sections 1367.3 and 1367.35 of the Health and Safety Code, and to amend Sections 10123.5 and 10123.55 of the Insurance Code, relating to health care coverage.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 1367.3 of the Health and Safety Code is amended to read:

1367.3. (a) On and after January 1, 1993, every health care service plan that covers hospital, medical, or surgical expenses on a group basis shall offer benefits for the comprehensive preventive

care of children. This section shall apply to children 17 and 18 years of age, except as provided in paragraph (4) of subdivision (b). Every plan shall communicate the availability of these benefits to all group contractholders and to all prospective group contractholders with whom they are negotiating. This section shall apply to a plan which, by rule or order of the commissioner, has been exempted from subdivision (i) of Section 1367, insofar as that section and the rules thereunder relate to the provision of the preventive health care services described herein.

(b) For purposes of this section, benefits for the comprehensive preventive care of children shall comply with both of the following:

(1) Be consistent with both of the following:

(A) The Recommendations for Preventive Pediatric Health Care, as adopted by the American Academy of Pediatrics in September of 1987.

(B) The most current version of the Recommended Childhood Immunization Schedule/United States, jointly adopted by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and the American Academy of Family Physicians, unless the State Department of Health Services determines, within 45 days of the published date of the schedule, that the schedule is not consistent with the purposes of this section.

(2) Provide for the following:

(A) Periodic health evaluations.

(B) Immunizations.

(C) Laboratory services in connection with periodic health evaluations.

(D) For health care service plan contracts within the scope of this section that are issued, amended, or renewed on and after January 1, 1993, screening for blood lead levels in children at risk for lead poisoning, as determined by a physician and surgeon affiliated with the plan, when the screening is prescribed by a physician and surgeon affiliated with the plan. This subparagraph shall be applicable to all children and shall not be limited to children 17 and 18 years of age.

SEC. 2. Section 1367.35 of the Health and Safety Code is amended to read:

1367.35. (a) On and after January 1, 1993, every health care service plan that covers hospital, medical, or surgical expenses on a group basis shall provide benefits for the comprehensive preventive care of children 16 years of age or younger under terms and conditions agreed upon between the group subscriber and the plan. Every plan shall communicate the availability of these benefits to all group contractholders and to all prospective group contractholders with whom they are negotiating. This section shall apply to each plan that, by rule or order of the commissioner, has been exempted from subdivision (i) of Section 1367, insofar as that section and the rules

thereunder relate to the provision of the preventive health care services described in this section.

(b) For purposes of this section, benefits for the comprehensive preventive care of children shall comply with both of the following:

(1) Be consistent with both of the following:

(A) The Recommendations for Preventive Pediatric Health Care, as adopted by the American Academy of Pediatrics in September of 1987.

(B) The most current version of the Recommended Childhood Immunization Schedule/United States, jointly adopted by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and the American Academy of Family Physicians, unless the State Department of Health Services determines, within 45 days of the published date of the schedule, that the schedule is not consistent with the purposes of this section.

(2) Provide for all of the following:

(A) Periodic health evaluations.

(B) Immunizations.

(C) Laboratory services in connection with periodic health evaluations.

SEC. 3. Section 10123.5 of the Insurance Code is amended to read:

10123.5. (a) On or after January 1, 1993, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall provide benefits for the comprehensive preventive care of children 16 years of age or younger under such terms and conditions as may be agreed upon between the group policyholder and the insurer. Every insurer shall communicate the availability of such benefits to all group policyholders and to all prospective group policyholders with whom they are negotiating.

(b) For purposes of this section, benefits for the comprehensive preventive care of children shall comply with both of the following:

(1) Be consistent with both of the following:

(A) The Recommendations for Preventive Pediatric Health Care, as adopted by the American Academy of Pediatrics in September of 1987.

(B) The most current version of the Recommended Childhood Immunization Schedule/United States, jointly adopted by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and the American Academy of Family Physicians, unless the State Department of Health Services determines, within 45 days of the published date of the schedule, that the schedule is not consistent with the purposes of this section.

(2) Provide for the following:

(A) Periodic health evaluations.

(B) Immunizations.

(C) Laboratory services in connection with periodic health evaluations.

SEC. 4. Section 10123.55 of the Insurance Code is amended to read:

10123.55. (a) On or after January 1, 1993, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer benefits for the comprehensive preventive care of children 17 and 18 years of age under such terms and conditions as may be agreed upon between the group policyholder and the insurer. Every insurer shall communicate the availability of these benefits to all group policyholders and to all prospective group policyholders with whom they are negotiating.

(b) For purposes of this section, benefits for the comprehensive preventive care of children shall comply with both of the following:

(1) Be consistent with both of the following:

(A) The Recommendations for Preventive Pediatric Health Care, as adopted by the American Academy of Pediatrics in September of 1987.

(B) The most current version of the Recommended Childhood Immunization Schedule/United States, jointly adopted by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices, and the American Academy of Family Physicians, unless the State Department of Health Services determines, within 45 days of the published date of the schedule, that the schedule is not consistent with the purposes of this section.

(2) Provide for the following:

(A) Periodic health evaluations.

(B) Immunizations.

(C) Laboratory services in connection with periodic health evaluations.

CHAPTER 557

An act to amend Section 170.9 of the Code of Civil Procedure, relating to judges.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 170.9 of the Code of Civil Procedure is amended to read:

170.9. (a) No judge shall accept gifts from any single source in any calendar year with a total value of more than two hundred fifty dollars ($250). This section shall not be construed to authorize the receipt of gifts that would otherwise be prohibited by the California Code of Judicial Ethics adopted by the California Supreme Court or any other provision of law.

(b) This section shall not prohibit or limit the following:

(1) Payments, advances, or reimbursements for travel and related lodging and subsistence permitted by subdivision (e).

(2) Wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value.

(3) A gift, bequest, favor, or loan from any person whose preexisting relationship with a judge would prevent the judge from hearing a case involving that person, under the Code of Judicial Ethics adopted by the California Supreme Court.

(c) For purposes of this section, "judge" means judges of the municipal or superior courts, and justices of the courts of appeal or the Supreme Court.

(d) The gift limitation amounts in this section shall be adjusted biennially by the Commission on Judicial Performance to reflect changes in the Consumer Price Index, rounded to the nearest ten dollars ($10).

(e) Payments, advances, or reimbursements, for travel, including actual transportation and related lodging and subsistence which is reasonably related to a judicial or governmental purpose, or to an issue of state, national, or international public policy, is not prohibited or limited by this section if any of the following apply:

(1) The travel is in connection with a speech, practice demonstration, or group or panel discussion given or participated in by the judge, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, demonstration, or discussion, and the travel is within the United States.

(2) The travel is provided by a government, a governmental agency or authority, a foreign government, a foreign bar association, an international service organization, a bona fide public or private educational institution, as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit charitable or religious organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, or by a person domiciled outside the United States who substantially satisfies the requirements for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

For purposes of this section, "foreign bar association" means an association of attorneys located outside the United States (A) that performs functions substantially equivalent to those performed by state or local bar associations in this state and (B) that permits membership by attorneys in that country representing various legal specialties and does not limit membership to attorneys generally representing one side or another in litigation. "International service organization" means a bona fide international service organization of which the judge is a member. A judge who accepts travel payments from an international service organization pursuant to this

subdivision shall not preside over or participate in decisions affecting that organization, its state or local chapters, or its local members.

(3) The travel is provided by a state or local bar association or judges professional association in connection with testimony before a governmental body or attendance at any professional function hosted by the bar association or judges professional association, the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the professional function.

(f) Payments, advances, and reimbursements for travel not described in subdivision (e) are subject to the limit in subdivision (a).

(g) No judge shall accept any honorarium.

(h) "Honorarium" means any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal or like gathering.

(i) "Honorarium" does not include earned income for personal services which are customarily provided in connection with the practice of a bona fide business, trade, or profession, such as teaching or writing for a publisher, and does not include fees or other things of value received pursuant to Section 94.5 of the Penal Code for performance of a marriage.

For purposes of this section, "teaching" shall include presentations to impart educational information to lawyers in events qualifying for credit under Mandatory Continuing Legal Education, to students in bona fide educational institutions, and to associations or groups of judges.

(j) Subdivision (a) and (e) shall apply to all payments, advances, reimbursements for travel and related lodging and subsistence.

(k) This section does not apply to any honorarium that is not used and, within 30 days after receipt, is either returned to the donor or delivered to the Controller for deposit in the General Fund without being claimed as a deduction from income for tax purposes.

(*l*) "Gift" means any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. However, the term "gift" does not include:

(1) Informational material such as books, reports, pamphlets, calendars, periodicals, cassettes and discs, or free or reduced-price admission, tuition, or registration, for informational conferences or seminars. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

(2) Gifts which are not used and which, within 30 days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.

(3) Gifts from a judge's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.

(4) Campaign contributions required to be reported under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code.

(5) Any devise or inheritance.

(6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars ($250).

(7) Admission to events hosted by state or local bar associations or judges' professional associations, and provision of related food and beverages at such events, when attendance does not require "travel" as described in paragraph (3) of subdivision (e).

(m) The Commission on Judicial Performance shall enforce the prohibitions of this section.

CHAPTER 558

An act to add Section 11580.04 to the Insurance Code, relating to indemnity.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 11580.04 is added to the Insurance Code, to read:

11580.04. Any additional insured endorsement issued by an admitted or nonadmitted insurer for the benefit of a public agency in connection with, collateral to, or affecting any construction contract to which the provisions of subdivision (b) of Section 2782 of the Civil Code apply, shall not provide any duty of indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under subdivision (b) of Section 2782 of the Civil Code. In any case where a claim or loss encompasses the negligence of the original insured and the active negligence of the additional insured that is not covered because of this section, the insurer's obligation shall be limited to obligations permitted by this section.

Any contract requirement that requires a promisor to procure insurance that is invalid under this section shall be invalid.

CHAPTER 559

An act to add Section 12039 to the Penal Code, relating to firearms.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) There is a significant need for accurate information concerning the various types of firearms used in the commission of crimes.

(2) The state and local crime laboratories are currently the most reliable and centralized repository of information concerning the various types of firearms used in the commission of crimes.

(3) Recognizing that all firearms used in the commission of crimes are not submitted for forensic examination, those that are will provide a statistically significant data base for considering possible future changes in public policy.

(4) Both state and local crime laboratories are already linked with the California Criminalistics Institute of the Department of Justice, thus facilitating the transmission of information.

SEC. 2. Section 12039 is added to the Penal Code, to read:

12039. The Attorney General shall provide the Legislature on or before April 15 of each year, commencing in 1998, a written report on the specific types of firearms used in the commission of crimes based upon information obtained from state and local crime laboratories. The report shall include all of the following information regarding crimes in which firearms were used:

(a) A description of the relative occurrence of firearms most frequently used in the commission of violent crimes, distinguishing whether the firearms used were handguns, rifles, shotguns, assault weapons, or other related types of weapons.

(b) A description of specific types of firearms that are used in homicides or street gang and drug trafficking crimes.

(c) The frequency with which stolen firearms were used in the commission of the crimes.

(d) The frequency with which fully automatic firearms were used in the commission of the crimes.

(e) Any trends of importance such as those involving specialized ammunition or firearms modifications, such as conversion to a fully automatic weapon, removal of serial number, shortening of barrel, or use of a suppressor.

SEC. 3. It is the intent of the Legislature that the costs incurred in implementing this act shall be funded from existing resources available to the Department of Justice.

CHAPTER 560

An act to add Section 1294 to the Evidence Code, relating to evidence.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 1294 is added to the Evidence Code, to read:

1294. (a) The following evidence of prior inconsistent statements of a witness properly admitted in a preliminary hearing or trial of the same criminal matter pursuant to Section 1235 is not made inadmissible by the hearsay rule if the witness is unavailable and former testimony of the witness is admitted pursuant to Section 1291:

(1) A videotaped statement introduced at a preliminary hearing or prior proceeding concerning the same criminal matter.

(2) A transcript, containing the statements, of the preliminary hearing or prior proceeding concerning the same criminal matter.

(b) The party against whom the prior inconsistent statements are offered, at his or her option, may examine or cross-examine any person who testified at the preliminary hearing or prior proceeding as to the prior inconsistent statements of the witness.

CHAPTER 561

An act to amend Section 13826.6 of the Penal Code, relating to gang violence suppression.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 16, 1996.]

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

SECTION 1. Section 13826.6 of the Penal Code is amended to read:

13826.6. For purposes of this chapter, a "community-based" organization is defined as a nonprofit operation established to serve gang members, their families, schools, and the community with

programs of community supervision and service that maintain community participation in the planning, operation, and evaluation of their programs.

"Community-based" organization also includes public park and recreation agencies, public libraries, and public community services departments that provide gang suppression activities, either alone or in cooperation with other public agencies or other community-based organizations.

(a) Unless funded pursuant to subdivision (c), community-based organizations supported under the Gang Violence Suppression Program shall implement the following activities:

(1) Providing information to law enforcement agencies concerning gang related activities in the community.

(2) Providing information to school administrators and staff concerning gang related activities in the community.

(3) Providing conflict resolution by means of intervention or mediation to prevent and limit gang crisis situations.

(4) Increasing witness cooperation through coordination with local law enforcement and prosecutors and by education of the community about the roles of these government agencies and the availability of witness protection services.

(b) Community-based organizations funded pursuant to subdivision (a) shall also implement at least one of the following activities:

(1) Maintaining a 24-hour public telephone message center for the receipt of information and to assist individuals seeking services from the organization.

(2) Maintaining a "rumor control" public telephone service to provide accurate and reliable information to concerned citizens.

(3) Providing technical assistance and training concerning gang related activities to school staff members, law enforcement personnel, and community members including parental groups. This training and assistance shall include coverage of how to prevent and minimize intergang confrontations.

(4) Providing recreational activities for gang members or potential gang members.

(5) Providing job training and placement services for youth.

(6) Referring gang members, as needed, to appropriate agencies for the treatment of health, psychological, and drug-related problems.

(7) Administration of the Urban Corps Program pursuant to Section 13826.62.

(8) Mobilizing the community to share joint responsibility with local criminal justice personnel to prevent and suppress gang violence.

(c) Community-based organizations funded under the Gang Violence Suppression Program for specialized school prevention and intervention activities shall only be required to implement activities

in the schools which are designed to discourage students from joining gangs and which offer or encourage students to participate in alternative programs.

(d) Community-based organizations funded pursuant to the Gang Violence Suppression Program as of January 1, 1997, shall receive preference over public agencies in any future funding awards.

CHAPTER 562

An act to add Section 951 to the Government Code, relating to liability.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 951 is added to the Government Code, to read:

951. Notwithstanding Section 425.10, any complaint for damages in any civil action brought against a publicly elected or appointed state or local officer, in his or her individual capacity, where the alleged injury is proximately caused by the officer acting under color of law, shall allege with particularity sufficient material facts to establish the individual liability of the publicly elected or appointed state or local officer and the plaintiff's right to recover therefrom.

CHAPTER 563

An act to amend Section 377.60 of the Code of Civil Procedure, to amend Sections 6550 and 6910 of the Family Code, to repeal Section 6102 of the Government Code, to amend Section 1283 of the Health and Safety Code, and to amend Sections 1511, 1513, 1513.1, 1851.5, 1890, 2252, 2631, 2751, 3204, 3602, 3611, 6110, 7241, 8110, 8870, 9391, 10804, 12202, 13050, 13655, 21111, 21225, and 21350 of, to add Sections 1455, 2622.5, and 17211 to, to repeal and add Section 3206 of, to amend the heading of Part 7 (commencing with Section 10800) of, and to amend the heading of Article 2 (commencing with Section 10810) of Chapter 1 of Part 7 of, Division 7 of, the Probate Code, relating to probate law.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 377.60 of the Code of Civil Procedure is amended to read:

377.60. A cause of action for the death of a person caused by the wrongful act or neglect of another may be asserted by any of the following persons or by the decedent's personal representative on their behalf:

(a) The decedent's surviving spouse, children, and issue of deceased children, or, if there is no surviving issue of the decedent, the persons, including the surviving spouse, who would be entitled to the property of the decedent by intestate succession.

(b) Whether or not qualified under subdivision (a), if they were dependent on the decedent, the putative spouse, children of the putative spouse, stepchildren, or parents. As used in this subdivision, "putative spouse" means the surviving spouse of a void or voidable marriage who is found by the court to have believed in good faith that the marriage to the decedent was valid.

(c) A minor, whether or not qualified under subdivision (a) or (b), if, at the time of the decedent's death, the minor resided for the previous 180 days in the decedent's household and was dependent on the decedent for one-half or more of the minor's support.

SEC. 1.5. Section 6550 of the Family Code is amended to read:

6550. (a) A caregiver's authorization affidavit that meets the requirements of this part authorizes a caregiver 18 years of age or older who completes items 1-4 of the affidavit provided in Section 6552 and signs the affidavit to enroll a minor in school and consent to school-related medical care on behalf of the minor. A caregiver who is a relative and who completes items 1-8 of the affidavit provided in Section 6552 and signs the affidavit shall have the same rights to authorize medical care and dental care for the minor that are given to guardians under Section 2353 of the Probate Code. The medical care authorized by this caregiver who is a relative may include mental health treatment subject to the limitations of Section 2356 of the Probate Code.

(b) The affidavit shall not be valid for more than one year after the date on which it is executed.

(c) The decision of a caregiver to consent to or to refuse medical or dental care for a minor shall be superseded by any contravening decision of the parent or other person having legal custody of the minor, provided the decision of the parent or other person having legal custody of the minor does not jeopardize the life, health, or safety of the minor.

(d) No person who acts in good faith reliance on a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or is

subject to professional disciplinary action, for such reliance if the applicable portions of the affidavit are completed.

This subdivision shall apply even if medical or dental care is provided to a minor in contravention of the wishes of the parent or other person having legal custody of the minor as long as the person providing the medical or dental care has no actual knowledge of the wishes of the parent or other person having legal custody of the minor.

(e) A person who relies on the affidavit has no obligation to make any further inquiry or investigation.

(f) Nothing in this section shall relieve any individual from liability for violations of other provisions of law.

(g) If the minor stops living with the caregiver, the caregiver shall notify any school, health care provider, or health care service plan that has been given the affidavit.

(h) A caregiver's authorization affidavit shall be invalid unless it substantially contains, in not less than 10-point boldface type or a reasonable equivalent thereof, the warning statement beginning with the word "warning" specified in Section 6552. The warning statement shall be enclosed in a box with 3-point rule lines.

(i) For purposes of this part:

(1) "Person" includes an individual, corporation, partnership, association, the state, or any city, county, city and county, or other public entity or governmental subdivision or agency, or any other legal entity.

(2) "Relative" means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.

(3) "School-related medical care" means medical care that is required by state or local governmental authority as a condition for school enrollment, including immunizations, physical examinations, and medical examinations conducted in schools for pupils.

SEC. 2. Section 6910 of the Family Code is amended to read:

6910. The parent, guardian, or caregiver of a minor who is a relative of the minor and who may authorize medical care and dental care under Section 6550, may authorize in writing an adult into whose care a minor has been entrusted to consent to medical care or dental care, or both, for the minor.

SEC. 3. Section 6102 of the Government Code is repealed.

SEC. 4. Section 1283 of the Health and Safety Code is amended to read:

1283. (a) No health facility shall surrender the physical custody of a minor under 16 years of age to any person unless such surrender is authorized in writing by the child's parent, the person having legal custody of the child, or the caregiver of the child who is a relative of

the child and who may authorize medical care and dental care under Section 6550 of the Family Code.

(b) A health facility shall report to the State Department of Health Services, on forms supplied by the department, the name and address of any person and, in the case of a person acting as an agent for an organization, the name and address of the organization, into whose physical custody a minor under the age of 16 is surrendered, other than a parent, relative by blood or marriage, or person having legal custody. This report shall be transmitted to the department within 48 hours of the surrendering of custody. No report to the department is required if a minor under the age of 16 is transferred to another health facility for further care or if this minor comes within Section 300, 601, or 602 of the Welfare and Institutions Code and is released to an agent of a public welfare, probation, or law enforcement agency.

SEC. 5. Section 1455 is added to the Probate Code, to read:

1455. Any petition for instructions or to grant a guardian or a conservator any power or authority under this division, which may be filed by a guardian or conservator, may also be filed by a person who petitions for the appointment of a guardian or conservator.

SEC. 6. Section 1511 of the Probate Code is amended to read:

1511. (a) Except as provided in subdivisions (f) and (g), at least 15 days before the hearing on the petition for the appointment of a guardian, notice of the time and place of the hearing shall be given as provided in subdivisions (b), (c), (d), and (e) of this section. The notice shall be accompanied by a copy of the petition. The court may not shorten the time for giving the notice of hearing under this section.

(b) Notice shall be served in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure, or in any manner authorized by the court, on all of the following persons:

(1) The proposed ward if 12 years of age or older.

(2) Any person having legal custody of the proposed ward, or serving as guardian of the estate of the proposed ward.

(3) The parents of the proposed ward.

(4) Any person nominated as a guardian for the proposed ward under Section 1500 or 1501.

(c) Notice shall be given by mail sent to their addresses stated in the petition, or in any manner authorized by the court, to all of the following:

(1) The spouse named in the petition.

(2) The relatives named in the petition, except that if the petition is for the appointment of a guardian of the estate only the court may dispense with the giving of notice to any one or more or all of the relatives.

(3) The person having the care of the proposed ward if other than the person having legal custody of the proposed ward.

(d) If notice is required by Section 1461 or Section 1542 to be given to the Director of Mental Health or the Director of Developmental Services or the Director of Social Services, notice shall be mailed as so required.

(e) If the petition states that the proposed ward is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the office of the Veterans Administration referred to in Section 1461.5.

(f) Unless the court orders otherwise, notice shall not be given to any of the following:

(1) The parents or other relatives of a proposed ward who has been relinquished to a licensed adoption agency.

(2) The parents of a proposed ward who has been judicially declared free from their custody and control.

(g) Notice need not be given to any person if the court so orders upon a determination of either of the following:

(1) The person cannot with reasonable diligence be given the notice.

(2) The giving of the notice would be contrary to the interest of justice.

(h) Before the appointment of a guardian is made, proof shall be made to the court that each person entitled to notice under this section either:

(1) Has been given notice as required by this section.

(2) Has not been given notice as required by this section because the person cannot with reasonable diligence be given the notice or because the giving of notice to that person would be contrary to the interest of justice.

SEC. 7. Section 1513 of the Probate Code is amended to read:

1513. (a) Unless waived by the court, a court investigator, probation officer, or domestic relations investigator may make an investigation and file with the court a report and recommendation concerning each proposed guardianship of the person or guardianship of the estate. Investigations where the proposed guardian is a relative shall be made by a court investigator. Investigations where the proposed guardian is a nonrelative shall be made by the county agency designated to investigate potential dependency. The report for the guardianship of the person shall include, but need not be limited to, an investigation and discussion of all of the following:

(1) A social history of the guardian.

(2) A social history of the proposed ward, including, to the extent feasible, an assessment of any identified developmental, emotional, psychological, or educational needs of the proposed ward and the capability of the petitioner to meet those needs.

(3) The relationship of the proposed ward to the guardian, including the duration and character of the relationship, where applicable, the circumstances whereby physical custody of the

proposed ward was acquired by the guardian, and a statement of the proposed ward's attitude concerning the proposed guardianship, unless the statement of the attitude is affected by the proposed ward's developmental, physical, or emotional condition.

(4) The anticipated duration of the guardianship and the plans of both natural parents and the proposed guardian for the stable and permanent home for the child. The court may waive this requirement for cases involving relative guardians.

(b) The report shall be read and considered by the court prior to ruling on the petition for guardianship, and shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(c) If the investigation finds that any party to the proposed guardianship alleges the minor's parent is unfit, as defined by Section 300 of the Welfare and Institutions Code, the case shall be referred to the county agency designated to investigate potential dependencies. Guardianship proceedings shall not be completed until the investigation required by Sections 328 and 329 of the Welfare and Institutions Code is completed and a report is provided to the court in which the guardianship proceeding is pending.

(d) The report authorized by this section is confidential and shall only be made available to persons who have been served in the proceedings or their attorneys. The county clerk shall make provisions for the limitation of the report exclusively to persons entitled to its receipt.

(e) For the purpose of writing the report authorized by this section, the person making the investigation and report shall have access to the proposed ward's school records, probation records, and public and private social services records, and to an oral or written summary of the proposed ward's medical records and psychological records prepared by any physician, psychologist, or psychiatrist who made or who is maintaining those records. The physician, psychologist, or psychiatrist shall be available to clarify information regarding these records pursuant to the investigator's responsibility to gather and provide information for the court.

(f) This section does not apply to guardianships resulting from a permanency plan for a dependent child pursuant to Section 366.25 of the Welfare and Institutions Code.

(g) For purposes of this section, a "relative" means a person who is a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons, even after the marriage has been terminated by death or dissolution.

SEC. 8. Section 1513.1 of the Probate Code is amended to read:

1513.1. (a) Each county shall annually assess (1) the parent, parents, or other person charged with the support and maintenance of the proposed ward, and (2) the guardian, proposed guardian, or

the estate of the proposed ward, for county expenses for any investigation or review conducted by the court investigator, probation officer, or domestic relations investigator incurred pursuant to Section 1513. A county may waive any or all of an assessment against the guardianship on the basis of hardship. There shall be a rebuttable presumption that the assessment would impose a hardship if the ward is receiving Medi-Cal benefits.

(b) Any amount chargeable as state-mandated local costs incurred by a county for the cost of the investigation or review pursuant to Section 1513 shall be reduced by any assessments actually collected pursuant to subdivision (a) during that fiscal year.

SEC. 9. Section 1851.5 of the Probate Code is amended to read:

1851.5. (a) Each county shall annually assess each conservatee in the county for any investigation or review conducted by a court investigator at county expense with respect to that person pursuant to Section 1826, 1850, or 1851. The court may order reimbursement to the county for the cost of the investigations required by statute, unless the court finds that the assessment would pose a hardship to the estate. There shall be a rebuttable presumption that the assessment would impose a hardship if the ward is receiving Medi-Cal benefits.

(b) Any amount otherwise owing to a county pursuant to Article XIII B of the California Constitution and Sections 17561 and 17565 of the Government Code for costs incurred by the county for the costs of investigation or review by court investigators pursuant to Sections 1826, 1850, and 1851 shall be reduced by the amount of any assessments actually collected during the fiscal year pursuant to subdivision (a).

SEC. 10. Section 1890 of the Probate Code is amended to read:

1890. (a) An order of the court under Section 1880 may be included in the order of appointment of the conservator if the order was requested in the petition for the appointment of the conservator or, except in the case of a limited conservator, may be made subsequently upon a petition made, noticed, and heard by the court in the manner provided in this article.

(b) In the case of a petition filed under this chapter requesting that the court make an order under this chapter or that the court modify or revoke an order made under this chapter, when the order applies to a limited conservatee, the order may only be made upon a petition made, noticed, and heard by the court in the manner provided by Article 3 (commencing with Section 1820) of Chapter 1.

(c) Any request for a court order under Section 1880, whether made as part of the original petition for appointment of a conservator or subsequent thereto, shall be supported by a declaration, filed at or before the hearing on the request, executed by a licensed physician, or a licensed psychologist within the scope of his or her licensure, and stating that the proposed conservatee or the conservatee, as the case

may be, lacks the capacity to give an informed consent for any form of medical treatment and the reasons therefor. Nothing in this section shall be construed to expand the scope of practice of psychologists as set forth in the Business and Professions Code.

SEC. 11. Section 2252 of the Probate Code is amended to read:

2252. (a) Except as otherwise provided in subdivisions (b) and (c), a temporary guardian or temporary conservator has only those powers and duties of a guardian or conservator that are necessary to provide for the temporary care, maintenance, and support of the ward or conservatee and that are necessary to conserve and protect the property of the ward or conservatee from loss or injury.

(b) Unless the court otherwise orders:

(1) A temporary guardian of the person has the powers and duties specified in Section 2353 (medical treatment).

(2) A temporary conservator of the person has the powers and duties specified in Section 2354 (medical treatment).

(3) A temporary guardian of the estate or temporary conservator of the estate may marshal assets and establish accounts at financial institutions.

(c) The temporary guardian or temporary conservator has the additional powers and duties as may be ordered by the court (1) in the order of appointment or (2) by subsequent order made with or without notice as the court may require. Notwithstanding subdivision (e), those additional powers and duties may include relief granted pursuant to Article 10 (commencing with Section 2580) of Chapter 6 if this relief is not requested in a petition for the appointment of a temporary conservator but is requested in a separate petition.

(d) The terms of any order made under subdivision (b) or (c) shall be included in the letters of temporary guardianship or conservatorship.

(e) A temporary conservator is not permitted to sell or relinquish, on the conservatee's behalf, any lease or estate in real or personal property used as or within the conservatee's place of residence without the specific approval of the court. This approval may be granted only if the conservatee has been served with notice of the hearing, the notice to be personally delivered to the temporary conservatee unless the court for good cause otherwise orders, and only if the court finds that the conservatee will be unable to return to the residence and exercise dominion over it and that the action is necessary to avert irreparable harm to the conservatee. The temporary conservator is not permitted to sell or relinquish on the conservatee's behalf any estate or interest in other real or personal property without specific approval of the court, which may be granted only upon a finding that the action is necessary to avert irreparable harm to the conservatee. A finding of irreparable harm as to real property may be based upon a reasonable showing that the real property is vacant, that it cannot reasonably be rented, and that

it is impossible or impractical to obtain fire or liability insurance on the property.

SEC. 12. Section 2622.5 is added to the Probate Code, to read:

2622.5. (a) If the court determines that the objections were without reasonable cause and in bad faith, the court may order the objector to pay the compensation and costs of the conservator or guardian and other expenses and costs of litigation, including attorney's fees, incurred to defend the account. The objector shall be personally liable to the guardianship or conservatorship estate for the amount ordered.

(b) If the court determines that the opposition to the objections was without reasonable cause and in bad faith, the court may award the objector the costs of the objector and other expenses and costs of litigation, including attorney's fees, incurred to contest the account. The amount awarded is a charge against the compensation of the guardian or conservator, and the guardian or conservator is liable personally and on the bond, if any, for any amount that remains unsatisfied.

SEC. 13. Section 2631 of the Probate Code is amended to read:

2631. (a) Upon the death of the ward or conservatee, the guardian or conservator may contract for and pay a reasonable sum for the expenses of the last illness and the disposition of the remains of the deceased ward or conservatee, and for unpaid court-approved attorney's fees, and may pay the unpaid expenses of the guardianship or conservatorship accruing before or after the death of the ward or conservatee, in full or in part, to the extent reasonable, from any personal property of the deceased ward or conservatee which is under the control of the guardian or conservator.

(b) If after payment of expenses under subdivision (a), the total market value of the remaining estate of the decedent does not exceed the amount determined under Section 13100, the guardian or conservator may petition the court for an order permitting the guardian or conservator to liquidate the decedent's estate. The guardian or conservator may petition even though there is a will of the decedent in existence if the will does not appoint an executor or if the named executor refuses to act. No notice of the petition need be given. If the order is granted, the guardian or conservator may sell personal property of the decedent, withdraw money of the decedent in an account in a financial institution, and collect a debt, claim, or insurance proceeds owed to the decedent or the decedent's estate, and a person having possession or control shall pay or deliver the money or property to the guardian or conservator.

(c) After payment of expenses, the guardian or conservator may transfer any remaining property as provided in Division 8 (commencing with Section 13000). For this purpose, the value of the property of the deceased ward or conservatee shall be determined after the deduction of the expenses so paid.

SEC. 14. Section 2751 of the Probate Code is amended to read:

2751. (a) Except as provided in subdivisions (b) and (c), an appeal pursuant to Section 2750 stays the operation and effect of the judgment or order.

(b) Notwithstanding that an appeal is taken from the judgment or order, for the purpose of preventing injury or loss to person or property, the trial court may direct the exercise of the powers of the guardian or conservator, or may appoint a temporary guardian or conservator of the person or estate, or both, to exercise the powers, from time to time, as though no appeal were pending. All acts of the guardian or conservator, or temporary guardian or temporary conservator, pursuant to the directions of the court made under this subdivision are valid, irrespective of the result of the appeal. An appeal of the directions made by the court under this subdivision may not stay these directions.

(c) In proceedings for guardianship of the person, Section 917.7 of the Code of Civil Procedure shall apply.

SEC. 15. Section 3204 of the Probate Code is amended to read:

3204. The petition shall state, or set forth by medical declaration attached thereto, all of the following so far as is known to the petitioner at the time the petition is filed:

(a) The nature of the medical condition of the patient which requires treatment.

(b) The recommended course of medical treatment which is considered to be medically appropriate.

(c) The threat to the health of the patient if authorization for the recommended course of treatment is delayed or denied by the court.

(d) The predictable or probable outcome of the recommended course of treatment.

(e) The medically available alternatives, if any, to the course of treatment recommended.

(f) The efforts made to obtain an informed consent from the patient.

(g) If the petition is filed by a person on behalf of a medical facility, the name of the person to be designated to give consent to the recommended course of treatment on behalf of the patient.

(h) The deficit or deficits in the patient's mental functions listed in subdivision (a) of Section 811 which are impaired, and identifying a link between the deficit or deficits and the patient's inability to respond knowingly and intelligently to queries about the recommended medical treatment or inability to participate in a treatment decision about the recommended medical treatment by means of a rational thought process.

(i) The names and addresses, so far as they are known to the petitioner, of the persons specified in subdivision (b) of Section 1821.

SEC. 16. Section 3206 of the Probate Code is repealed.

SEC. 17. Section 3206 is added to the Probate Code, to read:

3206. (a) Not less than 15 days before the hearing, notice of the time and place of the hearing and a copy of the petition shall be personally served on the patient and the patient's attorney.

(b) Not less than 15 days before the hearing, notice of the time and place of the hearing and a copy of the petition shall be mailed to the following persons:

(1) The spouse, if any, of the proposed conservatee at the address stated in the petition.

(2) The relatives named in the petition at their addresses stated in the petition.

(c) For good cause, the court may shorten or waive notice of the hearing as provided by this section. In determining the period of notice to be required, the court shall take into account both of the following:

(1) The existing medical facts and circumstances set forth in the petition or in a medical affidavit attached to the petition or in a medical affidavit presented to the court.

(2) The desirability, where the condition of the patient permits, of giving adequate notice to all interested persons.

SEC. 18. Section 3602 of the Probate Code is amended to read:

3602. (a) If there is no guardianship of the estate of the minor or conservatorship of the estate of the incompetent person, the remaining balance of the money and other property (after payment of all expenses, costs, and fees as approved and allowed by the court under Section 3601) shall be paid, delivered, deposited, or invested as provided in Article 2 (commencing with Section 3610).

(b) Except as provided in subdivisions (c) and (d), if there is a guardianship of the estate of the minor or conservatorship of the estate of the incompetent person, the remaining balance of the money and other property (after payment of all expenses, costs, and fees as approved and allowed by the court under Section 3601) shall be paid or delivered to the guardian or conservator of the estate. Upon application of the guardian or conservator, the court making the order or giving the judgment referred to in Section 3600 or the court in which the guardianship or conservatorship proceeding is pending may, with or without notice, make an order that all or part of the money paid or to be paid to the guardian or conservator under this subdivision be deposited or invested as provided in Section 2456.

(c) Upon ex parte petition of the guardian or conservator or upon petition of any person interested in the guardianship or conservatorship estate, the court making the order or giving the judgment referred to in Section 3600 may for good cause shown order one or more of the following:

(1) That all or part of the remaining balance of money not become a part of the guardianship or conservatorship estate and instead be deposited in an insured account in a financial institution in this state, or in a single-premium deferred annuity, subject to withdrawal only upon authorization of the court.

(2) If there is a guardianship of the estate of the minor, that all or part of the remaining balance of money and other property not become a part of the guardianship estate and instead be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act, Part 9 (commencing with Section 3900).

(3) That all or part of the remaining balance of money and other property not become a part of the guardianship estate and, instead, be transferred to the trustee of a trust which is either created by, or approved of, in the order or judgment described in Section 3600. This trust shall be revocable by the minor upon attaining the age of 18 years, and shall contain other terms and conditions, including, but not limited to, terms and conditions concerning trustee's accounts and trustee's bond, as the court determines to be necessary to protect the minor's interests.

(d) Upon petition of the guardian, conservator, or any person interested in the guardianship or conservatorship estate, the court making the order or giving the judgment referred to in Section 3600 may order that all or part of the remaining balance of money not become a part of the guardianship or conservatorship estate and instead be paid to a special needs trust established under Section 3604 for the benefit of the minor or incompetent person.

(e) If the petition is by a person other than the guardian or conservator, notice of hearing on a petition under subdivision (c) shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

(f) Notice of the time and place of hearing on a petition under subdivision (d), and a copy of the petition, shall be mailed to the State Director of Health Services, the Director of Mental Health, and the Director of Developmental Services at the office of each director in Sacramento at least 15 days before the hearing.

SEC. 19. Section 3611 of the Probate Code is amended to read:

3611. In any case described in Section 3610, the court making the order or giving the judgment referred to in Section 3600 shall order any one or more of the following:

(a) That a guardian of the estate or conservator of the estate be appointed and that the remaining balance of the money and other property be paid or delivered to the person so appointed.

(b) That the remaining balance of any money paid or to be paid be deposited with the county treasurer, provided that (1) the county treasurer has been authorized by the county board of supervisors to handle the deposits, (2) the county treasurer shall receive and safely keep all money deposited with the county treasurer pursuant to this subdivision, shall pay the money out only upon the order of the court, and shall credit each estate with the interest earned by the funds deposited less the county treasurer's actual cost authorized to be recovered under Section 27013 of the Government Code, (3) the county treasurer and sureties on the official bond of the county

treasurer are responsible for the safekeeping and payment of the money, (4) the county treasurer shall ensure that the money deposited is to earn interest or dividends, or both, at the highest rate which the county can reasonably obtain as a prudent investor, and (5) funds so deposited with the county treasurer shall only be invested or deposited in compliance with the provisions governing the investment or deposit of state funds set forth in Chapter 5 (commencing with Section 16640) of Part 2 of Division 4 of Title 2 of the Government Code, the investment or deposit of county funds set forth in Chapter 4 (commencing with Section 53600) of Part 1 of Division 2 of Title 5 of the Government Code, or as authorized under Chapter 6 (commencing with Section 2400) of Part 4 of this code; or in an insured account in a financial institution in this state, or in a single-premium deferred annuity, subject to withdrawal only upon the authorization of the court, and that the remaining balance of any other property delivered or to be delivered be held on conditions the court determines to be in the best interest of the minor or incompetent person.

(c) After a hearing by the court, that the remaining balance of any money be paid to a special needs trust established under Section 3604 for the benefit of the minor or incompetent person. Notice of the time and place of the hearing and a copy of the petition shall be mailed to the State Director of Health Services, the Director of Mental Health, and the Director of Developmental Services at the office of each director in Sacramento at least 15 days before the hearing.

(d) If the remaining balance of the money and other property to be paid or delivered does not exceed twenty thousand dollars ($20,000) in value, that all or any part of the money and other property be held on any other conditions the court in its discretion determines to be in the best interest of the minor or incompetent person.

(e) If the remaining balance of the money and other property to be paid or delivered does not exceed five thousand dollars ($5,000) in value and is to be paid or delivered for the benefit of a minor, that all or any part of the money and the other property be paid or delivered to a parent of the minor, without bond, upon the terms and under the conditions specified in Article 1 (commencing with Section 3400) of Chapter 2.

(f) If the remaining balance of the money or other property to be paid or delivered is to be paid or delivered for the benefit of the minor, that all or any part of the money and other property be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act, Part 9 (commencing with Section 3900).

(g) That the remaining balance of the money or other property be paid or delivered to the trustee of a trust which is created by, or approved of, in the order or judgment referred to in Section 3600.

This trust shall be revocable by the minor upon attaining the age of 18 years, and shall contain other terms and conditions, including, but not limited to, terms and conditions concerning trustee's accounts and trustee's bond, as the court determines to be necessary to protect the minor's interests.

SEC. 20. Section 6110 of the Probate Code is amended to read:

6110. (a) Except as provided in this part, a will shall be in writing and satisfy the requirements of this section.

(b) The will shall be signed by one of the following:

(1) By the testator.

(2) In the testator's name by some other person in the testator's presence and by the testator's direction.

(3) By a conservator pursuant to a court order to make a will under Section 2580.

(c) The will shall be witnessed by being signed by at least two persons each of whom (1) being present at the same time, witnessed either the signing of the will or the testator's acknowledgment of the signature or of the will and (2) understand that the instrument they sign is the testator's will.

SEC. 21. Section 7241 of the Probate Code is amended to read:

7241. (a) Except as provided in subdivisions (b) and (c), an appeal under Section 7240 stays the operation and effect of the order.

(b) Notwithstanding that an appeal is taken from the order, for the purpose of preventing injury or loss to a person or property, the trial court may direct the exercise of the powers of the personal representative, or may appoint a special administrator to exercise the powers, from time to time, as though no appeal were pending. Acts of the personal representative or special administrator pursuant to the directions of the court made under this subdivision are valid, regardless of the result of the appeal. An appeal of the directions made by the court under this subdivision may not stay these directions.

(c) An appeal under Section 7240 does not stay the operation and effect of the order if the court requires an undertaking, as provided in Section 917.9 of the Code of Civil Procedure, and the undertaking is not given.

SEC. 22. Section 8110 of the Probate Code is amended to read:

8110. At least 15 days before the hearing of a petition for administration of a decedent's estate, the petitioner shall serve notice of the hearing by mail or personal delivery on all of the following persons:

(a) Each heir of the decedent, so far as known to or reasonably ascertainable by the petitioner.

(b) Each devisee, executor, and alternative executor named in any will being offered for probate, regardless of whether the devise or appointment is purportedly revoked in a subsequent instrument.

SEC. 23. Section 8870 of the Probate Code is amended to read:

8870. (a) On petition by the personal representative or an interested person, the court may order that a citation be issued to a person to answer interrogatories, or to appear before the court and be examined under oath, or both, concerning any of the following allegations:

(1) The person has wrongfully taken, concealed, or disposed of property in the estate of the decedent.

(2) The person has knowledge or possession of any of the following:

(A) A deed, conveyance, bond, contract, or other writing that contains evidence of or tends to disclose the right, title, interest, or claim of the decedent to property.

(B) A claim of the decedent.

(C) A lost will of the decedent.

(b) If the person does not reside in the county in which the estate is being administered, the superior court either of the county in which the person resides or of the county in which the estate is being administered may issue a citation under this section.

(c) Disobedience of a citation issued pursuant to this section may be punished as a contempt of the court issuing the citation.

(d) Notice to the personal representative of a proceeding under subdivision (a) shall be given for the period and in the manner provided in Section 1220. Other persons requesting notice of the hearing pursuant to Section 1250 shall be notified by the person filing the petition as set forth in Section 1252.

SEC. 24. Section 9391 of the Probate Code is amended to read:

9391. Except as provided in Section 10361, the holder of a mortgage or other lien on property in the decedent's estate, including, but not limited to, a judgment lien, may commence an action to enforce the lien against the property that is subject to the lien, without first filing a claim as provided in this part, if in the complaint the holder of the lien expressly waives all recourse against other property in the estate. Section 366.2 of the Code of Civil Procedure does not apply to an action under this section. The personal representative shall have the authority to seek to enjoin any action of the lienholder to enforce a lien against property that is subject to the lien.

SEC. 25. The heading of Part 7 (commencing with Section 10800) of Division 7 of the Probate Code is amended to read:

PART 7. COMPENSATION OF PERSONAL REPRESENTATIVE AND ATTORNEY FOR THE PERSONAL REPRESENTATIVE

SEC. 26. Section 10804 of the Probate Code is amended to read:

10804. Notwithstanding any provision in the decedent's will, a personal representative who is an attorney may receive the personal representative's compensation, but shall not receive compensation

for services as the attorney for the personal representative unless the court specifically approves the right to the compensation in advance and finds that the arrangement is to the advantage, benefit, and best interests of the decedent's estate.

SEC. 27. The heading of Article 2 (commencing with Section 10810) of Chapter 1 of Part 7 of Division 7 of the Probate Code is amended to read:

Article 2. Compensation of Attorney For the Personal Representative

SEC. 28. Section 12202 of the Probate Code is amended to read:

12202. (a) The court may, on petition of any interested person or on its own motion, for good cause shown on the record, cite the personal representative to appear before the court and show the condition of the estate and the reasons why the estate cannot be distributed and closed.

(b) On the hearing of the citation, the court may either order the administration of the estate to continue or order the personal representative to petition for final distribution, as provided in Section 12201.

SEC. 29. Section 13050 of the Probate Code is amended to read:

13050. (a) For the purposes of this part:

(1) Any property or interest or lien thereon which, at the time of the decedent's death, was held by the decedent as a joint tenant, or in which the decedent had a life or other interest terminable upon the decedent's death, or which was held by the decedent and passed to the decedent's surviving spouse pursuant to Section 13500, shall be excluded in determining the property or estate of the decedent or its value. This excluded property shall include, but not be limited to, property in a trust revocable by the decedent during his or her lifetime.

(2) A multiple-party account to which the decedent was a party at the time of the decedent's death shall be excluded in determining the property or estate of the decedent or its value, whether or not all or a portion of the sums on deposit are community property, to the extent that the sums on deposit belong after the death of the decedent to a surviving party, P.O.D. payee, or beneficiary. For the purposes of this paragraph, the terms "multiple-party account," "party," "P.O.D. payee," and "beneficiary" are defined in Article 2 (commencing with Section 5120) of Chapter 1 of Part 2 of Division 5.

(b) For the purposes of this part, all of the following property shall be excluded in determining the property or estate of the decedent or its value:

(1) Any vehicle registered under Division 3 (commencing with Section 4000) of the Vehicle Code or titled under Division 16.5 (commencing with Section 38000) of the Vehicle Code.

(2) Any vessel numbered under Division 3.5 (commencing with Section 9840) of the Vehicle Code.

(3) Any manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code.

(c) For the purposes of this part, the value of the following property shall be excluded in determining the value of the decedent's property in this state:

(1) Any amounts due to the decedent for services in the armed forces of the United States.

(2) The amount, not exceeding five thousand dollars ($5,000), of salary or other compensation, including compensation for unused vacation, owing to the decedent for personal services from any employment.

SEC. 30. Section 13655 of the Probate Code is amended to read:

13655. (a) If proceedings for the administration of the estate of the deceased spouse are pending at the time a petition is filed under this chapter, or if the proceedings are not pending and if the petition filed under this chapter is not filed with a petition for probate of the deceased spouse's will or for administration of the estate of the deceased spouse, notice of the hearing on the petition filed under this chapter shall be given as provided in Section 1220 to all of the following persons:

(1) Each person listed in Section 1220 and each person named as executor in any will of the deceased spouse.

(2) All devisees and known heirs of the deceased spouse and, if the petitioner is the trustee of a trust that is a devisee under the will of the decedent, all persons interested in the trust, as determined in cases of future interests pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 15804.

(b) The notice specified in subdivision (a) shall also be mailed as provided in subdivision (a) to the Attorney General, addressed to the office of the Attorney General at Sacramento, if the petitioner bases the allegation that all or part of the estate of the deceased spouse is property passing to the surviving spouse upon the will of the deceased spouse and the will involves or may involve either of the following:

(1) A testamentary trust of property for charitable purposes other than a charitable trust with a designated trustee, resident in this state.

(2) A devise for a charitable purpose without an identified devisee or beneficiary.

SEC. 31. Section 17211 is added to the Probate Code, to read:

17211. (a) If a beneficiary contests the trustee's account and the court determines that the contest was without reasonable cause and in bad faith, the court may award against the contestant the compensation and costs of the trustee and other expenses and costs of litigation, including attorney's fees, incurred to defend the

account. The amount awarded shall be a charge against any interest of the beneficiary in the trust. The contestant shall be personally liable for any amount that remains unsatisfied.

(b) If a beneficiary contests the trustee's account and the court determines that the trustee's opposition to the contest was without reasonable cause and in bad faith, the court may award the contestant the costs of the contestant and other expenses and costs of litigation, including attorney's fees, incurred to contest the account. The amount awarded shall be a charge against the compensation or other interest of the trustee in the trust. The trustee shall be personally liable and on the bond, if any, for any amount that remains unsatisfied.

SEC. 32. Section 21111 of the Probate Code is amended to read:

21111. Except as provided in Section 21110:

(a) If a transfer, other than a residuary gift or a transfer of a future interest, fails for any reason, the property transferred becomes a part of the residue transferred under the instrument.

(b) If a residuary gift or a future interest is transferred to two or more persons and the share of a transferee fails for any reason, the share passes to the other transferees in proportion to their other interest in the residuary gift or the future interest.

SEC. 33. Section 21225 of the Probate Code is amended to read:

21225. Article 2 (commencing with Section 21205) does not apply to any of the following:

(a) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of (1) a premarital or postmarital agreement, (2) a separation or divorce settlement, (3) a spouse's election, (4) or a similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties, (5) a contract to make or not to revoke a will or trust, (6) a contract to exercise or not to exercise a power of appointment, (7) a transfer in satisfaction of a duty of support, or (8) a reciprocal transfer.

(b) A fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income.

(c) A power to appoint a fiduciary.

(d) A discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal.

(e) A nonvested property interest held by a charity, government, or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision.

(f) A nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part

of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse.

(g) A property interest, power of appointment, or arrangement that was not subject to the common law rule against perpetuities or is excluded by another statute of this state.

(h) A trust created for the purpose of providing for its beneficiaries under hospital service contracts, group life insurance, group disability insurance, group annuities, or any combination of such insurance, as defined in the Insurance Code.

SEC. 34. Section 21350 of the Probate Code is amended to read:

21350. (a) Except as provided in Section 21351, no provision, or provisions, of any instrument shall be valid to make any donative transfer to any of the following:

(1) The person who drafted the instrument.

(2) A person who is related by blood or marriage to, is a cohabitant with, or is an employee of, the person who drafted the instrument.

(3) Any partner or shareholder of any law partnership or law corporation in which the person described in paragraph (1) has an ownership interest, and any employee of any such law partnership or law corporation.

(4) Any person who has a fiduciary relationship with the transferor, including, but not limited to, a conservator or trustee, who transcribes the instrument or causes it to be transcribed.

(5) A person who is related by blood or marriage to, is a cohabitant with, or is an employee of a person who is described in paragraph (4).

(b) For purposes of this section, "a person who is related by blood or marriage" to a person means all of the following:

(1) The person's spouse or predeceased spouse.

(2) Relatives within the third degree of the person and of the person's spouse.

(3) The spouse of any person described in paragraph (2).

In determining any relationship under this subdivision, Sections 6406, 6407, and Chapter 2 (commencing with Section 6450) of Part 2 of Division 6 shall be applicable.

CHAPTER 564

An act to amend Section 14132.22 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 14132.22 of the Welfare and Institutions Code is amended to read:

14132.22. (a) (1) Transitional inpatient care services, as described in this section and provided by a qualified health facility, is a covered benefit under this chapter, subject to utilization controls and subject to the availability of federal financial participation. These services shall be available to individuals needing short-term medically complex or intensive rehabilitative services, or both.

(2) The department shall seek any necessary approvals from the federal Health Care Financing Administration to ensure that transitional inpatient care services, when provided by a general acute care hospital, will be considered for purposes of determining whether a hospital is deemed to be a disproportionate share hospital pursuant to Section 1396r-4(b) of Title 42 of the United States Code or any successor statute.

(3) Transitional inpatient care services shall be available to Medi-Cal beneficiaries who do not meet the criteria for eligibility for the subacute program provided for pursuant to Section 14132.25, but who need more medically complex and intensive rehabilitative services than are generally available in a skilled nursing facility, and who are clinically stable and no longer need the level of diagnostic and ancillary services provided generally in an acute care facility.

(b) For purposes of this section, "transitional inpatient care" means the level of care needed by an individual who has suffered an illness, injury, or exacerbation of a disease, and whose medical condition has clinically stabilized so that daily physician services and the immediate availability of technically complex diagnostic and invasive procedures usually available only in the acute care hospital are not medically necessary, and when the physician assuming the responsibility of treatment management of the patient in transitional care has developed a definitive and time-limited course of treatment. The individual's care needs may be medical, rehabilitative, or both. However, the individual shall fall within one of the two following patient groups:

(1) "Transitional medical patient," which means a medically stable patient with short-term transitional care needs, whose primary barrier to discharge to a residential setting is medical status rather than functional status. These patients may require simple rehabilitation therapy, but not a rehabilitation program appropriate for multiple interrelated areas of functional disability.

(2) "Transitional rehabilitation patient," which means a medically stable patient with short-term transitional care needs, whose primary barrier to discharge to a residential setting is functional status, rather

than medical status, and who has the capacity to benefit from a rehabilitation program as determined by a physiatrist or physician otherwise skilled in rehabilitation medicine. These patients may have unresolved medical problems, but these problems must be sufficiently controlled to allow participation in the rehabilitation program.

(c) In implementing the transitional inpatient care program the department shall consider the differences between the two patient groups described in paragraphs (1) and (2) of subdivision (b) and shall assure that each group's specific health care needs are met.

(d) For the initial two years following the implementation of this program, transitional inpatient care services shall be made available only to qualifying Medi-Cal beneficiaries who are 18 years of age or older.

(e) For the initial two years following implementation of this program, transitional inpatient care services shall not be available to patients in acute care hospitals defined as small and rural pursuant to Section 1188.855 of the Health and Safety Code.

(f) (1) Transitional inpatient care services may be provided by general acute care hospitals that are licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code. General acute care hospitals may provide transitional inpatient care services in the acute care hospital, an acute rehabilitation center, or the distinct part skilled nursing unit of the acute care hospital. Licensed skilled nursing facilities, as defined in subdivision (c) of Section 1250 of the Health and Safety Code that are certified to participate as a nursing facility in the Medicare and medicaid programs, pursuant to Titles XVIII and XIX of the federal Social Security Act, and licensed congregate living health facilities, as defined in Section 1265.7 of the Health and Safety Code, that are certified to participate as a nursing facility in the Medicare and medicaid programs pursuant to Titles XVIII and XIX of the federal Social Security Act, may also provide the services described in subdivision (b).

(2) Costs of providing transitional inpatient care services in nonsegregated parts of the distinct part skilled nursing unit of the acute care hospital shall be determinable, in the absence of distinct and separate cost centers established for this purpose. Costs of providing transitional inpatient care services in nondistinct parts of the acute care hospital shall be determinable, in the absence of distinct and separate cost centers established for this purpose. A separate and distinct cost center shall be maintained or established for each unit in freestanding certified nursing facilities in which the services described in subdivision (b) are provided, in order to identify and segregate costs for transitional inpatient care patients from costs for other patients who may be served within the parent facility.

(g) In order to participate as a provider in the transitional inpatient care program, a facility shall meet all applicable standards necessary for participation in the Medi-Cal program and all of the following:

(1) If the health facility is a freestanding certified nursing facility, it shall be located in close proximity to a general acute care hospital with which the facility has a transfer agreement in order to support the capability to respond to medical emergencies.

(2) The health facility shall demonstrate, to the department, competency in providing high quality care to all patients for whom the facility provides care, experience in providing high quality care to the types of transitional inpatient care patients the facility proposes to serve, and the ability to provide transitional inpatient care to patients pursuant to this chapter.

(3) The health facility shall enter into a provider agreement with the department for the provision of transitional inpatient care. The provider agreement shall specify whether the facility is authorized to serve transitional medical patients or transitional rehabilitation patients or both, depending on the facility's demonstrated ability to meet standards specific to each patient group. Continuation of the provider agreement shall be contingent upon the facility's continued compliance with all the applicable requirements of this section and any other applicable laws or regulations.

(h) In determining a facility's qualifications for initial participation, an onsite review shall be conducted by the department. Subsequent review shall be conducted onsite as necessary, but not less frequently than annually. Initial and subsequent reviews shall be conducted by appropriate department personnel, which shall include a registered nurse and other health professionals where appropriate. The department shall develop written protocols for reviews.

(i) Transitional inpatient care services shall be available to patients receiving care in an acute care hospital. Under specified circumstances, as set forth in regulations, transitional inpatient care shall be available to patients transferring directly from a nursing facility level of care, a physician's office, a clinic, or from the emergency room of a general acute care hospital, provided they have received a comprehensive medical assessment conducted by a physician, and the physician determines, and documents in the medical record, that the patient has been clinically stable for the 24 hours preceding admission to the transitional inpatient care program.

(j) A health facility providing transitional inpatient care shall accept and retain only those patients for whom it can provide adequate, safe, therapeutic, and effective care, and as identified in its application for participation as a transitional inpatient care provider. The facility's determination to accept a patient into the transitional

inpatient care unit shall be based on its preadmission screening process conducted by appropriate facility personnel.

(k) The department shall establish a process for providing timely, concurrent authorization and coordination, as required, of all medically necessary services for transitional inpatient care.

(*l*) The department shall adopt regulations specifying admission criteria and an admission process appropriate to each of the transitional inpatient care patient groups specified in subdivision (b). Patient admission criteria to transitional inpatient care shall include, but not be limited to, the following:

(1) Prior to admission to transitional inpatient care, the patient shall be determined to have been clinically stable for the preceding 24 hours by the attending physician and the physician assuming the responsibility of treatment management of the patient in the transitional inpatient care program.

(2) The patient shall be admitted to transitional inpatient care on the order of the physician assuming the responsibility of the management of the patient, with an established diagnosis, and an explicit time-limited course of treatment of sufficient detail to allow the facility to initiate appropriate assessments and services. No patient shall be transferred from an acute care hospital to a transitional inpatient care program that is in a freestanding certified nursing facility if the patient's attending physician documents in the medical record that the transfer would cause physical or psychological harm to the patient.

(3) (A) Medical necessity for transitional care shall include, but not be limited to, one or more of the following:

(i) Intravenous therapy.

(ii) Rehabilitative services.

(iii) Wound care.

(iv) Respiratory therapy.

(v) Traction.

(B) The department shall develop regulations further defining the services to be provided pursuant to clauses (i) to (v), inclusive, and the circumstances under which these services shall be provided.

(m) Registered nurses shall be assigned to the transitional inpatient care unit at all times and in sufficient numbers to allow for the ongoing patient assessment, patient care, and supervision of licensed and unlicensed staff. Participating facilities shall assure that staffing is adequate in number and skill mix, at all times, to address reasonably anticipated admissions, discharges, transfers, patient emergencies, and temporary absences of staff from the transitional care unit including, but not limited to, absences to attend meetings or inservice training. All licensed and certified health care personnel shall hold valid, current licensure or certification.

(n) Continued medical assessments shall be of sufficient frequency as to adequately review, evaluate, and alter plans of care as needed in response to patients' medical progress.

(o) The department shall develop a rate of reimbursement for transitional inpatient care services for providers as specified in subdivision (f). Reimbursement rates shall be specified in regulation and in accordance with methodologies developed by the department and may include the following:

(1) All inclusive per diem rates.

(2) Individual patient specific rates according to the needs of the individual transitional care patient.

(3) Other rates subject to negotiation with the health facility.

(p) Reimbursement at transitional inpatient care rates shall only be implemented when funds are available for this purpose pursuant to the annual Budget Act. Funds expended to implement this section shall be used by providers to assure safe, therapeutic and effective patient care by staffing at levels which meet patients' needs, and to ensure that these providers have the needed resources and staff to provide quality care to transitional inpatient care patients.

(q) (1) The department shall reimburse physicians for all medically necessary care provided to transitional inpatient care patients and shall establish Medi-Cal physician reimbursement rates commensurate with those for visits to nontransitional acute care patients in acute care hospitals.

(2) It is the intent of this subdivision to cover physician costs not included in the per diem rate.

(r) No later than January 1, 1999, the department shall evaluate, and make recommendations regarding, the effectiveness and safety of the transitional inpatient care program. The evaluation shall be developed in consultation with representatives of providers, facility employees, and consumers. The department may contract for all or a portion of the evaluation. The evaluation shall be for the purpose of determining the impact of the transitional inpatient care program on patient care, including functional outcomes, if applicable, on whether the care costs less than other alternatives, and whether it results in the deterioration of patient health and safety as compared to other placements. The evaluation shall also be for the purpose of determining the effect on patients other than those receiving transitional inpatient care in participating facilities. The evaluation shall include:

(1) Data on patient mortality, patients served, length of stay, and subsequent placement or discharge.

(2) Data on readmission to acute care and emergency room transfers.

(3) Staffing standards in the facilities.

(4) Other outcome measures and indicia of patient health and safety otherwise required to be reported by federal or state law.

(s) The department shall develop regulations to amend Sections 51540 to 51556, inclusive, of Title 22 of the California Code of Regulations, to exclude the cost of transitional inpatient care services

rendered in general acute care hospitals from the hospital's inpatient services reimbursement.

(t) The department may adopt emergency regulations as necessary to implement this section in accordance with the Administrative Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The initial adoption of emergency regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this section shall remain in effect for no more than 180 days. If the department adopts emergency regulations to implement this section, the department shall obtain input from interested parties to address the unique needs of medically complex and intensive rehabilitative patients qualifying for transitional inpatient care. Notwithstanding the requirements of this section, the department shall, if it adopts emergency regulations to implement this section, address the following major subject areas:

(1) Patient selection and assessment criteria, including but not limited to, preadmission screening, patient assessments, physician services, and interdisciplinary teams.

(2) Facility participation criteria and agreements, including but not limited to, facility licensing and certification history, demonstration to the department of a preexisting history in providing care to medically complex or intensive rehabilitative patients, data reporting requirements, demonstration of continued ability to provide high quality of care to all patients, nurse staffing requirements, ancillary services, and staffing requirements.

(u) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2000, deletes or extends that date.

CHAPTER 565

An act to amend Section 695.221 of the Code of Civil Procedure, and to amend Section 11350.5 of the Welfare and Institutions Code, relating to family law.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 695.221 of the Code of Civil Procedure is amended to read:

695.221. Satisfaction of a money judgment for support shall be credited as follows:

(a) The money shall first be credited against the current month's support.

(b) Any remaining money is next to be credited against the accrued interest that remains unsatisfied.

(c) Any remaining money shall be credited against the principal amount of the judgment remaining unsatisfied. If the judgment is payable in installments, the remaining money shall be credited against the matured installments in the order in which they matured.

(d) In cases enforced pursuant to Part D (commencing with Section 651) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code, if a lump-sum payment is collected from a support obligor who has money judgments owing to more than one family, after the implementation of the Statewide Automated Child Support System, all support collected shall be distributed pursuant to guidelines developed by the State Department of Social Services.

(e) Notwithstanding subdivisions (a), (b), and (c), a collection received as a result of a tax refund offset shall first be credited against the interest and then the principal amount of past due support that has been assigned to the state pursuant to Section 11477 of the Welfare and Institutions Code and federal regulations prior to the interest and then principal amount of any other past due support remaining unsatisfied.

SEC. 2. Section 11350.5 of the Welfare and Institutions Code is amended to read:

11350.5. (a) As authorized by subdivision (d) of Section 704.120 of the Code of Civil Procedure, the following actions shall be taken in order to enforce support obligations which are not being met. Whenever a support judgment or order has been rendered by a court of this state against an individual who is entitled to any unemployment compensation benefits or unemployment compensation disability benefits, the district attorney may file a certification of support judgment or support order with the State Department of Social Services, verifying under penalty of perjury that there is or has been a judgment or an order for support with sums overdue thereunder. The department shall periodically present and keep current, by deletions and additions, a list of the certified support judgments and orders and shall periodically notify the Employment Development Department of individuals certified as owing support obligations.

(b) If the Employment Development Department determines that an individual who owes support may have a claim for unemployment compensation disability insurance benefits under a voluntary plan approved by the Employment Development Department in accordance with Chapter 6 (commencing with Section 3251) of Part 2 of Division 1 of the Unemployment Insurance Code, the Employment Development Department shall immediately notify the voluntary plan payer. When the department notifies the Employment Development Department of changes in an

individual's support obligations, the Employment Development Department shall promptly notify the voluntary plan payer of these changes. The Employment Development Department shall maintain and keep current a record of individuals who owe support obligations who may have claims for unemployment compensation or unemployment compensation disability benefits.

(c) Notwithstanding any other provision of law, the Employment Development Department shall withhold the amounts specified below from the unemployment compensation benefits or unemployment compensation disability benefits of individuals with unmet support obligations. The Employment Development Department shall periodically forward the amounts to the State Department of Social Services for distribution to the appropriate certifying county.

(d) Notwithstanding any other provision of law, during the payment of unemployment compensation disability benefits to an individual, with respect to whom the Employment Development Department has notified a voluntary plan payer that the individual has a support obligation, the voluntary plan payer shall withhold the amounts specified below from the individual's unemployment compensation disability benefits and shall periodically forward the amounts to the appropriate certifying county.

(e) The amounts withheld in subdivisions (c) and (d) shall be equal to 25 percent of each weekly unemployment compensation benefit payment or periodic unemployment compensation disability benefit payment, rounded down to the nearest whole dollar, which is due the individual identified on the certified list. However, the amount withheld may be reduced to a lower whole dollar amount through a written agreement between the individual and district attorney's office or through an order of the court.

(f) The State Department of Social Services shall ensure that the appropriate certifying county shall resolve any claims for refunds in the amounts overwithheld by the Employment Development Department or voluntary plan payer.

(g) No later than the time of the first withholding, the individuals who are subject to the withholding shall be notified by the payer of benefits of all of the following:

(1) That his or her unemployment compensation benefits or unemployment compensation disability benefits have been reduced by a court-ordered support judgment or order pursuant to this section.

(2) The address and phone number of the district attorney's office which submitted the certificate of support judgment or order.

(3) That the support order remains in effect even though he or she is unemployed or disabled unless it is modified by court order, and that if the amount withheld is less than the monthly support obligation, an arrearage will accrue.

(h) The individual may ask the appropriate court for an equitable division of the individual's unemployment compensation or unemployment compensation disability amounts withheld to take into account the needs of all the persons the individual is required to support.

(i) The State Department of Social Services and the Employment Development Department shall enter into any agreements necessary to carry out this section.

(j) For purposes of this section, "support obligations" means the child and related spousal support obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act and as that section may hereafter be amended. However, to the extent "related spousal support obligation" may not be collected from unemployment compensation under federal law, those obligations shall not be included in the definition of support obligations under this section.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 566

An act to amend Sections 1947.7 and 1947.15 of the Civil Code, relating to real property.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 1947.7 of the Civil Code is amended to read:

1947.7. (a) The Legislature finds and declares that the operation of local rent stabilization programs can be complex and that disputes often arise with regard to standards of compliance with the regulatory processes of those programs. Therefore, it is the intent of the Legislature to limit the imposition of penalties and sanctions against an owner of residential rental units where that person has attempted in good faith to fully comply with the regulatory processes.

(b) An owner of a residential rental unit who is in substantial compliance with an ordinance or charter that controls or establishes a system of controls on the price at which residential rental units may be offered for rent or lease and which requires the registration of rents, or any regulation adopted pursuant thereto, shall not be assessed a penalty or any other sanction for noncompliance with the ordinance, charter, or regulation.

Restitution to the tenant or recovery of the registration or filing fees due to the local agency shall be the exclusive remedies which may be imposed against an owner of a residential rental unit who is in substantial compliance with the ordinance, charter, or regulation.

"Substantial compliance," as used in this subdivision, means that the owner of a residential rental unit has made a good faith attempt to comply with the ordinance, charter, or regulation sufficient to reasonably carry out the intent and purpose of the ordinance, charter, or regulation, but is not in full compliance, and has, after receiving notice of a deficiency from the local agency, cured the defect in a timely manner, as reasonably determined by the local agency.

"Local agency," as used in this subdivision, means the public entity responsible for the implementation of the ordinance, charter, or regulation.

(c) For any residential unit which has been registered and for which a base rent has been listed or for any residential unit which an owner can show, by a preponderance of the evidence, a good faith attempt to comply with the registration requirements or who was exempt from registration requirements in a previous version of the ordinance or charter and for which the owner of that residential unit has subsequently found not to have been in compliance with the ordinance, charter, or regulation, all annual rent adjustments which may have been denied during the period of the owner's noncompliance shall be restored prospectively once the owner is in compliance with the ordinance, charter, or regulation.

(d) In those jurisdictions where, prior to January 1, 1990, the local ordinance did not allow the restoration of annual rent adjustment, once the owner is in compliance with this section the local agency may phase in any increase in rent caused by the restoration of the annual rent adjustments that is in excess of 20 percent over the rent previously paid by the tenant, in equal installments over three years, if the tenant demonstrates undue financial hardship due to the restoration of the full annual rent adjustments. This subdivision shall remain operative only until January 1, 1993, unless a later enacted statute which is chaptered by January 1, 1993, deletes or extends that date.

(e) For purposes of this subdivision, an owner shall be deemed in compliance with the ordinance, charter, or regulation if he or she is in substantial compliance with the applicable local rental registration requirements and applicable local and state housing code provisions,

has paid all fees and penalties owed to the local agency which have not otherwise been barred by the applicable statute of limitations, and has satisfied all claims for refunds of rental overcharges brought by tenants or by the local rent control board on behalf of tenants of the affected unit.

(f) Nothing in this section shall be construed to grant to any public entity any power which it does not possess independent of this section to control or establish a system of control on the price at which accommodations may be offered for rent or lease, or to diminish any power to do so which that public entity may possess, except as specifically provided in this section.

(g) In those jurisdictions where an ordinance or charter controls, or establishes a system of controls on, the price at which residential rental units may be offered for rent or lease and requires the periodic registration of rents, and where, for purposes of compliance with subdivision (e) of Section 1954.53, the local agency requires an owner to provide the name of a present or former tenant, the tenant's name and any additional information provided concerning the tenant, is confidential and shall be treated as confidential information within the meaning of the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of this part). A local agency shall, to the extent required by this subdivision, be considered an "agency" as defined in subdivision (b) of Section 1798.3. For purposes of compliance with subdivision (e) of Section 1954.53, a local agency subject to this subdivision may request, but shall not compel, an owner to provide any information regarding a tenant other than the tenant's name.

SEC. 2. Section 1947.15 of the Civil Code is amended to read:

1947.15. (a) The Legislature declares the purpose of this section is to:

(1) Ensure that owners of residential rental units that are subject to a system of controls on the price at which the units may be offered for rent or lease, or controls on the adjustment of the rent level, are not precluded or discouraged from obtaining a fair return on their properties as guaranteed by the United States Constitution and California Constitution because the professional expenses reasonably required in the course of the administrative proceedings, in order to obtain the rent increases necessary to provide a fair return, are not treated as a legitimate business expense.

(2) Encourage agencies which administer a system of controls on the price at which residential rental units may be offered for rent or lease, or controls the adjustment of the rent level, to enact streamlined administrative procedures governing rent adjustment petitions which minimize, to the extent possible, the cost and expense of these administrative proceedings.

(3) Ensure that the cost of professional services reasonably incurred and required by owners of residential rental units subject to a system of controls in the price at which the units may be offered

for rent or lease, or controls on the adjustments of the rent level in the course of defending rights related to the rent control system, be treated as a legitimate business expense.

(b) Any city, county, or city and county, including a charter city, which administers an ordinance, charter provision, rule, or regulation that controls or establishes a system of controls on the price at which all or any portion of the residential rental units located within the city, county, or city and county, may be offered for rent or lease, or controls the adjustment of the rent level, and which does not include a system of vacancy decontrol, as defined in subdivision (i), shall permit reasonable expenses, fees, and other costs for professional services, including, but not limited to, legal, accounting, appraisal, bookkeeping, consulting, property management, or architectural services, reasonably incurred in the course of successfully pursuing rights under or in relationship to, that ordinance, charter provision, rule, or regulation, or the right to a fair return on an owner's property as protected by the United States Constitution or California Constitution, to be included in any calculation of net operating income and operating expenses used to determine a fair return to the owner of the property. All expenses, fees, and other costs reasonably incurred by an owner of property in relation to administrative proceedings for purposes specified in this subdivision shall be included in the calculation specified in this subdivision.

(c) Reasonable fees that are incurred by the owner in successfully obtaining a judicial reversal of an adverse administrative decision regarding a petition for upward adjustment of rents shall be assessed against the respondent public agency which issued the adverse administrative decision, and shall not be included in the calculations specified in subdivisions (b) and (d).

(d) (1) Notwithstanding subdivision (b), the city, county, or city and county, on the basis of substantial evidence in the record that the expenses reasonably incurred in the underlying proceeding will not reoccur annually, may amortize the expenses for a period not to exceed five years, except that in extraordinary circumstances, the amortization period may be extended to a period of eight years. The extended amortization period shall not apply to vacant units and shall end if the unit becomes vacant during the period that the expense is being amortized. An amortization schedule shall include a reasonable rate of interest.

(2) Any determination of the reasonableness of the expenses claimed, of an appropriate amortization period, or of the award of an upward adjustment of rents to compensate the owner for expenses and costs incurred shall be made as part of, or immediately following, the decision in the underlying administrative proceeding.

(e) Any and all of the following factors shall be considered in the determination of the reasonableness of the expenses, fees, or other costs authorized by this section:

(1) The rate charged for those professional services in the relevant geographic area.

(2) The complexity of the matter.

(3) The degree of administrative burden or judicial burden, or both, imposed upon the property owner.

(4) The amount of adjustment sought or the significance of the rights defended and the results obtained.

(5) The relationship of the result obtained to the expenses, fees, and other costs incurred (that is, whether professional assistance was reasonably related to the result achieved).

(f) This section shall not be applicable to any ordinance, rule, regulation, or charter provision of any city, county, or city and county, including a charter city, to the extent that the ordinance, rule, or regulation, or charter provision places a limit on the amount of rent that an owner may charge a tenant of a mobilehome park.

(g) For purposes of this section, the rights of a property owner shall be deemed to be successfully pursued or defended if the owner obtains an upward adjustment in rents, successfully defends his or her rights in an administrative proceeding brought by the tenant or the local rent board, or prevails in a proceeding, brought pursuant to Section 1947.8 concerning certification of maximum lawful rents.

(h) (1) If it is determined that a landlord petition assisted by attorneys or consultants is wholly without merit, the tenant shall be awarded a reduction in rent to compensate for the reasonable costs of attorneys or consultants retained by the tenant to defend the petition brought by the landlord. The reasonableness of the costs of the tenant's defense of the action brought by the landlord shall be determined pursuant to the same provisions established by this section for determining the reasonableness of the landlord's costs for the professional services. The determination of the reasonableness of the expenses claimed, an appropriate amortization period, and the award of a reduction in rents to compensate the tenant for costs incurred shall be made immediately following the decision in the underlying administrative proceeding.

(2) If it is determined that a landlord's appeal of an adverse administrative decision is frivolous or solely intended to cause unnecessary delay, the public agency which defended the action shall be awarded its reasonably incurred expenses, including attorney's fees, in defending the action. As used in this paragraph, "frivolous" means either (A) totally and completely without merit; or (B) for the sole purpose of harassing an opposing party.

(i) For purposes of this section, the following terms shall have the following meanings:

(1) "Vacancy decontrol" means a system of controls on the price at which residential rental units may be offered for rent or lease which permits the rent to be increased to its market level, without restriction, each time a vacancy occurs. "Vacancy decontrol" includes systems which reimpose controls on the price at which

residential rental units may be offered for rent or lease upon rerental of the unit.

(2) "Vacancy decontrol" includes circumstances where the tenant vacates the unit of his or her own volition, or where the local jurisdiction permits the rent to be raised to market rate after an eviction for cause, as specified in the ordinance, charter provision, rule, or regulation.

(j) This section shall not be construed to affect in any way the ability of a local agency to set its own fair return standards or to limit other actions under its local rent control program other than those expressly set forth in this section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 567

An act to amend Sections 1265 and 1267.5 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 1265 of the Health and Safety Code is amended to read:

1265. Any person, political subdivision of the state, or governmental agency desiring a license for a health facility or approval for a special service under this chapter shall file with the state department a verified application on forms prescribed and furnished by the state department, containing all of the following:

(a) The name of the applicant and, if an individual, whether the applicant has attained the age of 18 years.

(b) The type of facility or health facility.

(c) The location thereof.

(d) The name of the person in charge thereof.

(e) Evidence satisfactory to the state department that the applicant is of reputable and responsible character. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the health facility for which application for license is made. If the applicant is a political subdivision of the state or other governmental agency, like evidence shall be submitted as to the person in charge of the health facility for which application for license is made.

(f) Evidence satisfactory to the state department of the ability of the applicant to comply with this chapter and of rules and regulations promulgated under this chapter by the state department.

(g) Evidence satisfactory to the department that the applicant to operate a skilled nursing facility or intermediate care facility possesses financial resources sufficient to operate the facility for a period of at least 45 days.

(h) Each applicant for a license to operate a skilled nursing facility or intermediate care facility shall disclose to the state department evidence of the right to possession of the facility at the time the application will be granted, that may be satisfied by the submission of a copy of applicable portions of a lease agreement or deed of trust. The names and addresses of any persons or organizations listed as owner of record in the real estate, including the buildings and the grounds appurtenant to the buildings, shall be disclosed to the state department.

(i) Any other information as may be required by the state department for the proper administration and enforcement of this chapter.

(j) Upon submission of an application to the state department by an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing, the application shall include a statement of need signed by the chairperson of the area board pursuant to Chapter 4 (commencing with Section 4570) of Division 4.5 of the Welfare and Institutions Code. In the event the area board has not provided the statement of need within 30 days of receipt of the request from the applicant, the state department may process the application for license without the statement.

(k) The information required pursuant to this section shall be made available to the public upon request, and shall be included in the department's public file regarding the facility.

SEC. 2. Section 1267.5 of the Health and Safety Code is amended to read:

1267.5. (a) (1) Each applicant for a license to operate a skilled nursing facility or intermediate care facility shall disclose to the state department the name and business address of each general partner if the applicant is a partnership, or each director and officer if the applicant is a corporation, and each person having a beneficial

ownership interest of 5 percent or more in the applicant corporation or partnership.

(2) If any person described in paragraph (1) has served or currently serves as an administrator, general partner, trustee or trust applicant, sole proprietor of any applicant or licensee who is a sole proprietorship, executor, or corporate officer or director of, or has held a beneficial ownership interest of 5 percent or more in, any other skilled nursing facility or intermediate care facility or in any community care facility licensed pursuant to Chapter 3 (commencing with Section 1500) of this division, the applicant shall disclose the relationship to the state department, including the name and current or last address of the health facility or community care facility and the date the relationship commenced and, if applicable, the date it was terminated.

(3) If the facility is operated by, or proposed to be operated in whole or part under, a management contract, the names and addresses of any person or organization, or both, having an ownership or control interest of 5 percent or more in the management company shall be disclosed to the state department. This provision shall not apply if the management company has submitted an application for licensure with the state department and has complied with paragraph (1).

(4) If the applicant or licensee is a subsidiary of another organization, the information shall include the names and addresses of the parent organization of the subsidiary and the names and addresses of any officer or director of the parent organization.

The information required by this subdivision shall be provided to the state department upon initial application for licensure, and changes in the information shall be provided to the state department upon payment of the annual renewal licensure fee. Failure to comply with this section may result in action to revoke or deny a license. The information required by this section shall be made available to the public upon request, and shall be included in the public file of the facility.

(b) On and after January 1, 1990, no person may acquire a beneficial interest of 5 percent or more in any corporation or partnership licensed to operate a skilled nursing facility or intermediate care facility, or in any management company under contract with a licensee of a skilled nursing facility or intermediate care facility, nor may any person become an officer or director of, or general partner in, a corporation, partnership, or management company of this type without the prior written approval of the state department. Each application for departmental approval pursuant to this subdivision shall include the information specified in subdivision (a) as regards the person for whom the application is made.

The state department shall approve or disapprove the application within 30 days after receipt thereof, unless the state department, with just cause, extends the application review period beyond 30 days.

(c) The state department may deny approval of a license application or of an application for approval under subdivision (b) if a person named in the application, as required by this section, was an officer, director, general partner, or owner of a 5-percent or greater beneficial interest in a licensee of, or in a management company under contract with a licensee of, a skilled nursing facility, intermediate care facility, community care facility, or residential care facility for the elderly at a time when one or more violations of law were committed therein that resulted in suspension or revocation of its license, or at a time when a court-ordered receiver was appointed pursuant to Section 1327, or at a time when a final Medi-Cal decertification action was take under federal law. However, the prior suspension, revocation, or court-ordered receivership of a license shall not be grounds for denial of the application if the applicant shows to the satisfaction of the state department (1) that the person in question took every reasonably available action to prevent the violation or violations that resulted in the disciplinary action and (2) that he or she took every reasonably available action to correct the violation or violations once he or she knew, or with the exercise of reasonable diligence should have known of, the violation or violations.

(d) No application shall be denied pursuant to this section until the state department first (1) provides the applicant with notice in writing of grounds for the proposed denial of application, and (2) affords the applicant an opportunity to submit additional documentary evidence in opposition to the proposed denial.

(e) Nothing in this section shall cause any individual to be personally liable for any civil penalty assessed pursuant to Chapter 2.4 (commencing with Section 1417) of this division or create any new criminal or civil liability contrary to general laws limiting that liability.

(f) This section shall not apply to a bank, trust company, financial institution, title insurer, controlled escrow company, or underwritten title company to which a license is issued in a fiduciary capacity.

(g) As used in this section, "person" has the same meaning as specified in Section 19.

(h) This section shall not apply to the directors of a nonprofit corporation exempt from taxation under Section 23701d of the Revenue and Taxation Code that operates a skilled nursing facility or intermediate care facility in conjunction with a licensed residential facility, where the directors serve without financial compensation and are not compensated by the nonprofit corporation in any other capacity.

CHAPTER 568

An act to amend Sections 29750 , 29759, and 29776 of, and to repeal Section 29775 of, the Public Resources Code, relating to the Sacramento-San Joaquin Delta.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 29750 of the Public Resources Code is amended to read:

29750. The commission shall meet at least bimonthly. All meetings shall be open to the public as required by law. Notice of the time and place of all regular and special meetings shall be published at least once in a newspaper of general circulation whose area of circulation is throughout the delta. Notice of any meeting shall be published at least seven days prior to the meeting date.

SEC. 2. Section 29759 of the Public Resources Code is amended to read:

29759. The commission shall be abolished as of January 1, 1999, and, if provided for by the Legislature, a successor agency shall administer this division on and after that date.

SEC. 3. Section 29775 of the Public Resources Code is repealed.

SEC. 4. Section 29776 of the Public Resources Code is amended to read:

29776. The Sacramento-San Joaquin Delta Protection Fund is hereby created in the State Treasury. Any money in the Sacramento-San Joaquin Delta Protection Fund is available, upon appropriation by the Legislature, for support of the commission in an amount not to exceed two hundred fifty thousand dollars ($250,000) in any fiscal year.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 569

An act to amend Sections 66001 and 66006 of, and to add Section 66008 to, the Government Code, relating to development.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 66001 of the Government Code is amended to read:

66001. (a) In any action establishing, increasing, or imposing a fee as a condition of approval of a development project by a local agency on or after January 1, 1989, the local agency shall do all of the following:

(1) Identify the purpose of the fee.

(2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the public facilities for which the fee is charged.

(3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

(4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

(b) In any action imposing a fee as a condition of approval of a development project by a local agency on or after January 1, 1989, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

(c) Upon receipt of a fee subject to this section, the local agency shall deposit, invest, account for, and expend the fees pursuant to Section 66006.

(d) For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the local agency shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

(1) Identify the purpose to which the fee is to be put.

(2) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.

(3) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in paragraph (2) of subdivision (a).

(4) Designate the approximate dates on which the funding referred to in paragraph (3) is expected to be deposited into the appropriate account or fund.

When findings are required by this subdivision, they shall be made in connection with the public information required by subdivision (b) of Section 66006. The findings required by this subdivision need only be made for moneys in possession of the local agency, and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date. If the findings are not made as required by this subdivision, the local agency shall refund the moneys in the account or fund as provided in subdivision (e).

(e) Except as provided in subdivision (f), when sufficient funds have been collected, as determined pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 66006, to complete financing on incomplete public improvements identified in paragraph (2) of subdivision (a), and the public improvements remain incomplete, the local agency shall identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the construction of the public improvement will be commenced, or shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon. By means consistent with the intent of this section, a local agency may refund the unexpended revenues by direct payment, by providing a temporary suspension of fees, or by any other reasonable means. The determination by the governing body of the local agency of the means by which those revenues are to be refunded is a legislative act.

(f) If the administrative costs of refunding unexpended revenues pursuant to subdivision (e) exceed the amount to be refunded, the local agency, after a public hearing, notice of which has been published pursuant to Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to this chapter and which serves the project on which the fee was originally imposed.

SEC. 2. Section 66006 of the Government Code is amended to read:

66006. (a) If a local agency requires the payment of a fee specified in subdivision (c) in connection with the approval of a development project, the local agency receiving the fee shall deposit it with the other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of

the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected. Any interest income earned by moneys in the capital facilities account or fund shall also be deposited in that account or fund and shall be expended only for the purpose for which the fee was originally collected.

(b) (1) For each separate account or fund established pursuant to subdivision (a), the local agency shall, within 180 days after the last day of each fiscal year, make available to the public the following information for the fiscal year:

(A) A brief description of the type of fee in the account or fund.

(B) The amount of the fee.

(C) The beginning and ending balance of the account or fund.

(D) The amount of the fees collected and the interest earned.

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.

(H) The amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001.

(2) The local agency shall review the information made available to the public pursuant to paragraph (1) at the next regularly scheduled public meeting not less than 15 days after this information is made available to the public, as required by this subdivision. Notice of the time and place of the meeting, including the address where this information may be reviewed, shall be mailed, at least 15 days prior to the meeting, to any interested party who files a written request with the local agency for mailed notice of the meeting. Any written request for mailed notices shall be valid 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.

(c) For purposes of this section, "fee" means any fee imposed to provide for an improvement to be constructed to serve a development project, or which is a fee for public improvements

within the meaning of subdivision (b) of Section 66000, and that is imposed by the local agency as a condition of approving the development project.

(d) Any person may request an audit of any local agency fee or charge that is subject to Section 66023, including fees or charges of school districts, in accordance with that section.

(e) The Legislature finds and declares that untimely or improper allocation of development fees hinders economic growth and is, therefore, a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that this section shall supersede all conflicting local laws and shall apply in charter cities.

(f) At the time the local agency imposes a fee for public improvements on a specific development project, it shall identify the public improvement that the fee will be used to finance.

SEC. 3. Section 66008 is added to the Government Code, to read:

66008. A local agency shall expend a fee for public improvements, as accounted for pursuant to Section 66006, solely and exclusively for the purpose or purposes, as identified in subdivision (f) of Section 66006, for which the fee was collected. The fee shall not be levied, collected, or imposed for general revenue purposes.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 570

An act to amend Section 155.20 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 155.20 of the Revenue and Taxation Code is amended to read:

155.20. (a) (1) A county board of supervisors may exempt from property tax all real property with a base year value (as determined pursuant to Chapter 1 (commencing with Section 50) of Part 0.5), and personal property with a full value so low that, if not exempt, the

total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

(2) The board of supervisors shall have no authority to exempt property with a total base year value or full value of more than five thousand dollars ($5,000), except that this limitation is increased to fifty thousand dollars ($50,000) in the case of a possessory interest, for a temporary and transitory use, in a publicly owned convention or cultural facility. For purposes of this paragraph, "publicly owned convention or cultural facility" means a publicly owned convention center, civic auditorium, theater, assembly hall, museum, or other civic building that is used primarily for staging any of the following:

(A) Conventions, trade and consumer shows, or civic and community events.

(B) Live theater, dance, or musical productions.

(C) Artistic, historic, technological, or educational exhibits.

(3) In determining the level of the exemption, the board of supervisors shall determine at what level of exemption the costs of assessing the property and collecting taxes, assessments, and subventions on the property exceeds the proceeds to be collected. The board of supervisors shall establish the exemption level uniformly for different classes of property. In making this determination, the board of supervisors may consider the total taxes, special assessments, and applicable subventions for the year of assessment only or for the year of assessment and succeeding years where cumulative revenues will not exceed the cost of assessments and collections.

(b) (1) This section does not apply to those real or personal properties enumerated in Section 52.

(2) The exemption authorized by this section shall be adopted by the board of supervisors on or before the lien date for the fiscal year to which the exemption is to apply and may, at the option of the board of supervisors, continue in effect for succeeding fiscal years. Any revision or rescission of the exemption shall be adopted by the board of supervisors on or before the lien date for the fiscal year to which that revision or rescission is to apply.

(3) Nothing in this section shall authorize a county board of supervisors to exempt new construction, unless the new total base year value of the property, including this new construction, is five thousand dollars ($5,000) or less.

(4) Nothing in this section shall authorize an assessor to exempt or not to enroll any property of any value, unless specifically authorized by a county board of supervisors, pursuant to this section.

SEC. 2. Notwithstanding Section 2229 of the Revenue and Taxation Code, 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.

CHAPTER 571

An act to repeal Section 1357.18 of the Health and Safety Code, and to amend Section 12962 of, to repeal Sections 10089.3, 10234.6, 10718.6, and 12960 of, and to repeal Article 10 (commencing with Section 12600) of Chapter 2 of Part 6 of Division 2 of, the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 1357.18 of the Health and Safety Code is repealed.

SEC. 1.5. Section 10089.3 of the Insurance Code is repealed.

SEC. 2. Section 10234.6 of the Insurance Code is repealed.

SEC. 3. Section 10718.6 of the Insurance Code is repealed.

SEC. 4. Article 10 (commencing with Section 12600) of Chapter 2 of Part 6 of Division 2 of the Insurance Code is repealed.

SEC. 5. Section 12960 of the Insurance Code is repealed.

SEC. 6. Section 12962 of the Insurance Code is amended to read:

12962. The commissioner shall make an annual report to the Legislature and to the Governor on or before October 1. The report shall include:

(a) An analysis of the information required by Sections 674.5, 1857.7, 1857.9, 1864, 11555.2, and 12963, including, but not limited to, all of the following:

(1) An aggregate and an average for all insurers for each item of information required by these sections.

(2) The number of insurers reporting policies written for each class during the calendar year.

(3) For each class, the number of insurers reporting a combined loss ratio of 100 percent or more, and the number reporting a combined loss ratio of under 100 percent.

(4) An analysis of adjustments made to loss reserves for prior years.

(5) The change in any item required to be included by paragraphs (1) to (4), inclusive, from the immediately prior year.

(b) An analysis of the activities of the Department of Insurance in implementing the provisions of Proposition 103 on the November 8, 1988, general election ballot, as set forth in Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1.

(c) Recommendations and proposals, including suggested legislation, to protect consumers from arbitrary insurance rates and practices, to encourage a competitive insurance marketplace, to provide for an accountable Insurance Commissioner, and to ensure that insurance is fair, available, and affordable for all Californians.

(d) An analysis on the results of the program to reduce the number of uninsured motorists and the relationship to affordable private passenger vehicle liability insurance rates pursuant to Sections 4750.2 and 4750.4 of the Vehicle Code.

(e) The requirements of this section shall be satisfied if the analysis required by this section is included in the annual report to the Governor required by Section 12922, and a copy of that report is provided to the Legislature.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to effectuate the changes contained in this bill at the earliest possible time, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 572

An act to amend Section 38010 of, and to add Sections 38087.5 and 38231.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 38010 of the Vehicle Code is amended to read:

38010. (a) Except as otherwise provided in subdivision (b), every motor vehicle specified in Section 38012, that is not registered under this code because it is to be operated or used exclusively off the highways, except as provided in this division, shall be issued and display an identification plate or device issued by the department.

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

(1) Motor vehicles specifically exempted from registration under this code, including, but not limited to, motor vehicles exempted pursuant to Sections 4006, 4010, 4011, 4012, 4013, 4015, 4018, and 4019.

(2) Implements of husbandry.

(3) Motor vehicles owned by the state, or any county, city, district, or political subdivision of the state, or the United States.

(4) Motor vehicles owned or operated by, or operated under contract with a utility, whether privately or publicly owned, when used as specified in Section 22512.

(5) Special construction equipment described in Section 565, regardless of whether those motor vehicles are used in connection with highway or railroad work.

(6) A motor vehicle with a currently valid special permit issued under Section 38087.5 that is owned or operated by a nonresident of this state and the vehicle is not identified or registered in a foreign jurisdiction. For the purposes of this paragraph, a person who holds a valid driver's license issued by a foreign jurisdiction is presumed to be a nonresident.

(7) Commercial vehicles weighing more than 6,000 pounds unladen.

(8) Any motorcycle manufactured in the year 1942 or prior.

(9) Four-wheeled motor vehicles operated solely in organized racing or competitive events upon a closed course when those events are conducted under the auspices of a recognized sanctioning body or by permit issued by the local governmental authority having jurisdiction.

(10) A motor vehicle with a currently valid identification or registration permit issued by another state.

SEC. 2. Section 38087.5 is added to the Vehicle Code, to read:

38087.5. (a) Upon payment of the fee specified in Section 38231.5, the Department of Parks and Recreation may issue to a nonresident of this state a special permit to operate an off-highway motor vehicle otherwise required to be identified under this chapter.

(b) Special permits issued under this section shall expire on December 31 in the year of their issuance.

SEC. 3. Section 38231.5 is added to the Vehicle Code, to read:

38231.5. (a) The fee for a special permit issued under Section 38087.5 shall be not less than twenty dollars ($20), as established by the Department of Parks and Recreation. The Department of Parks and Recreation may adjust the special permit fee for a permit issued to a nonresident of this state under Section 38087.5, as necessary, to recover the costs of this program. After deducting its administrative and vendor costs, the Department of Parks and Recreation shall deposit the fees received under this section in the Off-Highway Vehicle Trust Fund. Money in the fund shall be allocated, upon appropriation, as provided in Sections 38240 and 38240.1.

(b) The Department of Parks and Recreation shall print the special permits required by Section 38087.5 and shall supervise the sale of those permits throughout the state.

(c) The Department of Parks and Recreation shall either distribute and sell the special permits directly or contract with vendors according to rules and regulations established by that department. The vendors shall receive a commission in an amount not to exceed 5 percent of the fee imposed pursuant to subdivision

(a) for each special permit sold. The Department of Parks and Recreation may solicit the participation of qualified retail commercial enterprises engaged in the sale or rental of off-highway vehicles, equipment, accessories, or supplies to act as authorized vendors of the special permits and may authorize local and federal agencies that provide off-highway vehicle opportunities to act as authorized vendors of the special permits.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 573

An act to add and repeal Chapter 12.97 (commencing with Section 18995) of Part 6 of Division 9 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Chapter 12.97 (commencing with Section 18995) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 12.97. SOLANO AND NAPA COUNTY CLIENT CASE INFORMATION

18995. (a) Notwithstanding any other provision of law governing the disclosure of information and records, the health and social service departments of Solano County, Napa County, Sutter County, and Yuba County may conduct a pilot project to improve client access to human services through the exchange of client case information among the staff of the various county programs providing human services. This pilot project may include the following two types of information exchange:

(1) Obtaining from clients a general waiver of confidentiality to allow the verbal exchange of client case information among the staff of county health and social service programs or providers of human service program services under contract with the county, when the staff members are participating in a multidisciplinary team implementing the program specified in Section 18995.3.

(2) The use by the county department of a central case record system where all basic client and client family information may be retained for access by each of the county human services programs when clients request a range of services or referrals are made from one program to another. The project shall be conducted in a manner that ensures the maximum protection of privacy and confidentiality rights.

(b) Clients shall give a knowing and informed consent, in writing, before participating in the client information exchange program. Before information may be exchanged about a particular client or his or her family pursuant to subdivision (a), a representative of the county department, or a staff member of a particular human services program shall do all of the following:

(1) Explain to the client that information provided by the client may be exchanged among the various county programs providing human services. Further explain that the information shall not be disclosed to anyone other than qualified program staff and representatives of the county department unless the disclosure is otherwise authorized pursuant to laws governing the disclosure of information and records. This explanation shall be given before any information about the client is recorded and before any services are provided.

(2) Provide the client the opportunity to give, in writing, informed consent to participate in the information exchange pilot program as described in this chapter. The client shall be informed that refusal to sign the consent form to participate in the information exchange pilot program will not have an adverse impact on the client's eligibility for services under the programs specified in Section 18995.3. If the client refuses to participate, information regarding the client shall not be subject to the client case information project authorized by this chapter.

(3) It is the intent of the Legislature that the county form a local review committee to assess the language to be used to inform clients of the exchange of information, the protection of confidential information subject to exchange, and plans for the disposal of confidential records.

18995.05. No information prohibited by federal law from being disclosed shall be included in the information subject to exchange pursuant to this chapter, and any information that may not be exchanged or disclosed pursuant to federal law unless a signed release is received shall not be exchanged under this chapter without the signed release having been obtained.

18995.1. Information prohibited from being disclosed by state laws regulating case records of adoptions and records pertaining to informant information provided to investigative consumer reporting agencies shall not be included in the information that may be exchanged pursuant to this chapter.

18995.15. (a) Except that information specified in subdivision (b), only information that is relevant to the case management plan may be exchanged orally pursuant to this chapter. The information exchange shall be necessary and appropriate for the purpose of providing health and social services as specified in Section 18995.3. Information may only be exchanged orally pursuant to this chapter, when exchanged in a conference of members of the team, as specified in Section 18995.2, providing services to the recipient.

(b) The central case record system authorized by this chapter shall contain only basic client statistical data, which shall be limited to names, addresses, dates of birth, social security numbers, medical coverage, and information regarding eligibility for and receipt of the services subject to this chapter. Data entered into the cental data base pertaining to eligibility for services shall include only whether the client has or has not received services provided under a program, not the basis of the eligibility for services or any other client information. Central case records shall not contain clinical or medical records. Information contained in the central case record shall only be shared as necessary and appropriate for the purpose of providing health and social services as specified in Section 18995.3.

18995.2. Those members of the county staff who may receive and exchange information pursuant to this chapter shall only include multidisciplinary team members, including human services case workers and those persons who provide those services under contract with the county. Any person who receives information pursuant to this chapter, including providers of services under contract with the county, shall be subject to the same standards of confidentiality required under this program.

18995.25. Those members of the staff who will be authorized to receive information pursuant to this chapter shall receive training on authorized information sharing, existing federal and state laws pertaining to disclosure of information and records in each of the health or human services programs included in this pilot project, what actions would constitute unlawful disclosure or information exchange, and training in the identification of information that is prohibited from exchange under state and federal law, as specified in this chapter. The county shall maintain a record of that training.

18995.28. To the extent that existing law provides for penalties for the unauthorized or unlawful disclosure or release of case records or client information, county staff implementing programs specified in Section 18995.3, or those persons who implement those programs under contract with the county who are providing services under this client information exchange pilot project, shall be subject to the same

penalties, with the exception of information exchanges specifically authorized under this chapter.

18995.3. Client information contained in the central case record may be exchanged pursuant to this chapter for purposes of implementation of public health programs, family health service programs, mental health programs, substance abuse programs, employment services, adult services, child welfare services, eligibility determinations, and provision of services by the public guardian.

18995.35. (a) The county may implement the pilot project authorized by this chapter for a period of four years, and shall submit by March 1, 2000, an evaluation of the pilot project to the appropriate policy committees of the Legislature.

(b) The evaluation shall include, but is not limited to, all of the following:

(1) An examination of whether breaches of confidentiality have occurred, and, if so, how they could be prevented.

(2) Whether providers of services actually used the data sharing authorized under the pilot program and whether it was necessary for the provision of services.

(3) Whether or not clients were comfortable with the information sharing permitted under the chapter.

18995.38. (a) This chapter shall be implemented to the extent permitted under applicable federal law and waivers.

(b) The State Department of Social Services and the State Department of Health Services shall determine, by March 31, 1997, if federal waivers are necessary for the implementation of this chapter pursuant to subdivision (a) and, if it is determined by those departments that federal waivers are necessary for the implementation of this chapter, they shall within 90 days of that determination, seek all federal waivers that are necessary for the implementation of this chapter.

18995.4. This chapter shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

CHAPTER 574

An act to amend Section 490 of, and to add Section 247 to, the Public Utilities Code, relating to telecommunications.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. The Legislature finds and declares that:

(a) The Omnibus Budget Reconciliation Act of 1993, enacted August 10, 1993, amends Section 332(c)(3) of the Communications Act of 1934, and generally preempts the states from regulating the entry of or the rates charged by any commercial mobile radio service.

(b) The Omnibus Budget Reconciliation Act of 1993 does not affect the states' authority to regulate the other terms and conditions of commercial mobile radio service.

(c) The Public Utilities Code currently authorizes the Public Utilities Commission to regulate, among other things, the entry, rates, and service responsibilities of carriers providing commercial mobile radio service, except for those carriers exempt from commission jurisdiction pursuant to paragraph (2) of subdivision (b) of Section 234 of the Public Utilities Code.

SEC. 2. Section 247 is added to the Public Utilities Code, to read:

247. Any provision of this act that is in conflict with the Communications Act of 1934, as amended, (47 U.S.C. Sec. 332(c)(3)) shall not apply to commercial mobile radio service to the extent of that conflict. If any provision contained in this act applicable to commercial mobile radio service, or the application thereof to any person or circumstance, is invalid as a result of federal preemption, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected thereby.

SEC. 3. Section 490 of the Public Utilities Code is amended to read:

490. (a) The commission may from time to time determine and prescribe by order changes in the form of the schedules referred to in this article as it finds expedient, and may modify the requirements of any of its orders or rules in respect to any matter referred to in this article.

(b) If the rates for any commercial mobile radio service, as defined by the Omnibus Budget Reconciliation Act of 1993, are not subject to regulation by the commission as a result of federal law, then the commission may exempt the service from any tariff-filing requirement.

CHAPTER 575

An act to add Article 10.9 (commencing with Section 25219) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Article 10.9 (commencing with Section 25219) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10.9. Battery Management: Federal Regulation

25219. As used in this article, the following terms have the following meaning:

(a) "Federal battery management act" means the Mercury-Containing and Rechargeable Battery Management Act (P.L. 104-142), or that act as it may thereafter be amended.

(b) "Federally regulated battery" means a battery that is subject to the federal battery management act.

25219.1 (a) Notwithstanding any other provision of law, including, but not limited to, any other provision of this chapter, the federal battery management act shall be deemed to be the law of this state with regard to the easy removability, environmental labeling, collection, storage, and transportation of federally regulated batteries, and any battery that is a federally regulated battery shall be managed in accordance with the federal battery management act.

(b) It is the intent of subdivision (a) to make the necessary changes in state law to allow the department to seek and maintain the approval of the Administrator of the Environmental Protection Agency to implement and enforce the requirements of subsection (a) of Section 104 of the federal battery management act.

25219.2. Except as provided in this article, batteries not subject to regulation pursuant to Section 25219.1 shall be managed in compliance with all other requirements of this chapter.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to conform state law with a specified federal law regulating batteries, thereby allowing the Department of Toxic

Substances Control to enforce the laws and regulations concerning those batteries, it is necessary that this act take effect immediately.

CHAPTER 576

An act to amend Sections 25187.2 and 25360 of, to add Sections 25330.4 and 25360.1 to, to add Chapter 6.66 (commencing with Section 25269) to Division 20 of, and to repeal Section 25206 of, the Health and Safety Code, relating to hazardous substances, and making an appropriation therefor.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 25187.2 of the Health and Safety Code is amended to read:

25187.2. If a removal or remedial action order issued pursuant to Section 25187 to a potentially responsible party requires a person to take corrective action with respect to hazardous waste, that person shall pay for oversight of the removal or remedial action. This section does not prohibit the department or unified program agency from assessing any other penalty or recovering any costs for oversight of a removal or remedial action, pursuant to any other provision. Nothing in this section limits the due process requirements of Section 25187.

SEC. 2. Section 25206 of the Health and Safety Code is repealed.

SEC. 3. Chapter 6.66 (commencing with Section 25269) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.66. OVERSIGHT COSTS

25269. The Legislature hereby finds and declares all of the following:

(a) To enhance cooperation between the department and the regulated community, and to reduce the state's costs associated with the oversight of cleanup efforts, the costs of the associated cost recovery program and the corresponding costs to the responsible parties involved, the oversight program should be administered in an efficient, responsible, and accountable manner.

(b) According to information provided to the Legislature, the department has collected more than seventy-one million dollars ($71,000,000) since the cost recovery effort was begun in the early 1980s and there is approximately seventy million dollars ($70,000,000) to eighty million dollars ($80,000,000) in outstanding receivables for disputed site cleanup oversight costs. The information

provided to the Legislature indicates that potentially responsible parties have complained that the department's oversight costs have been unpredictable, unsubstantiated, and exceedingly high.

(c) Disputes with potentially responsible parties over the reasonableness of oversight costs have been a major factor in the difficulty that the department has experienced in conducting cost recovery. Disputes of that kind substantially increase the cost of state operations and the cost of doing business for the private sector, leading to extended negotiations and litigation. The redirection of resources by both parties in attempting to resolve those differences most likely inhibit cleanup efforts and affect the ability of the parties to work together cooperatively, thereby exacerbating the costs associated with the cleanups. Disputes would be reduced by clarifying current law by providing definitions of direct and indirect oversight costs. Further, these high costs affect the competitiveness of California businesses in national and global business environments.

25269.1. For purposes of this article, the following terms have the following meaning:

(a) "Department" means the Department of Toxic Substances Control.

(b) "Direct oversight costs" means the costs to the department of overseeing a cleanup action, pursuant to the authority specified in subdivision (a) of Section 25269.2, that can be specifically attributed to a particular cost objective, including, but not limited to, sites, facilities, and activities.

(c) "Indirect oversight costs" means the costs to the department of activity that is of a common or joint purpose benefiting more than one cost objective and not readily assignable to a single case objective.

(d) "Pro rata" means the general administrative costs expended by central service agencies to provide centralized services to state agencies, as defined in the State Administrative Manual.

25269.2. (a) The department shall comply with this chapter when recovering oversight costs for corrective action pursuant to Chapter 6.5 (commencing with Section 25100), for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300), and for response actions pursuant to Chapter 6.85 (commencing with Section 25396).

(b) The department shall develop a concise statement of its cost recovery policies and billing procedures, including dispute resolution procedures and availability of program guidance and policies, and distribute the statement to all responsible parties.

25269.3. The department shall take the following actions with regard to the tracking of indirect oversight costs:

(a) Ensure that pro rata costs are allocated appropriately to all departmental activities, so that the department's program will only bear these pro rata costs in proportion to the benefits received by potentially responsible parties.

(b) Routinely include operating expenses in the indirect oversight costs and allocate those expenses using processes that ensure that the department's program only bears indirect oversight costs in proportion to the benefits received by potentially responsible parties.

(c) Exclude, from indirect oversight costs, the costs of grant development and administration, fee administration, contract development and administration, and public and governmental inquiries.

25269.4. (a) The department shall establish rates for indirect oversight costs that are specific to each program and shall review and update the indirect cost rates based upon increases or decreases in the amounts of grants received by the department, department reorganizations, and other relevant factors, but not less than once every six months, based upon the previous 12 months of expenditure data. The department shall apply the indirect oversight cost rates prospectively and shall not make retroactive adjustments in those rates.

(b) The department shall review the department's cost recovery policies at least once every two years.

25269.5. The department shall take the following actions with regard to the department's relationship with the parties who are performing the investigation and cleanup of the hazardous substance release site or taking a hazardous waste corrective action or response action:

(a) Adopt procedures to improve communication, facilitate the exchange of ideas, eliminate surprises, and allow better financial planning by the department and potentially responsible parties, including a meet and confer process which includes, but is not limited to, all of the following:

(1) An estimate of the cost of site remediation by the department for the next phase of the site remediation activity, including a list of estimated personnel labor rates.

(2) An estimate of the total hours that the department expects the department staff to incur in the next phase of the site mitigation process, to the extent that the department can project its time and costs in advance. That estimate shall include the projected hours of the project manager, and the costs of public participation, legal counsel, and technical consultations.

(3) A discussion of the schedule for the remediation action, including a thorough review of the services that the department expects to provide, deliverables, timeframes, expectations of both parties, a process for status reporting by both parties, systematic billing at least once every three months by the department, and an agreement on how the work plan will be modified, and how the costs will be estimated.

(b) Develop a concise statement of its cost recovery policies and billing procedures, including dispute resolution procedures and the availability of program guidance and policies, which shall be

distributed to all potentially responsible parties before any site remediation commences, as part of the meet and confer process.

(c) Review all informal guidance documents for the cost recovery program, including fee bulletins, management memos, policies, and procedures, and review and update those documents, as appropriate.

(d) Establish a procedure, when there is a change of project manager for a remediation action, to provide for a detailed status briefing to identify the highlights of past work and identify the current areas of agreement and disagreement among the parties.

25269.6. The department shall adopt a billing system for oversight costs which meets all of the following criteria:

(a) Invoices shall be issued within 60 days to the extent practicable, with appropriate incentives for prompt payment. In no event shall invoices be issued less frequently than on a quarterly basis.

(b) Invoices shall be mailed to the correct person for the potentially responsible party.

(c) Sufficient detail shall be included with each invoice, so that the potentially responsible party can relate the items on the invoice to the benefits received, and additional details, including daily timesheet personnel data, shall be made readily available.

(d) Invoices shall be supplemented with statements of any changes in rates and a detailed justification for any such changes.

(e) Invoices shall be reviewed for accuracy and appropriateness by a member of the department staff who has direct knowledge of the remediation action.

(f) Invoices shall be reasonably consistent with expectations regarding costs, benefits, and outcomes developed during the meet and confer process specified in subdivision (a) of Section 25269.5, if the department's knowledge of site conditions or other factors which may substantially impact the department's costs associated with the site, have not changed significantly since the last conference.

(g) A process for the timely review and settlement of any outstanding accounts shall be developed and implemented.

25269.8. The department shall take all of the following actions with regard to uncollectible accounts:

(a) Review all current outstanding receivables and make an appropriate adjustment for estimated uncollectible amounts, consistent with current accounting practices and recognizing the present value of future collection. The department may, if warranted, write off or write down those receivable amounts.

(b) Maintain and report an analysis of outstanding receivables and other control analyses.

(c) Consider whether to enter into a contract with a private collection agency to collect substantially past-due accounts and, for longer term receivables, consider whether credit arrangements should be made with banks or other institutions willing to assist in financing a potentially responsible party's obligation for remediation.

25269.9. On or before June 1, 1998, the department, in consultation with the Secretary for Environmental Protection, shall make available a written report regarding the implementation of the changes required by this article.

SEC. 4. Section 25330.4 is added to the Health and Safety Code, to read:

25330.4. (a) Notwithstanding any other provisions of law, the Controller shall establish a separate subaccount in the state account, for any funds received from a settlement agreement or the General Fund for a removal or remedial action to be performed at a specific site.

(b) Notwithstanding Section 13340 of the Government Code, funds deposited in the subaccount for those removal or remedial actions are hereby continuously appropriated to the department for removal or remedial action at the specific site, and for administrative costs associated with the removal or remedial action at the specific site.

(c) Notwithstanding any other provision of law, money in the subaccount for those removal or remedial actions shall not revert to the General Fund or be transferred to any other fund or account in the State Treasury, except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(d) Notwithstanding Section 16305.7 of the Government Code, all interest or other increment resulting from investment of the funds specified in subdivision (a) pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code shall be deposited in the subaccount for removal or remedial action at the specific sites.

(e) At the conclusion of all removal or remedial actions at the specific site, any unexpended funds in any subaccounts established pursuant to this section shall be transferred to the subaccount for site operation and maintenance established pursuant to section 25330.5, if necessary, for those activities at the site, or, if not needed for site operation and maintenance at the site, to the Hazardous Waste Control Account.

SEC. 5. 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 recoverable by the Attorney General, upon the request of the department, from the liable person or persons. The amount of any remedial or removal action costs that may be recovered pursuant to this section shall include interest on any amount paid from the Hazardous Substance Cleanup Fund calculated at a rate equal to the interest rate of the bonds sold pursuant to Article 7.5 (commencing with Section 25385) and interest on any amount paid from the state account or the Site

Remediation Account, calculated at the rate of return earned on investment in the Surplus Money Investment Fund pursuant to Section 16475 of the Government Code.

(b) 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.

(c) 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.

(d) 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. 6. Section 25360.1 is added to the Health and Safety Code, to read:

25360.1. Any monetary obligation to the department pursuant to Chapter 6.5 (commencing with Section 25100) or this chapter shall be subject to interest from the date of the demand at the same rate of return earned on investment in the Surplus Money Investment Fund pursuant to Section 16475 of the Government Code, except the department may waive the interest if the obligation is satisfied within 60 days from the date of invoice.

CHAPTER 577

An act to amend Section 8610.5 of the Government Code, relating to nuclear radiation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 8610.5 of the Government Code is amended to read:

8610.5. (a) It is the intent of the Legislature that state and local costs which are not reimbursed by federal funds shall be borne by

utilities operating nuclear powerplants with a generating capacity of 50 megawatts or more. The Public Utilities Commission shall develop and transmit to the Office of Emergency Services an equitable method of assessing the utilities operating the powerplants for their reasonable pro rata share of state agency costs. Each local government involved shall submit a statement of its costs, as required, to the Office of Emergency Services. Upon each utility's notification by the Office of Emergency Services, from time to time, of the amount of its share of the actual or anticipated state and local agency costs, the utility shall pay this amount to the Controller for deposit in the Nuclear Planning Assessment Special Account, which is hereby created in the General Fund for allocation by the Controller, upon appropriation by the Legislature, to carry out activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The Controller shall pay from this account the state and local costs relative to carrying out this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, upon certification thereof by the Office of Emergency Services.

(b) (1) The total annual reimbursement of state costs from the utilities operating the nuclear powerplants within the state for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, shall not exceed the lesser of the actual costs or the maximum funding levels, previously established by Section 1 of Chapter 1607 of the Statutes of 1988 as of December 31, 1993, subject to subdivisions (d), (e), (f), and (g), to be shared equally among the utilities.

(2) Of the initial amount of five hundred eighty-five thousand dollars ($585,000) for state costs, as determined in paragraph (1), for the period from January 1, 1994, to June 30, 1994, inclusive, the sum of three hundred fifty thousand five hundred dollars ($350,500) shall be in support of the Office of Emergency Services for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, and the sum of two hundred thirty-four thousand five hundred dollars ($234,500) shall be in support of the State Department of Health Services for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code.

(3) Of the initial annual amount of one million two hundred seventeen thousand dollars ($1,217,000) for state costs, as determined in paragraph (1), for the 1994–95 fiscal year, the sum of seven hundred twenty-nine thousand dollars ($729,000) shall be in support of the Office of Emergency Services for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code, and the sum of four hundred eighty-eight thousand dollars ($488,000) shall be in support

of the State Department of Health Services for activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code.

(c) (1) The total reimbursement for the period from January 1, 1994, to June 30, 1994, inclusive of local costs from the utilities shall not exceed the lesser of the actual costs or the maximum funding levels, on a site basis, previously established on a per reactor basis by Section 1 of Chapter 1607 of the Statutes of 1988 as of December 31, 1993, in support of activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The maximum initial annual amount available for reimbursement of local costs, subject to subdivisions (d), (e), (f), and (g) of this section shall be three hundred twelve thousand dollars ($312,000) for the Diablo Canyon site and four hundred sixty-eight thousand dollars ($468,000) for the San Onofre site.

(2) The total annual fiscal year reimbursement commencing July 1, 1994, of local costs from the utilities shall not exceed the lesser of the actual costs or the maximum funding levels, on a site basis, previously established on a per reactor basis by Section 1 of Chapter 1607 of the Statutes of 1988, in support of activities pursuant to this section and Chapter 4 (commencing with Section 114650) of Part 9 of Division 104 of the Health and Safety Code. The maximum initial annual amount available for reimbursement of local costs, subject to subdivisions (d), (e), (f), and (g) of this section, shall be seven hundred thousand dollars ($700,000) for the Diablo Canyon site and nine hundred seventy-four thousand dollars ($974,000) for the San Onofre site.

(3) The amounts paid by the utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission.

(d) The amounts available for reimbursement of state and local costs as specified in this section shall be adjusted each fiscal year by the percentage increase in the California Consumer Price Index of the previous calendar year.

(e) Through the date specified in subdivision (g), the amounts available for reimbursement of state and local costs as specified in this section shall be cumulative biennially. For the San Onofre site, any unexpended funds from the 1994–95 fiscal year shall be carried over to the 1995–96 fiscal year, and any unexpended funds from the 1996–97 fiscal year shall be carried over to the 1997–98 fiscal year. For the Diablo Canyon site, any unexpended funds from the 1995–96 fiscal year shall be carried over to the 1996–97 fiscal year and, any unexpended funds from the 1997–98 fiscal year shall be carried over to the 1998–99 fiscal year.

(f) For the Diablo Canyon site, beginning July 1, 1996, the maximum annual amount for reimbursement of local costs determined pursuant to subdivision (d) shall be increased by an additional seventy-five thousand dollars ($75,000).

(g) This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before July 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

(h) Upon inoperation of this section, any amounts remaining in the special account shall be refunded pro rata to the utilities contributing thereto.

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

In order to ensure the availability of adequate funds to meet any costs that may be incurred for nuclear powerplant accidents at the San Onofre and Diablo Canyon sites at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 578

An act to amend Section 853.7a of the Penal Code, and to amend Section 40508.5 of the Vehicle Code, relating to crime.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 853.7a of the Penal Code is amended to read:

853.7a. (a) In addition to the fees authorized or required by any other provision of law, a county may, by resolution of the board of supervisors, require the courts of that county to impose an assessment of seven dollars ($7) upon every person who violates his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail, or who otherwise fails to comply with any valid court order for a violation of any provision of this code or local ordinance adopted pursuant to this code. This assessment shall apply whether or not a violation of Section 853.7 is concurrently charged or a warrant of arrest is issued pursuant to Section 853.8.

(b) The clerk of the court shall deposit the amounts collected under this section in the county treasury. All money so deposited shall be used exclusively for the development and operation of an automated county warrant system.

SEC. 2. Section 40508.5 of the Vehicle Code is amended to read:

40508.5. (a) In addition to the fees authorized or required by any other provision of law, a county may, by resolution of the board of supervisors, require the courts of that county to impose an assessment of seven dollars ($7) upon every person who violates his or her

written promise to appear or a lawfully granted continuance of his or her promise to appear in court or before a person authorized to receive a deposit of bail, or who otherwise fails to comply with any valid court order for a violation of any provision of this code or local ordinance adopted pursuant to this code. This assessment shall apply whether or not a violation of Section 40508 is concurrently charged or a warrant of arrest is issued pursuant to Section 40515.

(b) The courts subject to subdivision (a) shall increase the bail schedule amounts to reflect the amount of the assessment imposed by this section.

(c) If bail is returned, the amount of the assessment shall also be returned, but only if the person did not violate his or her promise to appear or citation following a lawfully granted continuance.

(d) The clerk of the court shall deposit the amounts collected under this section in the county treasury. All money so deposited shall be used exclusively for the development and operation of an automated county warrant system.

CHAPTER 579

An act to amend Sections 25121 and 25124 of, and to add Section 25116.5 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 25116.5 is added to the Health and Safety Code, to read:

25116.5. "Intermediate manufacturing process stream" means a material, or combination of materials, that meets all of the following conditions:

(a) It is produced as part of the manufacturing process.

(b) It is used onsite on a batch or continuous basis, in either the same or in a different manufacturing process to produce a commercial product.

(c) It is not a recyclable material.

(d) The person who produced the material or combination of materials is able to demonstrate all of the following:

(1) The material, or combination of materials, is used, alone or in combination with other materials, in a manufacturing process that is designed for its use.

(2) The material, or combination of materials, is not accumulated or stored in amounts greater than can be used in the manufacturing process.

(3) The material, or combination of materials, is not handled, stored, or processed in a manner that is inconsistent with its intended use or the operating requirements of the manufacturing process.

(e) An intermediate manufacturing process stream which has been released in violation of a hazardous waste facilities permit condition or other applicable law, regulation, or order is a discarded material, unless it has been released into an appropriate containment area or structure and has been promptly recovered and returned to the manufacturing process without prior treatment for use in the originally intended manufacturing process.

SEC. 2. Section 25121 of the Health and Safety Code is amended to read:

25121. (a) "Recycled material" means a recyclable material which has been used or reused, or reclaimed.

(b) "Recycled material" does not include an intermediate manufacturing process stream.

SEC. 3. Section 25124 of the Health and Safety Code is amended to read:

25124. (a) Except as provided in subdivision (f), "waste" means any solid, liquid, semisolid, or contained gaseous discarded material that is not excluded by this chapter or by regulations adopted pursuant to this chapter.

(b) A discarded material is any material which is any of the following:

(1) Relinquished, as specified in subdivision (c).

(2) Recycled, as specified in subdivision (d).

(3) Meets the requirements of subdivision (e).

(4) Considered inherently wastelike, as specified in the regulations adopted by the department.

(c) A material is a discarded material if it is relinquished by being any of the following:

(1) Disposed of.

(2) Burned or incinerated.

(3) Accumulated, stored, or treated, but not recycled, before, or in lieu of, being relinquished by being disposed of, burned, or incinerated.

(d) A material is a discarded material if it is recycled, or accumulated, stored, or treated before recycling, except as provided in Section 25143.2.

(e) A material is a discarded material if it poses a threat to public health or the environment and meets either, or both, of the following conditions:

(1) It is mislabeled or not adequately labeled, unless the material is correctly labeled or adequately labeled within 10 days after the material is discovered to be mislabeled or inadequately labeled.

(2) It is packaged in deteriorated or damaged containers, unless the material is contained in sound or undamaged containers within

96 hours after the containers are discovered to be deteriorated or damaged.

(f) Notwithstanding subdivision (a), a material is not a discarded material if it is an intermediate manufacturing process stream.

CHAPTER 580

An act to amend Section 194 of the Penal Code, relating to crimes.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 194 of the Penal Code is amended to read:

194. To make the killing either murder or manslaughter, it is not requisite that the party die within three years and a day after the stroke received or the cause of death administered. If death occurs beyond the time of three years and a day, there shall be a rebuttable presumption that the killing was not criminal. The prosecution shall bear the burden of overcoming this presumption. In the computation of time, the whole of the day on which the act was done shall be reckoned the first.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 581

An act to amend Sections 13700, 13701, 13750.5, 13751, and 13752 of, to add Sections 13713 and 13800.5 to, and to repeal Section 13750 of, the Water Code, relating to water.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 13700 of the Water Code is amended to read:

13700. The Legislature finds that the greater portion of the water used in this state is obtained from underground sources and that those waters are subject to impairment in quality and purity, causing detriment to the health, safety and welfare of the people of the state. The Legislature therefore declares that the people of the state have a primary interest in the location, construction, maintenance, abandonment, and destruction of water wells, cathodic protection wells, groundwater monitoring wells, and geothermal heat exchange wells, which activities directly affect the quality and purity of underground waters.

SEC. 2. Section 13701 of the Water Code is amended to read:

13701. The Legislature finds and declares all of the following:

(a) Improperly constructed and abandoned water wells, cathodic protection wells, groundwater monitoring wells, and geothermal heat exchange wells can allow contaminated water on the surface to flow down the well casing, thereby contaminating the usable groundwater.

(b) Improperly constructed and abandoned water wells, cathodic protection wells, groundwater monitoring wells, and geothermal heat exchange wells can allow unusable or low quality groundwater from one groundwater level to flow along the well casing to usable groundwater levels, thereby contaminating the usable groundwater.

(c) Contamination of groundwater poses serious public health and economic problems for many areas of the state.

SEC. 3. Section 13713 is added to the Water Code, to read:

13713. "Geothermal heat exchange well," as used in this chapter, means any uncased artificial excavation, by any method, that uses the heat exchange capacity of the earth for heating and cooling, in which excavation the ambient ground temperature is 30 degrees Celsius (86 degrees Fahrenheit) or less, and which excavation uses a closed loop fluid system to prevent the discharge or escape of its fluid into surrounding aquifers or other geologic formations. Geothermal heat exchange wells include ground source heat pump wells.

SEC. 4. Section 13750 of the Water Code is repealed.

SEC. 5. Section 13750.5 of the Water Code is amended to read:

13750.5. No person shall undertake to dig, bore, or drill a water well, cathodic protection well, groundwater monitoring well, or geothermal heat exchange well, to deepen or reperforate such a well, or to abandon or destroy such a well, unless the person responsible for that construction, alteration, destruction, or abandonment possesses a C-57 Water Well Contractor's License.

SEC. 6. Section 13751 of the Water Code is amended to read:

13751. (a) Every person who digs, bores, or drills a water well, cathodic protection well, groundwater monitoring well, or geothermal heat exchange well, abandons or destroys such a well, or

deepens or reperforates such a well, shall file with the department a report of completion of that well within 60 days from the date its construction, alteration, abandonment, or destruction is completed.

(b) The report shall be made on forms furnished by the department and shall contain information as follows:

(1) In the case of a water well, cathodic protection well, or groundwater monitoring well, the report shall contain information as required by the department, including, but not limited to all of the following information:

(A) A description of the well site sufficiently exact to permit location and identification of the well.

(B) A detailed log of the well.

(C) A description of type of construction.

(D) The details of perforation.

(E) The methods used for sealing off surface or contaminated waters.

(F) The methods used for preventing contaminated waters of one aquifer from mixing with the waters of another aquifer.

(G) The signature of the well driller.

(2) In the case of a geothermal heat exchange well, the report shall contain all of the following information:

(A) A description of the site that is sufficiently exact to permit the location and identification of the site and the number of geothermal heat exchange wells drilled on the same lot.

(B) A description of borehole diameter and depth and the type of geothermal heat exchange system installed.

(C) The methods and materials used to seal off surface or contaminated waters.

(D) The methods used for preventing contaminated water in one aquifer from mixing with the water in another aquifer.

(E) The signature of the well driller.

SEC. 7. Section 13752 of the Water Code is amended to read:

13752. Reports made in accordance with paragraph (1) of subdivision (b) of Section 13751 shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in making studies. However, any report shall be made available to any person who obtains a written authorization from the owner of the well.

SEC. 8. Section 13800.5 is added to the Water Code, to read:

13800.5. (a) (1) The department shall develop recommended standards for the construction, maintenance, abandonment, or destruction of geothermal heat exchange wells.

(2) Until the department develops recommended standards pursuant to paragraph (1), a local enforcement agency with authority over geothermal heat exchange wells may adopt temporary regulations applicable to geothermal heat exchange wells that the local enforcement agency determines to be consistent with

the intent of existing department standards to prevent wells from becoming conduits of contamination.

(3) The department, not later than July 1, 1997, shall submit to the state board a report containing the recommended geothermal heat exchange well standards.

(b) The state board, not later than January 1, 1998, shall adopt a model geothermal heat exchange well ordinance that implements the recommended standards developed by the department pursuant to subdivision (a). The state board shall circulate the model ordinance to all cities and counties.

(c) Notwithstanding any other provision of law, each county, city, or water agency, where appropriate, not later than April 1, 1998, shall adopt a geothermal heat exchange well ordinance that meets or exceeds the recommended standards developed by the department pursuant to subdivision (a). If a water agency that has permit authority over well drilling adopts a geothermal heat exchange well ordinance that meets or exceeds the recommended standards developed by the department pursuant to subdivision (a), a county or city shall not be required to adopt an ordinance for the same area.

(d) If a county, city, or water agency, where appropriate, fails to adopt an ordinance that establishes geothermal heat exchange well standards, the model ordinance adopted by the state board pursuant to subdivision (b) shall take effect on May 1, 1998, and shall be enforced by the county or city and have the same force and effect as if adopted as a county or city ordinance.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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CHAPTER 582

An act to amend Section 73661 of, and to add Article 3.5 (commencing with Section 26671) to Chapter 2 of Part 3 of Title 3 of, the Government Code, relating to courts.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Article 3.5 (commencing with Section 26671) is added to Chapter 2 of Part 3 of Title 3 of the Government Code, to read:

Article 3.5. Santa Barbara County Sheriff-Marshal Consolidation

26671. This article shall apply only to a county of the 17th class. It shall be known as the Santa Barbara County Court Services Consolidation Act of 1996.

26671.1. Notwithstanding any other provision of law, the Board of Supervisors of Santa Barbara County may, by ordinance, abolish the office of Marshal of Santa Barbara County and the Santa Barbara County Marshal's Office and consolidate the services and personnel of the Santa Barbara County Marshal into the Santa Barbara County Sheriff's Department.

Upon the effective date of that consolidation ordinance, Sections 74644.1, 74644.2, and 74644.5 shall cease to be operative and this article shall become operative and shall continue in full force and effect during the period of consolidation.

Upon the effective date of that consolidation ordinance, there shall be established within the Santa Barbara County Sheriff's Department a unit designated as the court services division. The Sheriff of Santa Barbara County shall be responsible for the management and operation of that unit, in accordance with this article. Personnel assigned to the court services division shall have all powers and shall perform all duties relating to marshals and constables as set forth in Sections 71264 to 71269, inclusive.

26671.2. (a) All persons who, immediately preceding the effective date of abolition of the marshal's office, are assigned to the marshal's office in management, administrative, supervisory, peace officer, clerical, and other positions shall, on the effective date of the abolition, be assigned to the sheriff's department in the same classification, or if such classifications are not within the department, a comparable classification; and no probationary or permanent employee shall be laid off as a result of the implementation of the abolition and consolidation.

(b) No personnel of the marshal's office shall be reduced in rank or salary, otherwise be demoted, or lose peace officer status. Upon abolition and consolidation, all county service of personnel assigned to the marshal's office shall be counted toward county seniority.

(c) Clerical personnel described in subdivision (a) shall become members of the court services division and shall not be involuntarily transferred from the court services division to any other division within the sheriff's department.

(d) The incumbent marshal shall be assigned to the classification of sheriff's commander and shall be in charge of the court services division. One assistant marshal shall be assigned to the classification of sheriff's lieutenant and shall be assigned to the court services division. The remaining assistant marshal position shall be reclassified. Deputy marshals performing bailiff functions shall be assigned to an equivalent classification in the court services division and those deputy marshals shall not be involuntarily transferred from the court services division to any other division within the sheriff's department.

(e) Notwithstanding any other provision of law, the incumbent marshal, upon consolidation, shall be reinstated as a member of the Santa Barbara County Employees' Retirement System, and by the board of supervisor's adoption of an ordinance abolishing the office of marshal and consolidating the offices of sheriff and marshal, Section 31680.7 relating to reemployment after retirement shall be applicable to the incumbent marshal.

(f) Personnel of the marshal's office shall be entitled to request assignment to other divisions within the sheriff's department which requests will be reviewed as any other such request in the department. Acceptance of a voluntary transfer by a deputy marshal shall invalidate any right of reassignment to the court services division. Any personnel action pursuant to this section shall be in accordance with the personnel policies, memoranda of understanding, and rules and procedures of the sheriff's department and Santa Barbara County.

(g) No provision of this section shall be deemed to restrict the authority of the sheriff to discipline any employee in accordance with county personnel policies, and memoranda of understanding, or rules and procedures otherwise applicable, and except as otherwise expressly provided in this section, the discretion of the sheriff to assign, promote, direct, and control employees formerly assigned to the marshal's office shall not be deemed in any manner restricted by virtue of the abolition or consolidation.

26671.4. Notwithstanding any other provision of law, upon consolidation the sheriff shall provide to the superior and municipal courts within Santa Barbara County the following services:

(a) Court security services, including prisoner transportation services, prisoner escort services, bailiff services, courthouse and other security services, and the execution of court orders and bench

warrants requiring the immediate presence in court of a defendant or witness.

(b) Notice and process services, including service of summons, subpoenas, warrants, and other civil and criminal process.

26671.5. (a) The sheriff shall provide, within the limits of the resources at his or her disposal, those services enumerated in Section 26671.4, to the superior and municipal courts of at least as high a quality as were provided preceding the abolition and consolidation. In no event shall the resources committed to those services be less than necessary for the proper functioning of the Santa Barbara County Municipal and Superior Courts.

(b) Upon the effective date of consolidation, the regular assignment of bailiffs to individual courtrooms shall be made by the commander of the court services division with the concurrence of the individual judicial officer in whose courtroom the assignment is to be made.

26671.6. (a) Effective upon consolidation, there shall be created a Court Services Oversight Committee consisting of one judge from the North County to be selected by the North Santa Barbara County Municipal Court judges, one judge from the South County to be selected by Santa Barbara Municipal Court judges, the presiding judge of the superior court, and one judge to be selected by the sheriff.

(b) Members of the Court Services Oversight Committee shall serve for a term of two years, or as otherwise designated by the appointing authorities.

(c) The duties of the Court Services Oversight Committee shall be those prescribed by this article.

26671.7. (a) The Court Services Oversight Committee shall advise the sheriff concerning the operations of the courts services division, including, but not limited to, those services enumerated in Section 26671.4, shall make recommendations to the sheriff concerning policies and procedures affecting the operations of the court services division, and shall review court security plans and measures affecting the operations of the court services division and make such recommendations to the sheriff as the committee deems appropriate.

(b) The sheriff shall consult with the Court Services Oversight Committee before regularly assigning newly hired personnel or transferring personnel into the court services division.

26671.8. Nothing in this article shall be deemed in any manner to limit or otherwise impair the legal power vested by other laws, including Section 68073, in the superior and municipal courts within Santa Barbara County to secure proper provision of court-related services.

SEC. 2. Section 73661 of the Government Code is amended to read:

73661. In order that the citizens of the county may have convenient access to the court, the location of permanent court facilities and locations where sessions of the court may be held other than in the county seat shall be as determined by the board of supervisors.

SEC. 2. This act shall not be construed as causing the closure of the court facilities in the City of Fortuna except upon specific action by the board of supervisors to that effect.

CHAPTER 583

An act to amend Section 15202 of the Government Code, and to amend Section 4 of Chapter 437 of the Statutes of 1994, relating to trial costs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 15202 of the Government Code, as amended by Section 1 of Chapter 388 of the Statutes of 1995, is amended to read:

15202. (a) A county with a population of 300,000 or less, at the time of the 1980 decennial census, that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 90 percent of the costs incurred by the county for each homicide trial or hearing, without regard to fiscal years, in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(b) (1) A county with a population of 200,000 or less, as of January 1, 1990, that is responsible for the cost of two or more trials or hearings within a fiscal year of a person or persons for the offense of homicide may apply to the Controller for reimbursement of 90 percent of the costs incurred in a fiscal year by the county for the conduct of the first trial within a fiscal year, and 85 percent of the costs incurred in a fiscal year by the county for the conduct of any and all subsequent trials or hearings in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(2) A county with a population of 200,000 or less, as of January 1, 1990, that, within a fiscal year, is reimbursed for costs incurred by the county for the conduct of only one trial or hearing pursuant to subdivision (a) shall be reimbursed for that one trial or hearing in subsequent fiscal years for costs incurred in those subsequent fiscal years without again being required to expend county funds equal to 0.00625 of 1 percent of the full value of property assessed for purposes

of taxation within the county, so long as all reimbursements to the county under this paragraph are for only that one trial or hearing.

For purposes of this subdivision, in determining the costs of a homicide trial, trials, hearing, or hearings, the costs shall include, all pretrial, trial, and posttrial costs incurred in connection with the investigation, prosecution, and defense of a homicide case or cases within a fiscal year, including, but not limited to, the costs incurred by the district attorney, sheriff, public defender, and witnesses, that were reasonably required by the court and participants in the case or cases, and other extraordinary costs associated with the investigation in homicide cases.

(c) A county with a population exceeding 300,000 at the time of the 1980 decennial census that is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 80 percent of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent, and not in excess of the amount of money derived from a tax of 0.0125 of 1 percent, and for reimbursement of 100 percent of the costs incurred in excess of the amount of money derived from a tax of 0.0125 percent, of the full value of property assessed for purposes of taxation within the county.

(d) The Controller shall not reimburse any county for costs that exceed the standards for travel and per diem expenses set forth in Sections 700 to 715, inclusive, and Section 718 of Title 2 of the California Code of Regulations. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for these expenditures. Nothing in this section shall permit the reimbursement of costs for travel in excess of 1,000 miles on any single round trip, without the prior approval of the Attorney General.

(e) The Legislature recognizes that the conduct of trials for persons accused of homicide should not be hampered or delayed because of a lack of funds available to the counties for that purpose. While this section is intended to provide an equitable basis for determining the allocation to the state of the costs of homicide trials in any particular county, the rising costs of those trials necessitate an objective study to assure reasonable financial restraints and incentives for cost-effectiveness that do not place an unreasonable burden on the treasury of the smaller counties.

This section shall remain operative only until January 1, 2000, and as of that date is repealed.

SEC. 2. Section 4 of Chapter 437 of the Statutes of 1994 is amended to read:

Sec. 4. The Legislature finds and declares that under existing law, including, but not limited to, Sections 11019.6 and 15202 of the Government Code, the County of Calaveras will not be reimbursed for the extraordinary expenses related to the homicide trial of Charles Chitat Ng that will cause a severe drain on its cash-flow.

Therefore, notwithstanding any other provision of law, the County of Calaveras may apply to the Controller for reimbursement of 100 percent of its costs incident to the homicide trial of Charles Chitat Ng, incurred between January 1, 1991, and January 1, 2000.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the role of the Department of Justice in the reimbursement of counties by the Controller for costs incurred in homicide trials may be clarified at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 584

An act to add Sections 8558, 8558.1, 8558.2, and 8558.3 to the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 8558 is added to the Fish and Game Code, to read:

8558. (a) There is established a herring research and management account within the Fish and Game Preservation Fund. The funds in the account shall be expended for the purpose of supporting, in consultation with the herring industry pursuant to Section 8555, department evaluations of, and research on, herring populations in San Francisco Bay and those evaluations and research that may be required for Tomales Bay, Humboldt Bay, and Crescent City and assisting in enforcement of herring regulations. The evaluations and research shall be for the purpose of (1) determining the annual herring spawning biomass, (2) determining the condition of the herring resource, which may include its habitat, and (3) assisting the commission and the department in the adoption of regulations to ensure a sustainable herring roe fishery. An amount, not to exceed 15 percent of the total funds in the account, may be used for educational purposes regarding herring, herring habitat, and the herring roe fishery.

(b) The funds in the account shall consist of the funds deposited pursuant to Sections 8558.1, 8558.2, and 8558.3, and the funds derived from herring landing taxes allocated pursuant to subdivision (a) of Section 8052.

(c) The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of the funds in the account are met.

SEC. 2. Section 8558.1 is added to the Fish and Game Code, to read:

8558.1. (a) No person shall purchase or renew any permit to take herring for commercial purposes in San Francisco Bay without first obtaining from the department an annual herring stamp. The fee for the stamp shall be one hundred dollars ($100). The revenue from the fee for the herring stamps shall be deposited into the herring research and management account established pursuant to Section 8558.

(b) This section shall become operative on April 1, 1997.

SEC. 3. Section 8558.2 is added to the Fish and Game Code, to read:

8558.2. The amount of the difference between fees for nonresidents and resident fees, collected pursuant to Section 8550.5, shall be deposited into the herring research and management account established pursuant to Section 8558, and all fees for San Francisco Bay herring permit transfers, collected pursuant to Section 8552.7, shall also be deposited into the herring research and management account.

SEC. 4. Section 8558.3 is added to the Fish and Game Code, to read:

8558.3. One-half of all royalties collected by the department from the roe-on-kelp fishery collected pursuant to paragraph (2) of subdivision (f) of Section 164 of Title 14 of the California Code of Regulations shall be deposited into the herring research and management account established pursuant to Section 8558.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 585

An act to repeal Section 8396 of, and to add and repeal Article 9.1 (commencing with Section 8405) of Chapter 2 of Part 3 of Division

6 of, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 8396 of the Fish and Game Code is repealed.

SEC. 2. Article 9.1 (commencing with Section 8405) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 9.1. Sea Cucumbers

8405. (a) Sea cucumbers shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit issued to that person, which has not been suspended or revoked.

(b) When taking sea cucumbers by diving, every diver shall have a sea cucumber diving permit issued to that person, which has not been suspended or revoked. When taken by means other than diving, at least one person aboard the boat shall have a valid sea cucumber trawl permit issued to that person, which has not been suspended or revoked.

8405.1. (a) To qualify for a sea cucumber permit for the permit year of April 1, 1997, to March 31, 1998, inclusive, an applicant shall have landed a minimum of 50 pounds of sea cucumbers during any calendar year, or portion thereof, from January 1, 1988, to June 30, 1991, inclusive.

(b) All applications for sea cucumber permits shall be received by the department, or, if mailed, postmarked, by June 30, 1997.

(c) The department shall not issue a sea cucumber permit until the applicant's eligibility pursuant to this section has been verified by the department through either landing receipts or other documentation used by the department.

(d) Applicants for a sea cucumber permit shall specify by gear type, either trawl or dive, the method in which the applicant intends to take sea cucumbers. The gear type of a sea cucumber permit, either trawl or dive, shall not be transferable.

(e) The fee for a sea cucumber permit shall be two hundred fifty dollars ($250).

(f) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.

(g) In order to renew a sea cucumber permit for any permit year commencing on or after April 1, 1998, an applicant shall have been issued a sea cucumber permit in the immediately preceding permit year. Applications for renewal of a sea cucumber permit shall be

received by the department or, if mailed, postmarked, by June 30 of the permit year.

(h) Any person denied a sea cucumber permit may appeal the denial to the commission in writing describing the basis for the appeal. The appeal shall be received by the commission on or before March 31 of the permit year for which the permit was denied.

8405.2. (a) A sea cucumber permit may be transferred by the permittee if the permittee has previously held a valid sea cucumber permit for any four permit years and landed at least 100 pounds of sea cucumbers in each of those permit years, as documented by landing receipts with the name of the permittee shown on the receipts.

(b) A sea cucumber permit may be transferred only to a person who has a valid commercial fishing license issued pursuant to Section 7852, that has not been suspended or revoked. A sea cucumber permit shall not be transferred to any person who has had a sea cucumber permit suspended or revoked while the suspension or revocation is in effect.

(c) An application for transfer shall be submitted to the department, with such reasonable proof as the department may require to establish the qualifications of the permitholder and the person the permit is to be transferred to, accompanied by payment to the department of a nonrefundable transfer fee of two hundred dollars ($200). The transfer shall take effect on the date notice of approval of the application is given to the transferee by the department.

(d) A sea cucumber trawl permit may be transferred to any qualified person as provided in subdivisions (b) and (c) to take sea cucumbers by diving or by use of trawl nets. A sea cucumber dive permit may be transferred to any qualified person as provided in subdivisions (b) and (c) only to take sea cucumbers by diving. The transferee shall specify the gear type, either trawl or dive, that the transferee intends to use to take sea cucumbers. The gear type of the sea cucumber permit, either trawl or dive, shall not be transferable.

8405.3. (a) The commission, upon recommendation of the department or upon its own motion and in consultation with the sea cucumber fishing industry, may adopt regulations, including provisions governing seasons, gear restrictions, hours of operation, and any other measures that it determines may reasonably be necessary to protect the sea cucumber resource and to assure a sustainable sea cucumber fishery or to enhance enforcement activities.

(b) The number of sea cucumber permits issued for the April 1, 1997, to March 31, 1998, inclusive, permit year shall constitute the maximum number of permits available for all subsequent permit years for the sea cucumber fishery. The department may establish by regulation a method, if necessary, to reissue any sea cucumber permit not renewed or transferred. The permit type of a sea cucumber permit, either trawl or dive, that is reissued shall not be transferable.

(c) The commission may permanently revoke the sea cucumber permit of any person convicted of the unlawful taking of any California halibut while operating pursuant to a sea cucumber permit. The commission may revoke the sea cucumber permit of any person convicted of any other violation of this code or regulation adopted pursuant thereto while operating pursuant to a sea cucumber permit. Any revocation of a permit pursuant to this subdivision shall be in addition to any action the department may take pursuant to Section 12000.

(d) Subsequent to the 1997–98 permit year, the department, using existing funds, may determine the actual costs to the department of enforcing this article. The commission, upon recommendation of the department, may adjust the fee for the issuance or transfer of a permit to an amount not to exceed three hundred fifty dollars ($350), to reflect the actual cost of enforcing this article.

8405.4. This article shall become operative on April 1, 1997, except that Section 8405.2 shall become operative on April 1, 1998. This article shall become inoperative on April 1, 2002, and as of January 1, 2003, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2003, deletes or extends the dates on which it becomes inoperative and is repealed.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 586

An act to amend Section 148.6 of the Penal Code, relating to peace officers.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 148.6 of the Penal Code is amended to read:

148.6. (a) (1) Every person who files any allegation of misconduct against any peace officer, as defined in Chapter 4.5

(commencing with Section 830) of Title 3 of Part 2, knowing the allegation to be false, is guilty of a misdemeanor.

(2) Any law enforcement agency accepting an allegation of misconduct against a peace officer shall require the complainant to read and sign the following advisory, all in boldface type:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood the above statement.

_____

Complainant

(b) Every person who files a civil claim against a peace officer or a lien against his or her property, knowing the claim or lien to be false and with the intent to harass or dissuade the officer from carrying out his or her official duties, is guilty of a misdemeanor. This section applies only to claims pertaining to actions that arise in the course and scope of the peace officer's duties.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 587

An act to amend Sections 10132, 10153.5, 10209, 10232.4, 10240, 10249, 10250.1, 10509, and 11018.7 of, to add Sections 10100.2 and 10249.93 to, and to repeal Sections 10231.3, 11000.5, 11000.6, 11025, 11027, 11028, 11029.1, and 11030 of, the Business and Professions Code, relating to real estate.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 10100.2 is added to the Business and Professions Code, to read:

10100.2. A licensee against whom an investigation is pending or an accusation has been filed pursuant to Section 11503 of the Government Code may petition the commissioner to voluntarily surrender his or her license. The surrender of a license shall become effective upon acceptance by the commissioner and thereafter, a surrendered licensee may be relicensed only by petitioning for reinstatement pursuant to Section 11522 of the Government Code. When deciding a petition for reinstatement, the commissioner may consider all relevant evidence, including affidavits.

SEC. 2. Section 10132 of the Business and Professions Code is amended to read:

10132. A real estate salesman within the meaning of this part is a natural person who, for a compensation or in expectation of a compensation, is employed by a licensed real estate broker to do one or more of the acts set forth in Sections 10131, 10131.1, 10131.2, 10131.3, 10131.4, and 10131.6.

SEC. 3. Section 10153.5 of the Business and Professions Code is amended to read:

10153.5. As used in Sections 10153.2, 10153.3, and 10153.4, "an equivalent course of study" includes courses at a private vocational school which have been found by the commissioner, upon consideration of an application for approval, to be equivalent in quality to the real estate courses offered by the colleges and universities accredited by the Western Association of Schools and Colleges.

As used in Sections 10153.2, 10153.3, and 10153.4, "accredited institution" shall mean a college or university which either:

(a) Is accredited by the Western Association of Schools and Colleges, or by any other regional accrediting agency recognized by the United States Department of Education.

(b) In the judgment of the commissioner, has a real estate curriculum equivalent in quality to that of the institutions accredited pursuant to subdivision (a).

SEC. 4. Section 10209 of the Business and Professions Code is amended to read:

10209. (a) The commissioner shall, by regulation, establish fees for applications for approval of equivalent courses of study as defined in Section 10153.5 in an amount sufficient to cover the cost of administration. The fee for an application for approval of each course given by a private vocational school, including any branch school which gives the same course, shall not exceed one hundred fifty dollars ($150).

(b) The commissioner shall notify every applicant of his decision on the application no later than 60 days after receipt by the commissioner of a completed application. The application shall be on a form to be supplied by the commissioner.

SEC. 5. Section 10231.3 of the Business and Professions Code is repealed.

SEC. 6. Section 10232.4 of the Business and Professions Code, as amended by Chapter 994 of the Statutes of 1994, is amended to read:

10232.4. (a) In making a solicitation to a particular person and in negotiating with that person to make a loan secured by real property or to purchase a real property sales contract or a note secured by a deed of trust, a real estate broker shall deliver to the person solicited the applicable completed statement described in Section 10232.5 as early as practicable before he or she becomes obligated to make the loan or purchase and, except as provided in subdivision (c), before the receipt by or on behalf of the broker of any funds from that person. The statement shall be signed by the prospective lender or purchaser and by the real estate broker, or by a real estate salesperson licensed to the broker, on the broker's behalf. When so executed, an exact copy shall be given to the prospective lender or purchaser, and the broker shall retain a true copy of the executed statement for a period of three years.

(b) The requirement of delivery of a disclosure statement pursuant to subdivision (a) shall not apply with respect to the following persons:

(1) The prospective purchaser of a security offered under authority of a permit issued pursuant to Article 6 (commencing with Section 10237) of this chapter or applicable provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) which requires that each prospective purchaser of a security be given a prospectus or other form of disclosure statement approved by the department issuing the permit.

(2) The seller of real property who agrees to take back a promissory note of the purchaser as a method of financing all or a part of the purchase of the property.

(3) The prospective purchaser of a security offered pursuant to and in accordance with a regulation duly adopted by the Commissioner of Corporations granting an exemption from qualification under the Corporate Securities Law of 1968 for the offering if one of the conditions of the exemption is that each prospective purchaser of the security be given a disclosure statement prescribed by the regulation before the prospective purchaser becomes obligated to purchase the security.

(4) A prospective lender or purchaser, if that lender or purchaser is any of the following:

(A) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or corporate or other instrumentality of any one or more of the foregoing, including the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, and the Veteran's Administration.

(B) Any bank or subsidiary thereof, bank holding company or subsidiary thereof, trust company, savings bank or savings and loan association or subsidiary thereof, savings bank or savings association holding company or subsidiary thereof, credit union, industrial bank or industrial loan company, personal property broker, commercial finance lender, consumer finance lender, or insurance company doing business under the authority of, and in accordance with, the laws of this state, any other state, or of the United States relating to banks, trust companies, savings banks or savings associations, credit unions, industrial banks or industrial loan companies, commercial finance lenders, or insurance companies, as evidenced by a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(C) Trustees of pension, profit-sharing, or welfare fund, if the pension, profit-sharing, or welfare fund has a net worth of not less than fifteen million dollars ($15,000,000).

(D) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation.

(E) Any syndication or other combination of any of the entities specified in subparagraph (A), (B), (C), or (D) which is organized to purchase the promissory note.

(F) A licensed real estate broker engaging in the business of selling all or part of the loan, note, or contract to a lender or purchaser to whom no disclosure is required pursuant to this subdivision.

(G) A licensed residential mortgage lender or servicer when acting under the authority of that license.

(c) When the broker has custody of funds of a prospective lender or purchaser which were received and are being maintained with the express permission of the owner and in accordance with law, and the broker retains the funds in an escrow depository or a trust fund account pending receipt of the owner's express written instructions to disburse the funds for a loan or purchase, the broker shall cause the disclosure statement to be delivered to the owner and shall obtain the owner's written consent to the proposed disbursement before making the disbursement. Unless the broker has a written agreement with the owner as provided in Section 10231.1, the broker shall transmit to the owner not later than 60 days after receipt, all funds then in the broker's custody for which the owner has not given written instructions authorizing disbursement.

SEC. 7. Section 10240 of the Business and Professions Code is amended to read:

10240. (a) Every real estate broker, upon acting within the meaning of subdivision (d) of Section 10131, who negotiates a loan to be secured directly or collaterally by a lien on real property shall, within three business days after receipt of a completed written loan application or before the borrower becomes obligated on the note, whichever is earlier, cause to be delivered to the borrower a statement in writing, containing all the information required by Section 10241. It shall be personally signed by the borrower and by the real estate broker negotiating the loan or by a real estate licensee acting for the broker in negotiating the loan. When so executed, an exact copy thereof shall be delivered to the borrower at the time of its execution. The real estate broker negotiating the loan shall retain on file for a period of three years a true and correct copy of such statement as signed by the borrower.

No real estate licensee shall permit such statement to be signed by a borrower if any information required by Section 10241 is omitted.

(b) For the purposes of applying the provisions of this article, a real estate broker is acting within the meaning of subdivision (d) of Section 10131 if he or she solicits borrowers, or causes borrowers to be solicited, through express or implied representations that the broker will act as an agent in arranging a loan, but in fact makes the loan to the borrower from funds belonging to the broker.

SEC. 8. Section 10249 of the Business and Professions Code is amended to read:

10249. (a) A person acting as a principal or agent who intends, in this state, to sell or lease or offer for sale or lease lots, parcels, or interests in a subdivision, as defined in Section 10249.1, situated outside of this state but within the United States, shall, prior to a sale, lease, or offer, register the subdivision with the commissioner. An application for registration shall be made on a form acceptable to the commissioner and include, together with a fee, a description of the

offering, certification by the applicant that the subdivision is in compliance with all applicable requirements of the state or states wherein the project is located, evidence of this compliance, if applicable, and a consent to service as described in Section 10249.92.

(b) The commissioner, within 10 days of receipt of an application of registration, shall provide the applicant with notice of the completion of the registration or a notice of deficiency. If the department does not provide a notice within 10 days, the registration shall be deemed complete.

SEC. 9. Section 10249.93 is added to the Business and Professions Code, to read:

10249.93. (a) If the commissioner finds, based on available evidence, that a person is violating any provision of this article or a regulation of the commissioner adopted to implement a provision of this article, the commissioner may order the person to cease and desist from committing the violation or to cease and desist from the further sale or lease of an interest in the subdivision until the violation is corrected.

(b) A person to whom an order is directed shall, upon receipt of the order, immediately cease the activity described in the order.

(c) The person to whom the order is directed may request a hearing in accordance with subdivision (c) of Section 11019.

SEC. 10. Section 10250.1 of the Business and Professions Code is amended to read:

10250.1. "Subdivision," as used in this article, includes both of the following:

(a) A time-share project as defined in Section 11003.5 and subdivision (e) of Section 11004.5, situated outside this state, including a project situated outside the United States but only if it consists of, or will consist of, two or more distinct geographic locations, one of which is located within the United States.

(b) A qualified resort vacation club as defined in Section 10260.

SEC. 10.5. Section 10250.1 of the Business and Professions Code is amended to read:

10250.1. "Subdivision," as used in this article, includes all of the following:

(a) A time-share project as defined in subdivision (a) of Section 11003.5 and subdivision (e) of Section 11004.5, situated outside this state, including, without limitation, a project situated outside the United States but only if it consists of, or will consist of, two or more distinct geographic locations, one of which is located within the United States.

(b) A qualified resort vacation club as defined in Section 10260.

(c) A multisite time-share project as defined in subdivision (f) of Section 11003.5, which includes accommodations and facilities located either entirely outside of this state or both within and outside of this state.

SEC. 11. Section 10509 of the Business and Professions Code is amended to read:

10509. (a) It is unlawful for a mineral, oil, and gas broker or a real estate broker to employ or compensate, directly or indirectly, any person who is not a mineral, oil, and gas broker or a licensed real estate salesperson in the employ of the real estate broker for performing any acts for which a mineral, oil, and gas broker license is required.

(b) It is a misdemeanor, punishable by a fine of not exceeding one hundred dollars ($100) for each offense, for any person, whether obligor, escrow holder or otherwise, to pay or deliver compensation to a person for performing any acts for which a mineral, oil, and gas broker license is required unless that person is known by the payer to be or has presented evidence to the payer that he or she was a licensed mineral, oil, and gas broker at the time the compensation was earned.

SEC. 12. Section 11000.5 of the Business and Professions Code is repealed.

SEC. 13. Section 11000.6 of the Business and Professions Code is repealed.

SEC. 14. Section 11018.7 of the Business and Professions Code is amended to read:

11018.7. (a) No amendment or modification of provisions in the declaration of restrictions, bylaws, articles of incorporation or other instruments controlling or otherwise affecting rights to ownership, possession, or use of interests in subdivisions as defined in Sections 11000.1 and 11004.5 which would materially change those rights of an owner, either directly or as a member of an association of owners, is valid without the prior written consent of the Real Estate Commissioner during the period of time when the subdivider or his or her successor in interest holds or directly controls as many as one-fourth of the votes that may be cast to effect that change.

(b) The commissioner shall not grant his or her consent to the submission of the proposed change to a vote of owners or members if he or she finds that the change if effected would create a new condition or circumstance that would form the basis for denial of a public report under Sections 11018 or 11018.5.

An application for consent may be filed by any interested person on a form prescribed by the commissioner. A filing fee to be fixed by regulation, but not to exceed twenty-five dollars ($25), shall accompany each application.

There shall be no official meeting of owners or members nor any written solicitation of them for the purpose of effectuating a change referred to herein except in accordance with a procedure approved by the commissioner after the application for consent has been filed with him or her; provided, however, that the governing body of the owners association may meet and vote on the question of submission of the proposed change to the commissioner.

SEC. 15. Section 11025 of the Business and Professions Code is repealed.

SEC. 16. Section 11027 of the Business and Professions Code is repealed.

SEC. 17. Section 11028 of the Business and Professions Code is repealed.

SEC. 18. Section 11029.1 of the Business and Professions Code is repealed.

SEC. 19. Section 11030 of the Business and Professions Code is repealed.

SEC. 20. Section 10.5 of this bill incorporates amendments to Section 10250.1 of the Business and Professions Code proposed by both this bill and AB 2530. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 10250.1 of the Business and Professions Code, and (3) this bill is enacted after AB 2530, in which case Section 10 of this bill shall not become operative.

CHAPTER 588

An act relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. (a) Notwithstanding Article 2 (commencing with Section 10051) of Chapter 1 of Division 5 of the Public Utilities Code, the City of Fontana may sell a water utility pursuant to Article 3 (commencing with Section 37420) of Chapter 5 of Part 2 of Division 3 of Title 4 of the Government Code, subject to the following limitations and requirements:

(1) The legislative body of the city shall not sell the water utility for less than two million one hundred sixty-one thousand one hundred dollars ($2,161,100).

(2) The legislative body of the city shall not sell the water utility without a unanimous vote of the legislative body of the city.

(3) The legislative body of the city shall enter into an agreement by October 31, 1996, to sell the water utility.

(4) Notwithstanding Section 37425 of the Government Code, if, pursuant to Section 37424, the legislative body of the city finds that protests have been filed by at least 5 percent of the city's registered voters, the legislative body of the city shall call an election pursuant to Section 37427 of the Government Code. The legislative body shall not act to sell the water utility unless it considers oral and written

protests at its second regularly scheduled meeting following the adoption of a resolution of intention pursuant to Section 37422 of the Government Code. If an election is called pursuant to this subdivision, the legislative body of the city shall not sell the water utility unless the proposition is approved by a majority of the city's voters voting on the question.

(b) This section shall become inoperative on November 1, 1996, and, as of that date, is repealed, unless a later enacted statute, that becomes operative on or before November 1, 1996, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 2. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable, within the meaning of Section 16 of Article IV of the California Constitution, because of unique circumstances applicable to the City of Fontana and not generally applicable. The facts constituting the need for a special statute are:

The infrastructure for the City of Fontana's water utility was financed, built, and dedicated by a private developer and the City of Fontana does not provide water utility services citywide. The City of Fontana wants to sell a city-owned water utility to satisfy a judgment against the city of over one million five hundred thousand dollars ($1,500,000) and conclude a decade of litigation. If the sale is not concluded quickly, a related thirty-one million dollar ($31,000,000) bond issue may be defaulted upon.

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 grant the City of Fontana the authority to sell a city-owned water utility without an automatic election regarding the proposed sale, thereby facilitating the sale and averting a potential bond default, it is necessary that this act take effect immediately.

CHAPTER 589

An act to amend Sections 5008, 5008.6, 5132, 5150, 5210, 5214, 5220, 5221, 5227, 5341, 5512, 5520, 5521, 5522, 5523, 5524, 5525, 6338, 6810, 7132, 7150, 7210, 7214, 7220, 7221, 7341, 7512, 7520, 7521, 7522, 7523, 7524, 7525, 8338, 8810, 9132, 9210, 9214, 9221, 9412, 12330, 12350, 12354, 12360, 12431, 12470, 12608, and 12670 of, and to add Sections 5517, 6618, 7517, 8618, 9421, 12214.6, 12466 and 12637 to, the Corporations Code, relating to corporations.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 5008 of the Corporations Code is amended to read:

5008. (a) Upon receipt of any instrument by the Secretary of State for filing pursuant to this part, Part 2, Part 3, Part 4 or Part 5, if it conforms to law, it shall be filed by, and in the office of the Secretary of State and the date of filing endorsed thereon. Except for instruments filed pursuant to Section 6210, 8210, or 9660 the date of filing shall be the date the instrument is received by the Secretary of State unless withheld from filing for a period of time pursuant to a request by the party submitting it for filing or unless in the judgment of the Secretary of State the filing is intended to be coordinated with the filing of some other corporate document which cannot be filed. The Secretary of State shall file a document as of any requested future date not more than 90 days after its receipt, including a Saturday, Sunday or legal holiday, if the document is received in the Secretary of State's office at least one business day prior to the requested date of filing. An instrument does not fail to conform to law because it is not accompanied by the full filing fee if the unpaid portion of such fee does not exceed the limits established by the policy of the Secretary of State for extending credit in such cases.

(b) If the Secretary of State determines that an instrument submitted for filing or otherwise submitted does not conform to law and returns it to the person submitting it, the instrument may be resubmitted accompanied by a written opinion of a member of the State Bar of California submitting the instrument, or representing the person submitting it, to the effect that the specific provision of the instrument objected to by the Secretary of State does conform to law and stating the points and authorities upon which the opinion is based. The Secretary of State shall rely, with respect to any disputed point of law (other than the application of Section 5122, 7122, or 9122), upon such written opinion in determining whether the instrument conforms to law. The date of filing in such case shall be the date the instrument is received on resubmission.

(c) Any instrument filed with respect to a corporation (other than original articles) may provide that it is to become effective not more than 90 days subsequent to its filing date. In case such a delayed effective date is specified, the instrument may be prevented from becoming effective by a certificate stating that by appropriate corporate action it has been revoked and is null and void, executed in the same manner as the original instrument and filed before the specified effective date. In the case of a merger agreement, such certificate revoking the earlier filing need only be executed on behalf of one of the constituent corporations. If no such revocation certificate is filed, the instrument becomes effective on the date specified.

SEC. 1.5. Section 5008.6 of the Corporations Code is amended to read:

5008.6. (a) A corporation that (1) fails to file a statement pursuant to Section 6210, 8210, or 9660 for an applicable filing period, (2) has not filed a statement pursuant to Section 6210, 8210, or 9660 during the preceding 24 months, and (3) was certified for penalty pursuant to Section 6810, 8810, or 9690 for the same filing period of the prior year, shall be subject to suspension pursuant to this section rather than to penalty under Section 6810 or 8810.

(b) When subdivision (a) is applicable, the Secretary of State shall mail a notice to the corporation informing the corporation that its corporate powers, rights, and privileges will be suspended 60 days from the date of the notice if the corporation does not file the statement required by Section 6210, 8210, or 9660.

(c) If the 60-day period expires without the delinquent corporation filing the required statement, the Secretary of State shall notify the Franchise Tax Board of the suspension, and mail a notice of the suspension to the corporation. Thereupon, except for the purpose of amending the articles of incorporation to set forth a new name or filing an application for exempt status, the corporate powers, rights, and privileges of the corporation are suspended.

(d) A statement required by Section 6210, 8210, or 9660 may be filed, notwithstanding suspension of the corporate powers, rights, and privileges under this section or under provisions of the Revenue and Taxation Code. Upon the filing of a statement under Section 6210, 8210, or 9660, by a corporation that has suffered suspension under this section, the Secretary of State shall certify that fact to the Franchise Tax Board and the corporation may thereupon, in accordance with Section 23305a of the Revenue and Taxation Code, be relieved from suspension, unless the corporation is held in suspension by the Franchise Tax Board because of Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code.

SEC. 2. Section 5132 of the Corporations Code is amended to read:

5132. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(i) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(ii) That in the event of its dissolution pursuant to an article provision allowed by subdivision (a), paragraph (2), clause (i), of this section, or, in the event of its dissolution for any reason, any assets of

the corporation after compliance with the applicable provisions of Chapters 15 (commencing with Section 6510), 16 (commencing with Section 6610) and 17 (commencing with Section 6710) shall be distributed to the head organization.

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions:

(1) The names and addresses of the persons appointed to act as initial directors.

(2) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class.

(3) A provision which would allow any member to have more or less than one vote in any election or other matter presented to the members for a vote.

(4) A provision that requires an amendment to the articles, as provided in subdivision (c) of Section 5812, or to the bylaws, and any amendment or repeal of that amendment, to be approved in writing by a specified person or persons other than the board or the members.

(5) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this part to be stated in the bylaws.

SEC. 3. Section 5150 of the Corporations Code is amended to read:

5150. (a) Except as provided in subdivision (c), and Sections 5151, 5220, 5224, 5512, 5613, and 5616, bylaws may be adopted, amended or repealed by the board unless the action would materially and adversely affect the rights of members as to voting or transfer.

(b) Bylaws may be adopted, amended or repealed by approval of members (Section 5034); provided, however, that such adoption, amendment or repeal also requires approval by the members of a class if such action would materially and adversely affect the rights of that class as to voting or transfer in a manner different than such action affects another class.

(c) The articles or bylaws may restrict or eliminate the power of the board to adopt, amend or repeal any or all bylaws, subject to subdivision (e) of Section 5151.

(d) Bylaws may also provide that repeal or amendment of those bylaws, or the repeal or amendment of specified portions of those bylaws, may occur only with the approval in writing of a specified person or persons other than the board or members.

SEC. 4. Section 5210 of the Corporations Code is amended to read:

5210. Each corporation shall have a board of directors. Subject to the provisions of this part and any limitations in the articles or bylaws relating to action required to be approved by the members (Section 5034), or by a majority of all members (Section 5033), the activities and affairs of a corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board. The board may delegate the management of the activities of the corporation to any person or persons, management company, or committee however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board.

SEC. 5. Section 5214 of the Corporations Code is amended to read:

5214. Subject to the provisions of subdivision (a) of Section 5141 and Section 5142, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between any corporation and any other person, when signed by any one of the chairman of the board, the president or any vice president and by any one of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation, is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same.

SEC. 6. Section 5220 of the Corporations Code is amended to read:

5220. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than three years, as are fixed in the articles or bylaws. However, the terms of directors of a corporation without members may be up to six years. In the absence of any provision in the articles or bylaws, the term shall be one year. The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups of one or more directors. The terms of office of the several groups and the number of directors in each group need not be uniform. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034).

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a

corporation may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 5222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034), subject, if so provided in the bylaws, to the consent of the person or persons entitled to designate or select any such director or directors.

SEC. 7. Section 5221 of the Corporations Code is amended to read:

5221. (a) The board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Article 3 (commencing with Section 5230), or, if at the time a director is elected, the bylaws provide that a director may be removed for missing a specified number of board meetings, fails to attend the specified number of meetings.

(b) As provided in paragraph (3) of subdivision (c) of Section 5151, the articles or bylaws may prescribe the qualifications of directors. The board, by a majority vote of the directors who meet all of the required qualifications to be a director, may declare vacant the office of any director who fails or ceases to meet any required qualification that was in effect at the beginning of that director's current term of office.

SEC. 8. Section 5227 of the Corporations Code is amended to read:

5227. (a) Any other provision of this part notwithstanding, not more than 49 percent of the persons serving on the board of any corporation may be interested persons.

(b) For the purpose of this section, "interested persons" means either:

(1) Any person currently being compensated by the corporation for services rendered to it within the previous 12 months, whether as a full- or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; or

(2) Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

(c) A person with standing under Section 5142 may bring an action to correct any violation of this section. The court may enter any order which shall provide an equitable and fair remedy to the corporation, including, but not limited to, an order for the election

of additional directors, an order to enlarge the size of the board, or an order for the removal of directors.

(d) The provisions of this section shall not affect the validity or enforceability of any transaction entered into by a corporation.

SEC. 9. Section 5341 of the Corporations Code is amended to read:

5341. (a) No member may be expelled or suspended, and no membership or membership rights may be terminated or suspended, except according to procedures satisfying the requirements of this section. An expulsion, termination or suspension not in accord with this section shall be void and without effect.

(b) Any expulsion, suspension or termination must be done in good faith and in a fair and reasonable manner. Any procedure which conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the suspension, termination, or expulsion are considered.

(c) A procedure is fair and reasonable when:

(1) The provisions of the procedure have been set forth in the articles or bylaws, or copies of such provisions are sent annually to all the members as required by the articles or bylaws;

(2) It provides the giving of 15 days prior notice of the expulsion, suspension or termination and the reasons therefor; and

(3) It provides an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or body authorized to decide that the proposed expulsion, termination or suspension not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the member shown on the corporation's records.

(e) Any action challenging an expulsion, suspension or termination of membership, including any claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension or termination. In the event such an action is successful the court may order any relief, including reinstatement, it finds equitable under the circumstances, but no vote of the members or of the board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court finds further that the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, of wrongfully excluding the member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote.

(f) This section governs only the procedures for expulsion, suspension or termination and not the substantive grounds therefor. An expulsion, suspension or termination based upon substantive

grounds which violate contractual or other rights of the member or are otherwise unlawful, is not made valid by compliance with this section.

(g) A member who is expelled or suspended or whose membership is terminated shall be liable for any charges incurred, services or benefits actually rendered, dues, assessments or fees incurred before the expulsion, suspension or termination or arising from contract or otherwise.

SEC. 10. Section 5512 of the Corporations Code is amended to read:

5512. (a) One-third of the voting power, represented in person or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 5034). If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members, unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws.

(b) Where a bylaw authorizes a corporation to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 5511.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).

SEC. 11. Section 5517 is added to the Corporations Code, to read:

5517. (a) If the name signed on a ballot, consent, waiver, or proxy appointment corresponds to the name of a member, the corporation if acting in good faith is entitled to accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member.

(b) If the name signed on a ballot, consent, waiver, or proxy appointment does not correspond to the record name of a member, the corporation if acting in good faith is nevertheless entitled to accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member if any of the following occur:

(1) The member is an entity and the name signed purports to be that of an officer or agent of the entity.

(2) The name signed purports to be that of an attorney-in-fact of the member and if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the ballot, consent, waiver, or proxy appointment.

(3) Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all the coholders.

(c) The corporation is entitled to reject a ballot, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has a reasonable basis for doubt concerning the validity of the signature or the signatory's authority to sign for the member.

(d) The corporation and any officer or agent thereof who accepts or rejects a ballot, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section shall not be liable in damages to the member for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a ballot, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

SEC. 12. Section 5520 of the Corporations Code is amended to read:

5520. (a) As to directors elected by members, there shall be available to the members reasonable nomination and election procedures given the nature, size and operations of the corporation.

(b) If a corporation complies with all of the provisions of Sections 5521, 5522, 5523, and 5524 applicable to a corporation with the same number of members, the nomination and election procedures of that corporation shall be deemed reasonable. However, those sections do not prescribe the exclusive means of making available to the members reasonable procedures for nomination and election of directors. A corporation may make available to the members other reasonable nomination and election procedures given the nature, size, and operations of the corporation.

SEC. 13. Section 5521 of the Corporations Code is amended to read:

5521. A corporation with 500 or more members may provide that, except for directors who are elected as authorized by Section 5152 or 5153, and except as provided in Section 5522, any person who is qualified to be elected to the board of directors of the corporation may be nominated:

(a) By any method authorized by the bylaws, or if no method is set forth in the bylaws by any method authorized by the board.

(b) By petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by members representing the following number of votes:

Number of Votes Eligible to be Cast for Director Disregarding any Provision for Cumulative Voting	Number of Votes
Under 5,000	2 percent of voting power
5,000 or more	one−twentieth of 1 percent of voting power but not less than 100, nor more than 500.

(c) If there is a meeting to elect directors, by any member present at the meeting in person or by proxy if proxies are permitted.

SEC. 14. Section 5522 of the Corporations Code is amended to read:

5522. A corporation with 5,000 or more members may provide that, in any election of a director or directors by members of the corporation except for an election authorized by Section 5152 or 5153.

(a) The corporation's articles or bylaws shall set a date for the close of nominations for the board. The date shall not be less than 50 nor more than 120 days before the day directors are to be elected. No nominations for the board can be made after the date set for the close of nominations.

(b) If more people are nominated for the board than can be elected, the election shall take place by means of a procedure which allows all nominees a reasonable opportunity to solicit votes and all members a reasonable opportunity to choose among the nominees.

(c) A nominee shall have a reasonable opportunity to communicate to the members the nominee's qualifications and the reasons for the nominee's candidacy.

(d) If after the close of nominations the number of people nominated for the board is not more than the number of directors to be elected, the corporation may without further action declare that those nominated and qualified to be elected have been elected.

SEC. 15. Section 5523 of the Corporations Code is amended to read:

5523. A corporation with 500 or more members may provide that where it distributes any written election material soliciting a vote for any nominee for director at the corporation's expense, it shall make available, at the corporation's expense to each other nominee, in or with the same material, the same amount of space that is provided any other nominee, with equal prominence, to be used by the nominee for a purpose reasonably related to the election.

SEC. 16. Section 5524 of the Corporations Code is amended to read:

5524. A corporation with 500 or more members may provide that upon written request by any nominee for election to the board and the payment with such request of the reasonable costs of mailing (including postage) the corporation shall within 10 business days

after such request (provided payment has been made) mail to all members, or such portion of them as the nominee may reasonably specify, any material, which the nominee may furnish and which is reasonably related to the election, unless the corporation within five business days after the request allows the nominee, at the corporation's option, the rights set forth in either paragraph (1) or (2) of subdivision (a) of Section 6330.

SEC. 17. Section 5525 of the Corporations Code is amended to read:

5525. (a) This section shall apply to corporations publishing or mailing materials on behalf of any nominee in connection with procedures for the nomination and election of directors.

(b) Neither the corporation, nor its agents, officers, directors, or employees, may be held criminally liable, liable for any negligence (active or passive) or otherwise liable for damages to any person on account of any material which is supplied by a nominee for director and which it mails or publishes in procedures intended to comply with Section 5520 or pursuant to Section 5523 or 5524, but the nominee on whose behalf such material was published or mailed shall be liable and shall indemnify and hold the corporation, its agents, officers, directors and employees and each of them harmless from all demands, costs, including reasonable legal fees and expenses, claims, damages and causes of action arising out of such material or any such mailing or publication.

(c) Nothing in this section shall prevent a corporation or any of its agents, officers, directors, or employees from seeking a court order providing that the corporation need not mail or publish material tendered by or on behalf of a nominee under this article on the ground the material will expose the moving party to liability.

SEC. 18. Section 6338 of the Corporations Code is amended to read:

6338. (a) A membership list is a corporate asset. Without consent of the board a membership list or any part thereof may not be obtained or used by any person for any purpose not reasonably related to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:

(1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation.

(2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation.

(3) Used for any commercial purpose or purpose in competition with the corporation.

(4) Sold to or purchased by any person.

(b) Any person who violates the provisions of subdivision (a) shall be liable for any damage such violation causes the corporation and shall account for and pay to the corporation any profit derived as a

result of such violation. In addition, a court in its discretion may award exemplary damages for a fraudulent or malicious violation of subdivision (a).

(c) Nothing in this article shall be construed to limit the right of a corporation to obtain injunctive relief necessary to restrain misuse of a membership list or any part thereof.

(d) In any action or proceeding under this section, a court may award the corporation reasonable costs and expenses, including reasonable attorneys' fees, in connection with such action or proceeding.

(e) As used in this section, the term "membership list" means the record of the members' names and addresses.

SEC. 19. Section 6618 is added to the Corporations Code, to read:

6618. (a) A corporation in the process of voluntary winding up may dispose of the known claims against it by following the procedure described in this section.

(b) The written notice to known creditors and claimants required by subdivision (c) of Section 6613 shall comply with all of the following requirements:

(1) Describe any information that must be included in a claim.

(2) Provide a mailing address where a claim may be sent.

(3) State the deadline, which may not be fewer than 120 days from the effective date of the written notice, by which the corporation must receive the claim.

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against the corporation is barred if any of the following occur:

(1) A claimant who has been given the written notice under subdivision (b) does not deliver the claim to the corporation by the deadline.

(2) A claimant whose claim was rejected by the corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

(d) For purposes of this section "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

SEC. 20. Section 6810 of the Corporations Code is amended to read:

6810. (a) Upon the failure of a corporation to file the statement required by Section 6210, the Secretary of State shall mail a notice of such delinquency to the corporation. The notice shall also contain information concerning the application of this section, and advise the corporation of the penalty imposed by Section 19141 of the Revenue and Taxation Code for failure to timely file the required statement after notice of delinquency has been mailed by the Secretary of State. If, within 60 days after the mailing of the notice of delinquency, a statement pursuant to Section 6210 has not been filed by the

corporation, the Secretary of State may pursuant to regulation certify the name of such corporation to the Franchise Tax Board.

(b) Upon certification pursuant to subdivision (a), the Franchise Tax Board shall assess against the corporation a penalty of fifty dollars ($50) pursuant to Section 25936 of the Revenue and Taxation Code.

(c) The penalty herein provided shall not apply to a corporation which on or prior to the date of certification pursuant to subdivision (a) has dissolved or has been merged into another corporation.

(d) The penalty herein provided shall not apply and the Secretary of State need not mail a notice of delinquency to a corporation the corporate powers, rights and privileges of which have been suspended by the Franchise Tax Board pursuant to Section 23301, 23301.5 or 23775 of the Revenue and Taxation Code on or prior to, and remain suspended on, the last day of the filing period pursuant to Section 6210. The Secretary of State need not mail a form pursuant to Section 6210 to a corporation the corporate powers, rights and privileges of which have been so suspended by the Franchise Tax Board on or prior to, and remain suspended on, the day the Secretary of State prepares the forms for mailing.

(e) If, after certification pursuant to subdivision (a) the Secretary of State finds the required statement was filed before the expiration of the 60-day period after mailing of the notice of delinquency, the Secretary of State shall promptly decertify the name of the corporation to the Franchise Tax Board. The Franchise Tax Board shall then promptly abate any penalty assessed against the corporation pursuant to Section 19141 of the Revenue and Taxation Code.

(f) If the Secretary of State determines that the failure of a corporation to file a statement required by Section 6210 is excusable because of reasonable cause or unusual circumstances which justify the failure, the Secretary of State may waive the penalty imposed by this section and by Section 19141 of the Revenue and Taxation Code, in which case the Secretary of State shall not certify the name of the corporation to the Franchise Tax Board, or if already certified, the Secretary of State shall promptly decertify the name of the corporation.

SEC. 21. Section 7132 of the Corporations Code is amended to read:

7132. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) A provision conferring upon the holders of any evidences of indebtedness, issued or to be issued by a corporation the right to vote in the election of directors and on any other matters on which members may vote under this part even if the corporation does not have members.

(3) A provision conferring upon members the right to determine the consideration for which memberships shall be issued.

(4) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(i) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(ii) That in the event of its dissolution pursuant to an article provision allowed by subdivision (a), paragraph (4), clause (i), of this section, or, in the event of its dissolution for any reason, any assets of the corporation after compliance with the applicable provisions of Chapters 15 (commencing with Section 8510), 16 (commencing with Section 8610), and 17 (commencing with Section 8710) shall be distributed to the head organization.

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions:

(1) The names and addresses of the persons appointed to act as initial directors.

(2) Provisions concerning the transfer of memberships, in accordance with Section 7320.

(3) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class.

(4) A provision which would allow any member to have more or less than one vote in any election or other matter presented to the members for a vote.

(5) A provision that requires an amendment to the articles or to the bylaws, and any amendment or repeal of that amendment, to be approved in writing by a specified person or persons other than the board or the members.

(6) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this part to be stated in the bylaws.

SEC. 22. Section 7150 of the Corporations Code is amended to read:

7150. (a) Except as provided in subdivision (c) and Sections 7151, 7220, 7224, 7512, 7613, and 7615, bylaws may be adopted, amended or repealed by the board unless the action would:

(1) Materially and adversely affect the rights of members as to voting, dissolution, redemption, or transfer;

(2) Increase or decrease the number of members authorized in total or for any class;

(3) Effect an exchange, reclassification or cancellation of all or part of the memberships; or

(4) Authorize a new class of membership.

(b) Bylaws may be adopted, amended or repealed by approval of the members (Section 5034); provided, however, that such adoption, amendment or repeal also requires approval by the members of a class if such action would:

(1) Materially and adversely affect the rights, privileges, preferences, restrictions or conditions of that class as to voting, dissolution, redemption, or transfer in a manner different than such action affects another class;

(2) Materially and adversely affect such class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions or conditions of another class;

(3) Increase or decrease the number of memberships authorized for such class;

(4) Increase the number of memberships authorized for another class;

(5) Effect an exchange, reclassification or cancellation of all or part of the memberships of such class; or

(6) Authorize a new class of memberships.

(c) The articles or bylaws may restrict or eliminate the power of the board to adopt, amend or repeal any or all bylaws, subject to subdivision (e) of Section 7151.

(d) Bylaws may also provide that the repeal or amendment of those bylaws, or the repeal or amendment of specified portions of those bylaws, may occur only with the approval in writing of a specified person or persons other than the board or members.

SEC. 23. Section 7210 of the Corporations Code is amended to read:

7210. Each corporation shall have a board of directors. Subject to the provisions of this part and any limitations in the articles or bylaws relating to action required to be approved by the members (Section 5034), or by a majority of all members (Section 5033), the activities and affairs of a corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board. The board may delegate the management of the activities of the corporation to any person or persons, management company, or committee however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board.

SEC. 24. Section 7214 of the Corporations Code is amended to read:

7214. Subject to the provisions of subdivision (a) of Section 7141 and Section 7142, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between any corporation and any other person, when signed by any

one of the chairman of the board, the president or any vice president and by any one of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation, is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same.

SEC. 25. Section 7220 of the Corporations Code is amended to read:

7220. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than four years, as are fixed in the articles or bylaws. However, the terms of directors of a corporation without members may be up to six years. In the absence of any provision in the articles or bylaws, the term shall be one year. The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups of one or more directors. The terms of office of the several groups and the number of directors in each group need not be uniform. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034).

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 7222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034).

SEC. 26. Section 7221 of the Corporations Code is amended to read:

7221. (a) The board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or, in the case of a corporation holding assets in charitable trust, has been found by a final order or judgment of any court to have breached any duty arising as a result of Section 7238, or, if at the time a director is elected, the bylaws provide that a

director may be removed for missing a specified number of board meetings, fails to attend the specified number of meetings.

(b) As provided in paragraph (3) of subdivision (c) of Section 7151, the articles or bylaws may prescribe the qualifications of the directors. The board, by a majority vote of the directors who meet all of the required qualifications to be a director, may declare vacant the office of any director who fails or ceases to meet any required qualification that was in effect at the beginning of that director's current term of office.

SEC. 27. Section 7341 of the Corporations Code is amended to read:

7341. (a) No member may be expelled or suspended, and no membership or memberships may be terminated or suspended, except according to procedures satisfying the requirements of this section. An expulsion, termination or suspension not in accord with this section shall be void and without effect.

(b) Any expulsion, suspension, or termination must be done in good faith and in a fair and reasonable manner. Any procedure which conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the suspension, termination, or expulsion are considered.

(c) A procedure is fair and reasonable when:

(1) The provisions of the procedure have been set forth in the articles or bylaws, or copies of such provisions are sent annually to all the members as required by the articles or bylaws;

(2) It provides the giving of 15 days' prior notice of the expulsion, suspension or termination and the reasons therefor; and

(3) It provides an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or body authorized to decide that the proposed expulsion, termination or suspension not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the members shown on the corporation's records.

(e) Any action challenging an expulsion, suspension or termination of membership, including any claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension or termination. In the event such an action is successful the court may order any relief, including reinstatement, it finds equitable under the circumstances, but no vote of the members or of the board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court finds further that the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, of wrongfully excluding

the member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote.

(f) This section governs only the procedures for expulsion, suspension or termination and not the substantive grounds therefor. An expulsion, suspension or termination based upon substantive grounds which violate contractual or other rights of the member or are otherwise unlawful is not made valid by compliance with this section.

(g) A member who is expelled or suspended or whose membership is terminated shall be liable for any charges incurred, services or benefits actually rendered, dues, assessments or fees incurred before the expulsion, suspension or termination or arising from contract or otherwise.

SEC. 28. Section 7512 of the Corporations Code is amended to read:

7512. (a) One-third of the voting power, represented in person or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 5034). If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members unless the vote of a greater number or voting by classes is required by this part or the articles or bylaws.

(b) Where a bylaw authorizes a corporation to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 7511.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).

SEC. 29. Section 7517 is added to the Corporations Code, to read:

7517. (a) If the name signed on a ballot, consent, waiver, or proxy appointment corresponds to the name of a member, the corporation if acting in good faith is entitled to accept the ballot, consent, waiver or proxy appointment and give it effect as the act of the member.

(b) If the name signed on a ballot, consent, waiver, or proxy appointment does not correspond to the record name of a member,

the corporation if acting in good faith is nevertheless entitled to accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member if any of the following occur:

(1) The member is an entity and the name signed purports to be that of an officer or agent of the entity.

(2) The name signed purports to be that of an attorney-in-fact of the member and if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the ballot, consent, waiver, or proxy appointment.

(3) Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all the coholders.

(4) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, or proxy appointment.

(5) The name signed purports to be that of a receiver or trustee in bankruptcy of the member, and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, or proxy appointment.

(c) The corporation is entitled to reject a ballot, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has a reasonable basis for doubt concerning the validity of the signature or the signatory's authority to sign for the member.

(d) The corporation and any officer or agent thereof who accepts or rejects a ballot, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section shall not be liable in damages to the member for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a ballot, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

SEC. 30. Section 7520 of the Corporations Code is amended to read:

7520. (a) As to directors elected by members, there shall be available to the members reasonable nomination and election procedures given the nature, size and operations of the corporation.

(b) If a corporation complies with all of the provisions of Sections 7521, 7522, 7523, and 7524 applicable to a corporation with the same number of members, the nomination and election procedures of that corporation, shall be deemed reasonable. However, those sections do not prescribe the exclusive means of making available to the members reasonable procedures for nomination and election of

directors. A corporation may make available to the members other reasonable nomination and election procedures given the nature, size, and operations of the corporation.

(c) Subject to the provisions of subdivisions (a), (b), and (d) of Section 7616, the superior court of the proper county shall enforce the provisions of this section.

SEC. 31. Section 7521 of the Corporations Code is amended to read:

7521. A corporation with 500 or more members may provide that, except for directors who are elected as authorized by Section 7152 or 7153, and except as provided in Section 7522, any person who is qualified to be elected to the board of directors of the corporation may be nominated:

(a) By any method authorized by the bylaws, or if no method is set forth in the bylaws by any method authorized by the board.

(b) By petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by members representing the following number of votes:

Number of Votes Eligible to be Cast for Director Disregarding any Provision for Cumulative Voting	Number of Votes
Under 5,000	2 percent of voting power
5,000 or more	one−twentieth of 1 percent of voting power but not less than 100.

This subdivision does not apply to a corporation described in subdivision (c).

(c) In corporations with one million or more members engaged primarily in the business of retail merchandising of consumer goods, by petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by such reasonable number of members as is set forth in the bylaws, or if no number is set forth in the bylaws, by such reasonable number of members as is determined by the directors.

(d) If there is a meeting to elect directors, by any member present at the meeting in person or by proxy if proxies are permitted.

SEC. 32. Section 7522 of the Corporations Code is amended to read:

7522. A corporation with 5,000 or more members may provide that, in any election of a director or directors by members of the corporation except for an election authorized by Section 7152 or 7153:

(a) The corporation's articles or bylaws shall set a date for the close of nominations for the board. The date shall not be less than 50 nor more than 120 days before the day directors are to be elected. No

nominations for the board can be made after the date set for the close of nominations.

(b) If more people are nominated for the board than can be elected, the election shall take place by means of a procedure which allows all nominees a reasonable opportunity to solicit votes and all members a reasonable opportunity to choose among the nominees.

(c) A nominee shall have a reasonable opportunity to communicate to the members the nominee's qualifications and the reasons for the nominee's candidacy.

(d) If after the close of nominations the number of people nominated for the board is not more than the number of directors to be elected, the corporation may without further action declare that those nominated and qualified to be elected have been elected.

SEC. 33. Section 7523 of the Corporations Code is amended to read:

7523. Where a corporation with 500 or more members publishes any material soliciting a vote for any nominee for director in any publication owned or controlled by the corporation, the corporation may provide that it shall make available to all other nominees, in the same issue of the publication, an equal amount of space, with equal prominence, to be used by the nominee for a purpose reasonably related to the election.

SEC. 34. Section 7524 of the Corporations Code is amended to read:

7524. A corporation with 500 or more members may provide that upon written request by any nominee for election to the board and the payment of the reasonable costs of mailing (including postage), the corporation shall within 10 business days after such request (provided payment has been made) mail to all members, or such portion of them as the nominee may reasonably specify, any material, which the nominee may furnish and which is reasonably related to the election, unless the corporation within five business days after the request allows the nominee, at the corporation's option, the rights set forth in either paragraph (1) or (2) of subdivision (a) of Section 8330.

SEC. 35. Section 7525 of the Corporations Code is amended to read:

7525. (a) This section shall apply to corporations publishing or mailing materials on behalf of any nominee in connection with procedures for the nomination and election of directors.

(b) Neither the corporation, nor its agents, officers, directors, or employees, may be held criminally liable, liable for any negligence (active or passive) or otherwise liable for damages to any person on account of any material which is supplied by a nominee for director and which it mails or publishes in procedures intended to comply with Section 7520 or pursuant to Section 7523 or 7524 but the nominee on whose behalf such material was published or mailed shall be liable and shall indemnify and hold the corporation, its agents, officers, directors, and employees and each of them harmless from all

demands, costs, including reasonable legal fees and expenses, claims, damages and causes of action arising out of such material or any such mailing or publication.

(c) Nothing in this section shall prevent a corporation or any of its agents, officers, directors, or employees from seeking a court order providing that the corporation need not mail or publish material tendered by or on behalf of a nominee under this article on the ground the material will expose the moving party to liability.

SEC. 36. Section 8338 of the Corporations Code is amended to read:

8338. (a) A membership list is a corporate asset. Without consent of the board a membership list or any part thereof may not be obtained or used by any person for any purpose not reasonably related to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:

(1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation.

(2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation.

(3) Used for any commercial purpose or purpose in competition with the corporation.

(4) Sold to or purchased by any person.

(b) Any person who violates the provisions of subdivision (a) shall be liable for any damage such violation causes the corporation and shall account for and pay to the corporation any profit derived as a result of said violation. In addition, a court in its discretion may award exemplary damages for a fraudulent or malicious violation of subdivision (a).

(c) Nothing in this article shall be construed to limit the right of a corporation to obtain injunctive relief necessary to restrain misuse of a membership list or any part thereof.

(d) In any action or proceeding under this section, a court may award the corporation reasonable costs and expenses, including reasonable attorneys' fees, in connection with such action or proceeding.

(e) As used in this section, the term "membership list" means the record of the members' names and addresses.

SEC. 37. Section 8618 is added to the Corporations Code, to read:

8618. (a) A corporation in the process of voluntary winding up may dispose of the known claims against it by following the procedure described in this section.

(b) The written notice to known creditors and claimants required by subdivision (c) of Section 8613 shall comply with all of the following requirements:

(1) Describe any information that must be included in a claim.

(2) Provide a mailing address where a claim may be sent.

(3) State the deadline, which may not be fewer than 120 days from the effective date of the written notice, by which the corporation must receive the claim.

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against the corporation is barred if any of the following occur:

(1) A claimant who has been given the written notice under subdivision (b) does not deliver the claim to the corporation by the deadline.

(2) A claimant whose claim was rejected by the corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

(d) For purposes of this section "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

SEC. 38. Section 8810 of the Corporations Code is amended to read:

8810. (a) Upon the failure of a corporation to file the statement required by Section 8210, the Secretary of State shall mail a notice of such delinquency to the corporation. The notice shall also contain information concerning the application of this section, and advise the corporation of the penalty imposed by Section 19141 of the Revenue and Taxation Code for failure to timely file the required statement after notice of delinquency has been mailed by the Secretary of State. If, within 60 days after the mailing of the notice of delinquency, a statement pursuant to Section 8210 has not been filed by the corporation, the Secretary of State may pursuant to regulation certify the name of such corporation to the Franchise Tax Board.

(b) Upon certification pursuant to subdivision (a), the Franchise Tax Board shall assess against the corporation a penalty of fifty dollars ($50) pursuant to Section 19141 of the Revenue and Taxation Code.

(c) The penalty herein provided shall not apply to a corporation which on or prior to the date of certification pursuant to subdivision (a) has dissolved or has been merged into another corporation.

(d) The penalty herein provided shall not apply and the Secretary of State need not mail a notice of delinquency to a corporation the corporate powers, rights and privileges of which have been suspended by the Franchise Tax Board pursuant to Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code on or prior to, and remain suspended on, the last day of the filing period pursuant to Section 8210. The Secretary of State need not mail a form pursuant to Section 8210, to a corporation the corporate powers, rights and privileges of which have been so suspended by the Franchise Tax Board on or prior to, and remain suspended on, the day the Secretary of State prepares the forms for mailing.

(e) If, after certification pursuant to subdivision (a) the Secretary of State finds the required statement was filed before the expiration

of the 60-day period after mailing of the notice of delinquency, the Secretary of State shall promptly decertify the name of the corporation to the Franchise Tax Board. The Franchise Tax Board shall then promptly abate any penalty assessed against the corporation pursuant to Section 19141 of the Revenue and Taxation Code.

(f) If the Secretary of State determines that the failure of a corporation to file a statement required by Section 8210 is excusable because of reasonable cause or unusual circumstances which justify the failure, the Secretary of State may waive the penalty imposed by this section and by Section 19141 of the Revenue and Taxation Code, in which case the Secretary of State shall not certify the name of the corporation to the Franchise Tax Board, or if already certified, the Secretary of State shall promptly decertify the name of the corporation.

SEC. 39. Section 9132 of the Corporations Code is amended to read:

9132. (a) The articles of incorporation may set forth any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) A provision limiting the duration of the corporation's existence to a specified date.

(2) In the case of a subordinate corporation instituted or created under the authority of a head organization, a provision setting forth either or both of the following:

(i) That the subordinate corporation shall dissolve whenever its charter is surrendered to, taken away by, or revoked by the head organization granting it.

(ii) That in the event of its dissolution pursuant to an article provision allowed by subdivision (a), paragraph (2), clause (i), of this section, or, in the event of its dissolution for any reason, any assets of the corporation after compliance with the applicable provisions of Chapters 16 (commencing with Section 6610) and 17 (commencing with Section 6710) (made applicable pursuant to Section 9680) shall be distributed to the head organization.

(b) Nothing contained in subdivision (a) shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(c) The articles of incorporation may set forth any or all of the following provisions:

(1) The names and addresses of the persons appointed to act as initial directors.

(2) The classes of members, if any, and if there are two or more classes, the rights, privileges, preferences, restrictions and conditions attaching to each class.

(3) A provision which would allow any member to have more or less than one vote in any election or other matter presented to the members for a vote.

(4) A provision that requires an amendment to the articles or to the bylaws, and any amendment or repeal of that amendment, to be approved in writing by a specified person or persons other than the board or the members.

(5) Any other provision, not in conflict with law, for the management of the activities and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this part to be stated in the bylaws.

SEC. 40. Section 9210 of the Corporations Code is amended to read:

9210. Subject to the provisions of this part and any provision in the articles or bylaws:

(a) Each corporation shall have a board of directors. The activities and affairs of a corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board.

(b) The board may delegate the management of the activities of the corporation to any person or persons provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board.

SEC. 41. Section 9214 of the Corporations Code is amended to read:

9214. Subject to the provisions of subdivision (a) of Section 9141 and Section 9142, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between any corporation and any other person, when signed by any one of the chairman of the board, the president, or any vice president and by any one of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation, is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same.

SEC. 42. Section 9221 of the Corporations Code is amended to read:

9221. (a) The board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or, if at the time a director is elected, the bylaws provide that a director may be removed for missing a specified number of board meetings, fails to attend the specified number of meetings.

(b) As provided in paragraph (3) of subdivision (c) of Section 9151, the articles or bylaws may prescribe the qualifications of the directors. Unless otherwise provided by the articles or bylaws, the board, by a majority vote of the directors who meet all of the required qualifications to be a director, may declare vacant the office of any director who fails or ceases to meet any required qualification that was in effect at the beginning of that director's current term of office.

SEC. 43. Section 9412 of the Corporations Code is amended to read:

9412. (a) One-third of the voting power, represented in person, by written ballot, or by proxy, shall constitute a quorum at a meeting of members. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members.

(b) The members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

(c) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (b).

SEC. 44. Section 9421 is added to the Corporations Code, to read:

9421. (a) If the name signed on a ballot, consent, waiver, or proxy appointment corresponds to the name of a member, the corporation if acting in good faith is entitled to accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member.

(b) If the name signed on a ballot, consent, waiver, or proxy appointment does not correspond to the record name of a member, the corporation if acting in good faith is nevertheless entitled to accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member if any of the following occur:

(1) The member is an entity and the name signed purports to be that of an officer or agent of the entity.

(2) The name signed purports to be that of an attorney-in-fact of the member and if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the ballot, consent, waiver, or proxy appointment.

(3) Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all the coholders.

(c) The corporation is entitled to reject a ballot, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has a reasonable basis for doubt concerning the validity of the signature or the signatory's authority to sign for the member.

(d) The corporation and any officer or agent thereof who accepts or rejects a ballot, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section shall not be liable in damages to the member for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a ballot, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

SEC. 45. Section 12214.6 is added to the Corporations Code, to read:

12214.6. (a) A corporation that (1) fails to file a statement pursuant to Section 12570 for an applicable filing period, (2) has not filed a statement pursuant to Section 12570 during the preceding 24 months, and (3) was certified for penalty pursuant to Section 12670 for the same filing period of the prior year, shall be subject to suspension pursuant to this section rather than to a penalty under Section 12670.

(b) When subdivision (a) is applicable, the Secretary of State shall mail a notice to the corporation informing the corporation that its corporate powers, rights, and privileges will be suspended 60 days from the date of the notice if the corporation does not file the statement required by Section 12570.

(c) If the 60-day period expires without the delinquent corporation filing the required statement, the Secretary of State shall notify the Franchise Tax Board of the suspension, and mail a notice of the suspension to the corporation. Following completion of these notification requirements, except for the purpose of amending the articles of incorporation to set forth a new name or filing an application for exempt status, the corporate powers, rights, and privileges of the corporation are suspended.

(d) A statement required by Section 12570 may be filed, notwithstanding suspension of the corporate powers, rights, and privileges under this section or under provisions of the Revenue and Taxation Code. Upon the filing of a statement under Section 12570, by a corporation that has been suspended pursuant to this section, the Secretary of State shall certify that fact to the Franchise Tax Board and the corporation may, in accordance with Section 23305a of the Revenue and Taxation Code, be relieved from suspension, unless the corporation is held in suspension by the Franchise Tax Board pursuant to Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code.

SEC. 46. Section 12330 of the Corporations Code is amended to read:

12330. (a) Except as provided in subdivision (c) and Sections 12331, 12360, 12364, 12462, and 12484, bylaws may be adopted, amended or repealed by the board unless the action would:

(1) Materially and adversely affect the rights or obligations of members as to voting, dissolution, redemption, transfer, distributions, patronage distributions, patronage, property rights, or rights to repayment of contributed capital;

(2) Increase or decrease the number or members authorized in total or for any class;

(3) Effect an exchange, reclassification or cancellation of all or part of the memberships; or

(4) Authorize a new class of membership.

(b) Bylaws may be adopted, amended or repealed by approval of the members (Section 12224); provided, however, that such adoption, amendment or repeal also requires approval by the members of a class if such action would:

(1) Materially and adversely affect the rights or obligations of that class as to voting, dissolution, redemption, transfer, distributions, patronage distributions, patronage, property rights, or rights to repayment of contributed capital, in a manner different than such action affects another class;

(2) Materially and adversely affect such class as to voting, dissolution, redemption, transfer, distributions, patronage distributions, patronage, property rights, or rights to repayment of contributed capital, by changing the rights, privileges, preferences, restrictions or conditions of another class;

(3) Increase or decrease the number of memberships authorized for such class;

(4) Increase the number of memberships authorized for another class;

(5) Effect an exchange, reclassification or cancellation of all or part of the memberships of such class; or

(6) Authorize a new class of memberships.

(c) The articles or bylaws may restrict or eliminate the power of the board to adopt, amend or repeal any or all bylaws, subject to subdivision (e) of Section 12331.

(d) Bylaws may also provide that repeal or amendment of those bylaws, or the repeal or amendment of specified portions of those bylaws, may occur only with the approval in writing of a specified person or persons other than the board or members.

SEC. 47. Section 12350 of the Corporations Code is amended to read:

12350. Each corporation shall have a board of directors. Subject to the provisions of this part and any limitations in the articles or bylaws relating to action required to be approved by the members (Section 12224), or by a majority of all members (Section 12223), the activities and affairs of a corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the board. The board may delegate the management of the activities of the corporation to any person or persons, management company, or committee however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board.

SEC. 48. Section 12354 of the Corporations Code is amended to read:

12354. Subject to the provisions of subdivision (a) of Section 12321, any note, mortgage, evidence of indebtedness, contract,

conveyance or other instrument in writing, and any assignment or endorsement thereof, executed or entered into between any corporation and any other person, when signed by any one of the chairman of the board, the president or any vice president and by any one of the secretary, any assistant secretary, the chief financial officer or any assistant treasurer of such corporation, is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same.

SEC. 49. Section 12360 of the Corporations Code is amended to read:

12360. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than four years, as are fixed in the articles or bylaws. In the absence of any provision in the articles or bylaws, the terms shall be one year. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members.

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may prescribe requirements for eligibility for election as a director.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (f) of Section 12362. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 12224).

SEC. 50. Section 12431 of the Corporations Code is amended to read:

12431. (a) No member may be expelled or suspended, and no membership or memberships may be terminated or suspended, except according to procedures satisfying the requirements of this section. An expulsion, termination or suspension not in accord with this section shall be void and without effect.

(b) Any expulsion, suspension, or termination must be done in good faith and in a fair and reasonable manner. Any procedure which conforms to the requirements of subdivision (c) is fair and reasonable, but a court may also find other procedures to be fair and reasonable when the full circumstances of the suspension, termination, or expulsion are considered.

(c) A procedure is fair and reasonable when:

(1) The provisions of the procedure have been set forth in the articles or bylaws, or copies of such provisions are sent annually to all the members as required by the articles or bylaws;

(2) It provides the giving of 15 days' prior notice of the expulsion, suspension or termination and the reasons therefor; and

(3) It provides an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension or termination by a person or body authorized to decide that the proposed expulsion, termination or suspension not take place.

(d) Any notice required under this section may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first-class or registered mail sent to the last address of the members shown on the corporation's records.

(e) Any action challenging an expulsion, suspension or termination of membership, including any claim alleging defective notice, must be commenced within one year after the date of the expulsion, suspension or termination. In the event such an action is successful the court may order any relief, including reinstatement, it finds equitable under the circumstances, but no vote of the members or of the board may be set aside solely because a person was at the time of the vote wrongfully excluded by virtue of the challenged expulsion, suspension or termination, unless the court finds further that the wrongful expulsion, suspension or termination was in bad faith and for the purpose, and with the effect, of wrongfully excluding the member from the vote or from the meeting at which the vote took place, so as to affect the outcome of the vote.

(f) This section governs only the procedures for expulsion, suspension or termination and not the substantive grounds therefor. An expulsion, suspension or termination based upon substantive grounds which violate contractual or other rights of the member or are otherwise unlawful is not made valid by compliance with this section.

(g) A member who is expelled or suspended or whose membership is terminated shall be liable for any charges incurred, services or benefits actually rendered, dues, assessments or fees incurred before expulsion, suspension or termination or arising from contract or otherwise.

SEC. 51. Section 12466 is added to the Corporations Code, to read:

12466. (a) If the name signed on a ballot, consent or waiver corresponds to the name of a member, the corporation if acting in good faith is entitled to accept the ballot, consent, or waiver and give it effect as the act of the member.

(b) If the name signed on a ballot, consent, or waiver does not correspond to the record name of a member, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, or

waiver and give it effect as the act of the member if any of the following occur:

(1) The member is an entity and the name signed purports to be that of an officer or agent of the entity.

(2) The name signed purports to be that of an attorney-in-fact of the member and if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the vote, consent or waiver.

(3) Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all the coholders.

(c) The corporation is entitled to reject a ballot, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has a reasonable basis for doubt concerning the validity of the signature or the signatory's authority to sign for the member.

(d) The corporation and any officer or agent thereof who accepts or rejects a ballot, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section shall not be liable in damages to the member for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a ballot, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

SEC. 52. Section 12470 of the Corporations Code is amended to read:

12470. As to directors elected by members, there shall be available to the members reasonable nomination and election procedures given the nature, size and operations of the corporation.

SEC. 53. Section 12608 of the Corporations Code is amended to read:

12608. (a) A membership list is a corporate asset. Without consent of the board a membership list or any part thereof may not be obtained or used by any person for any purpose not reasonably related to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:

(1) Used to solicit money or property unless such money or property will be used solely to solicit the vote of the members in an election to be held by their corporation; or

(2) Used for any purpose which the user does not reasonably and in good faith believe will benefit the corporation; or

(3) Used for any commercial purpose or purpose in competition with the corporation; or

(4) Sold to or purchased by any person.

(b) Any person who violates the provisions of subdivision (a) shall be liable for any damage such violation causes the corporation and

shall account for and pay to the corporation any profit derived as a result of said violation. In addition, a court in its discretion may award exemplary damages for a fraudulent or malicious violation of subdivision (a).

(c) Nothing in this article shall be construed to limit the right of a corporation to obtain injunctive relief necessary to restrain misuse of a membership list or any part thereof.

(d) In any action or proceeding under this section, a court may award the corporation reasonable costs and expenses, including reasonable attorneys' fees in connection with such action or proceeding.

(e) As used in this section, the term "membership list" means the record of all the members' names and addresses.

SEC. 54. Section 12637 is added to the Corporations Code, to read:

12637. (a) A corporation in the process of winding up may dispose of the known claims against it by following the procedure described in this section.

(b) The written notice to known creditors and claimants required by subdivision (c) of Section 12633 shall comply with all of the following requirements:

(1) Describe any information that must be included in a claim.

(2) Provide a mailing address where a claim may be sent.

(3) State the deadline, which may not be fewer than 120 days from the effective date of the written notice, by which the corporation must receive the claim.

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against the corporation is barred if any of the following occur:

(1) A claimant who has been given the written notice under subdivision (b) does not deliver the claim to the corporation by the deadline.

(2) A claimant whose claim was rejected by the corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

(d) For purposes of this section "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

SEC. 55. Section 12670 of the Corporations Code is amended to read:

12670. (a) Upon the failure of a corporation to file the statement required by Section 12570, the Secretary of State shall mail a notice of that delinquency to the corporation. The notice shall also contain information concerning the application of this section, and shall advise the corporation of the penalty imposed by Section 19141 of the Revenue and Taxation Code for failure to timely file the required statement after notice of delinquency has been mailed by the Secretary of State. If, within 60 days after the mailing of the notice

of delinquency, a statement pursuant to Section 12570 has not been filed by the corporation, the Secretary of State may pursuant to regulation certify the name of that corporation to the Franchise Tax Board.

(b) Upon certification pursuant to subdivision (a), the Franchise Tax Board shall assess against the corporation a penalty of fifty dollars ($50) pursuant to Section 19141 of the Revenue and Taxation Code.

(c) The penalty herein provided shall not apply to a corporation which on or prior to the date of certification pursuant to subdivision (a) has dissolved or has been merged into another corporation.

(d) The penalty herein provided shall not apply and the Secretary of State need not mail a notice of delinquency to a corporation the corporate powers, rights and privileges of which have been suspended by the Franchise Tax Board pursuant to Section 23301, 23301.5, or 23775 of the Revenue and Taxation Code on or prior to, and remain suspended on, the last day of the filing period pursuant to Section 12570. The Secretary of State need not mail a form pursuant to Section 12570, to a corporation the corporate powers, rights and privileges of which have been so suspended by the Franchise Tax Board on or prior to, and remain suspended on, the day the Secretary of State prepares the forms for mailing.

(e) If, after certification pursuant to subdivision (a) the Secretary of State finds the required statement was filed before the expiration of the 60-day period after mailing of the notice of delinquency, the Secretary of State shall promptly decertify the name of the corporation to the Franchise Tax Board. The Franchise Tax Board shall then promptly abate any penalty assessed against the corporation pursuant to Section 19141 of the Revenue and Taxation Code.

(f) If the Secretary of State determines that the failure of a corporation to file a statement required by Section 12570 is excusable because of reasonable cause or unusual circumstances which justify the failure, the Secretary of State may waive the penalty imposed by this section and by Section 19141 of the Revenue and Taxation Code, in which case the Secretary of State shall not certify the name of the corporation to the Franchise Tax Board, or if already certified, the Secretary of State shall promptly decertify the name of the corporation.

CHAPTER 590

An act to amend Sections 1010 and 1011 of the Military and Veterans Code, relating to veterans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 1010 of the Military and Veterans Code is amended to read:

1010. As used in this chapter:

(a) "Home" means the Veterans' Home of California, Yountville, and the Veterans' Home of California, Barstow.

(b) "Administrator" means the Administrator of the Veterans' Home of California, Yountville, and the Administrator of each site of the southern California Veterans' Home, including, but not limited to, the Veterans' Home of California, Barstow.

(c) "Department" means the Department of Veterans Affairs.

(d) "Director" means the Director of Veterans Affairs.

(e) "Veteran" means a member of the home.

SEC. 2. Section 1011 of the Military and Veterans Code is amended to read:

1011. (a) There is in the department a Veterans' Home of California Yountville, situated at Veterans' Home, Napa County.

(b) (1) The department may establish and construct a second home that shall be situated in the County of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, or Ventura. The home may be located on one or more sites. The department shall operate the second home concurrently with the first home.

(2) When completed, the initial site shall be the Veterans' Home of California Barstow, situated in Barstow, San Bernardino County.

(3) There shall be an administrator for, and located at, each site of the southern California home.

(4) The department may complete any preapplication process necessary with the United States Department of Veterans Affairs for construction of the second home.

(c) The Legislature hereby finds and declares that the second home is a new state function. The department may perform any or all work in operating the second home by independent contractors, except the overall administration and management of the home. Any and all actions of the department taken before the effective date of amendments to this section pursuant to Assembly Bill 2973 of the 1995–96 Regular Session that are consistent with this subdivision are hereby ratified and confirmed, it having at all times been the intent of the Legislature that the department be so authorized.

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

In order to ensure that the homes have the capability to meet the health needs of its residents and become fully operational, it is necessary that this act take effect immediately.

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CHAPTER 591

An act to amend Section 13551 of, and to add Section 13510.3 to, the Penal Code, relating to peace officers.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 13510.3 is added to the Penal Code, to read:

13510.3. (a) The commission shall establish, by December 31, 1997, and in consultation with representatives of law enforcement organizations, a voluntary professional certification program for law enforcement records supervisors who have primary responsibility for providing records supervising services for local law enforcement agencies. The certificate or certificates shall be based upon standards related to the education, training, and experience of law enforcement records supervisors and shall serve to foster professionalism and recognition of achievement and competency.

(b) As used in this section, "primary responsibility" refers to the performance of law enforcement records supervising duties for a minimum of 50 percent of the time worked within a pay period.

SEC. 2. Section 13551 of the Penal Code is amended to read:

13551. (a) The Commission on Peace Officer Standards and Training shall develop regulations and professional standards for the law enforcement accreditation program when funding for this purpose from nongeneral funds is approved by the Legislature. The program shall provide standards for the operation of law enforcement agencies and shall be available as soon as practical after funding becomes available. The standards shall serve as a basis for the uniform operation of law enforcement agencies throughout the state to best serve the interests of the people of this state.

(b) The commission may, from time to time, amend the regulations and standards or adopt new standards relating to the accreditation program.

CHAPTER 592

An act to amend Sections 10250.2 and 10261 of, to add Sections 10238.8, 10239.36, 10250.25, 10250.51, 10250.52, 10250.53, 10250.54, 10250.56, and 10250.58 to, to repeal Sections 10238.3, 10238.4, 10238.45, and 10238.5 of, and to repeal Article 6 (commencing with Section 10237) and Article 6.5 (commencing with Section 10239) of Chapter 3 of Part 1 of Division 4 of, the Business and Professions Code, and to add Section 25707 to the Corporations Code, relating to real property.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 10238.3 of the Business and Professions Code is repealed.

SEC. 2. Section 10238.4 of the Business and Professions Code is repealed.

SEC. 3. Section 10238.45 of the Business and Professions Code is repealed.

SEC. 4. Section 10238.5 of the Business and Professions Code is repealed.

SEC. 5. Section 10238.8 is added to Article 6 (commencing with Section 10237) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, to read:

10238.8. (a) This article shall remain operative as long as a conservatorship or liquidation proceeding pursuant to Article 6.5 (commencing with Section 10239) of Chapter 3 of Division 4, that was commenced prior to the effective date of the act enacting this section, remains active.

(b) Notwithstanding any other provision of this article, no conservatorship or liquidation proceeding shall be commenced on or after the effective date of the act enacting this section.

(c) The commissioner shall determine when the last pending proceeding described in subdivision (a) is terminated. The commissioner shall submit a notice of that determination to the Secretary of State, and this article shall be repealed upon the receipt of that notice by the Secretary of State.

SEC. 6. Section 10239.36 is added to Article 6.5 (commencing with Section 10239) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, to read:

10239.36. (a) This article shall remain operative as long as a conservatorship or liquidation proceeding pursuant to Article 6.5 (commencing with Section 10239) of Chapter 3 of Division 4, that was commenced prior to the effective date of the act enacting this section, remains active.

(b) Notwithstanding any other provision of this article, no conservatorship or liquidation proceeding shall be commenced on or after the effective date of the act enacting this section.

(c) The commissioner shall determine when the last pending proceeding described in subdivision (a) is terminated. The commissioner shall submit a notice of that determination to the Secretary of State, and this article shall be repealed upon the receipt of that notice by the Secretary of State.

SEC. 7. Section 10250.2 of the Business and Professions Code is amended to read:

10250.2. (a) The sale or lease, or the offering for sale or lease, of lots or parcels in a subdivision shall be governed by this article and Chapter 1 (commencing with Section 11000) of Part 2, insofar as applicable.

(b) The commissioner shall apply the provisions of Sections 11018 and 11018.5, after taking into consideration the differences in the applicable laws of the various states with respect to subdivisions, to afford substantially the same level of public protection to purchasers of an interest in a subdivision offering governed by this article as is afforded to purchasers of subdivision interests situated entirely within this state.

The commissioner may adopt regulations reasonably necessary to enforce this article.

SEC. 7.5. Section 10250.2 of the Business and Professions Code is amended to read:

10250.2. (a) The sale or lease, or the offering for sale or lease, of lots or parcels in a subdivision shall be governed by this article and Chapter 1 (commencing with Section 11000) of Part 2, insofar as applicable.

(b) Subject to the provisions of Sections 11018.8, 11018.9, 11018.10, 11018.11, and 10250.8, the commissioner shall apply the provisions of Sections 11018 and 11018.5, after taking into consideration the differences in the applicable laws of the various states with respect to subdivisions, to afford substantially the same level of public protection to purchasers of an interest in a subdivision offering governed by this article as is afforded to purchasers of subdivision interests situated entirely within this state.

The commissioner may adopt regulations reasonably necessary to enforce this article.

SEC. 8. Section 10250.25 is added to the Business and Professions Code, to read:

10250.25. As used in this article, "sale" or "sell" includes every issuance, creation for resale, disposition, or attempt to dispose of any interest in a subdivision for value and includes all of the following, whether done directly or by circular letter, advertisement, radio or television broadcast, or otherwise: an offer to sell, an attempt to sell, a solicitation of a sale, a contract of sale, or an exchange.

SEC. 9. Section 10250.51 is added to the Business and Professions Code, to read:

10250.51. Whenever the commissioner finds that any person is violating the provisions of this article, that any person is conducting business in an unsafe or injurious manner, that the further sale of subdivision interests under the provisions of this article would be unfair, unjust, or inequitable, or that the method used in those sales would be a fraud upon the purchasers, the commissioner may order the person to desist and refrain from violating the provisions of this article or from further sales in accordance with the procedures set forth in Section 10086.

SEC. 10. Section 10250.52 is added to the Business and Professions Code, to read:

10250.52. No interest in a subdivision, as defined in Section 10250.1, shall be sold to the public unless either the subdivider or person offering the interest for sale first obtains a permit from the commissioner.

SEC. 11. Section 10250.53 is added to the Business and Professions Code, to read:

10250.53. If the commissioner finds that the proposed offering of interest in a subdivision, as defined in Section 10250.1, meets the applicable requirements of this article, the commissioner shall issue to the applicant a permit authorizing the sale or the offering for sale of the subdivision interest upon those terms and conditions as the commissioner may provide in the permit. Otherwise, the commissioner shall deny the application and refuse the permit, and notify the applicant in writing of his or her decision.

SEC. 12. Section 10250.54 is added to the Business and Professions Code, to read:

10250.54. Any applicant objecting to the denial of a permit or the conditions of a permit may apply for a hearing and shall be granted a hearing by the commissioner upon the legality or reasonableness of the denial or the conditions.

SEC. 13. Section 10250.56 is added to the Business and Professions Code, to read:

10250.56. Any person who does any of the following acts is guilty of a public offense punishable by a fine not exceeding ten thousand dollars ($10,000) or by imprisonment in the state prison, or in a county jail, not exceeding one year, or by both fine and imprisonment:

(a) In any application to the commissioner or in any proceeding before the commissioner, or in any examination, audit, or investigation made by the commissioner or on his or her authority, knowingly makes any false statement or representation, or, with knowledge of its falsity, files or causes to be filed in the office of the commissioner any false statement or representation in a required report.

(b) Issues, circulates, or publishes, or causes to be issued, circulated, or published any advertisement, pamphlet, or circular concerning any subdivision that contains any statement that is false or misleading, or otherwise likely to deceive a reader thereof, with knowledge that it contains a false, misleading, or deceptive statement.

(c) In any respect willfully violates or fails to comply with any provision of this article, or willfully violates or fails, omits, or neglects to obey, observe, or comply with any order, decision, demand, requirement, or permit, or any part or provisions thereof, of the commissioner under this article.

(d) With one or more other persons, conspires to violate any permit or order issued by the commissioner of any provision of this article.

SEC. 14. Section 10250.58 is added to the Business and Professions Code, to read:

10250.58. Every person sustaining an injury resulting from a transaction subject to this article that was in violation of the provisions of the article may recover in a civil action the amount of the damages with interest, as awarded by the court, from the date of the injury, and shall be entitled to be awarded reasonable attorney's fees. The action shall be brought within three years from the date of the transaction notwithstanding the date the injury was discovered.

SEC. 15. Section 10261 of the Business and Professions Code is amended to read:

10261. A person acting as a principal or agent may not in this state sell or lease, or offer for sale or lease, interests in a qualified resort vacation club, except as provided in this article, in Article 8.5 (commencing with Section 10250), and Chapter 1 (commencing with Section 11000) of Part 2, insofar as is applicable.

SEC. 16. Section 25707 is added to the Corporations Code, to read:

25707. (a) All permits and orders issued under Article 6 (commencing with Section 10237) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, and all conditions imposed pursuant to those provisions, shall remain in effect for the period of time that they would have remained in effect if those provisions had not been repealed by the act enacting this section. Following the repeal of those provisions, the permits, orders, and conditions shall be deemed to have been issued or imposed under this division. An application to amend, extend, modify, revoke, or set aside a permit or order shall be filed under this division and is subject to this division.

(b) An application pending under Article 6 (commencing with Section 10237) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, on the effective date of this section, shall be processed by the Real Estate Commissioner subject to those provisions as they were in effect on December 31, 1996, until each application that was pending on the effective date of this section is granted or denied by the Real Estate Commissioner.

(c) Except as expressly provided by this section, all actions, prosecutions, or proceedings under Article 6 (commencing with Section 10237) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code that are pending prior to the effective date of this section, or that otherwise could be initiated based on facts or circumstances occurring prior to the effective date of this section, shall be governed by those provisions.

(d) No civil action may be brought to enforce any liability under Article 6 (commencing with Section 10237) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, unless it is brought

within the period of limitations that applied to the action at the time the action accrued.

(e) Judicial review of orders under Article 6 (commencing with Section 10237) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code that had not commenced prior to the effective date of this section shall be governed by Section 25609, except that no review proceeding shall be commenced unless the petition is filed within the applicable period of limitations that applied to a review proceeding when the order was issued. Judicial review of an order of the Real Estate Commissioner made pursuant to subdivision (b) shall be governed by the provisions of law applicable to those proceedings on December 31, 1996.

SEC. 17. Section 7.5 of this bill incorporates amendments to Section 10250.2 of the Business and Professions Code proposed by both this bill and AB 2530. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 10250.2 of the Business and Professions Code, and (3) this bill is enacted after AB 2530, in which case Section 7 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 593

An act to amend Sections 2810 and 2840 of the Fish and Game Code, relating to natural community conservation planning.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 2810 of the Fish and Game Code is amended to read:

2810. The department may enter into agreements with any person for the purpose of preparing and implementing a natural community conservation plan to provide comprehensive

management and conservation of multiple wildlife species, including, but not limited to, those species listed pursuant to Article 2 (commencing with Section 2070) of Chapter 1.5. The agreement shall include a provision specifying the amount of compensation, if any, payable to the department pursuant to Section 2840.

SEC. 2. Section 2840 of the Fish and Game Code is amended to read:

2840. (a) The department may be compensated for the actual costs incurred in participating in the preparation and implementation of natural community conservation plans. These costs may include consultation with other parties to agreements authorized by Section 2810, providing and compiling wildlife and wildlife habitat data, reviewing and approving the final plan, monitoring implementation of the plan, and other activities necessary to the preparation and implementation of a plan.

(b) The department may be compensated for those expenses identified in subdivision (a) according to a schedule in the agreement authorized by Section 2810.

CHAPTER 594

An act to add and repeal Section 19613.7 of, and to repeal, add, and repeal Section 19613 of, the Business and Professions Code, relating to horseracing.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 19613 of the Business and Professions Code is repealed.

SEC. 2. Section 19613 is added to the Business and Professions Code, to read:

19613. (a) Except as provided in subdivisions (b), (c), (d), (e), and (f), the portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association other than a fair that conducts a thoroughbred racing meeting shall pay to the owners' organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to owners, an amount not to exceed two-thirds of 1 $^{1}/_{2}$ percent of the portion, and to a trainers' organization for administrative expenses and services rendered to trainers and backstretch employees an amount equivalent to one-third of 1 $^{1}/_{2}$ percent of the portion. That association shall also pay an amount for a pension plan for backstretch personnel to be administered by the trainers' organization

equivalent to an additional 1 percent of the portion. The remainder of the portion shall be distributed as purses.

(c) Any other association may pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen an amount out of the portion as may be determined by the association by agreement or otherwise, but, in all events, shall include, relative to a thoroughbred horsemen's organization racing, 1 percent of the portion for a pension plan for backstretch personnel to be administered by the trainers' organization. The remainder of the portion shall be distributed as purses.

(d) Notwithstanding subdivisions (b) and (c), any association conducting a fair racing meeting or conducting a mixed breed racing meeting shall pay to the horsemen's organizations contracting with the association with respect to the conduct of races for their respective breeds of horses at the meetings for administrative expenses and services rendered to their respective horsemen those amounts out of the portion as determined by the horsemen's organization for the respective breeds with the approval of the board.

Pursuant to this subdivision, amounts not to exceed 3 percent of the portion for the owners' and trainers' organizations shall be distributed to any thoroughbred owners' and trainers' organizations contracting with an association for a fair racing meeting or participating in mixed breed racing meetings as follows: two-thirds of one percent to the owners' organization and one-third of 1 percent to the trainers' organization for administrative expenses and services rendered to both owners and trainers, 1 percent for welfare funds, and 1 percent for a pension program for backstretch personnel, to be administered by the thoroughbred trainers' organization.

(e) Any association other than a fair that conducts a quarter horse racing meeting, except a mixed breed meeting, shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen an amount equal to its expenses, but not to exceed 3 percent of the portion. The remainder of the portion shall be distributed as purses.

(f) For racing meetings other than thoroughbred meetings, if no contract has been signed between the association conducting the racing meeting and the organization representing the horsemen by the time the racing meeting commences, the distribution of purses shall be governed by the following:

(1) If the association conducted a racing meeting within the past 15 months and a contract was in existence for that meeting with the horsemen's organization and the association is conducting a subsequent meeting for the same breed or mixed breeds, the amounts payable to the horsemen's organization under subdivision (c) shall be computed under the provisions of the last signed contract between the parties.

(2) This subdivision applies regardless of the cause of the failure to execute a contract, whether that failure is a result of inadvertence or otherwise.

(3) For racing meetings that do not come within paragraph (1), the board shall, within 15 days after the commencement of the racing meeting, determine the amounts payable to the horsemen's organization for administrative expenses and services, and provide for the direct payment of those amounts.

(g) Amounts distributed pursuant to this section are derived from owners' purses.

(h) For the purposes of this section, the following definitions shall apply:

(1) "Owner" means a person currently licensed by the board as an owner of a thoroughbred racehorse.

(2) "Trainer" means a person currently licensed by the board as an owner and trainer or as a trainer of a thoroughbred racehorse.

(i) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SEC. 3. Section 19613 is added to the Business and Professions Code, to read:

19613. (a) Except as provided in subdivisions (b), (c), (d), (e), and (f), the portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association other than a fair that conducts a thoroughbred racing meeting shall pay to the owners' organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to owners, an amount not to exceed two-thirds of 1 percent of the portion, and to a trainers' organization for administrative expenses and services rendered to trainers and backstretch employees an amount equivalent to one-third of 1 percent of the portion. That association shall also pay an amount for a pension plan for backstretch personnel to be administered by the trainers' organization equivalent to an additional 1 percent of the portion. The remainder of the portion shall be distributed as purses.

(c) Any other association may pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen an amount out of the portion as may be determined by the association by agreement or otherwise, but, in all events, shall include, relative to a thoroughbred horsemen's organization racing, 1 percent of the portion for a pension plan for backstretch personnel to be administered by the trainers' organization. The remainder of the portion shall be distributed as purses.

(d) Notwithstanding subdivisions (b) and (c), any association conducting a fair racing meeting or conducting a mixed breed racing meeting shall pay to the horsemen's organizations contracting with

the association with respect to the conduct of races for their respective breeds of horses at the meetings for administrative expenses and services rendered to their respective horsemen those amounts out of the portion as determined by the horsemen's organization for the respective breeds with the approval of the board.

Pursuant to this subdivision, amounts not to exceed 3 percent of the portion for the owners' and trainers' organizations shall be distributed to any thoroughbred owners' and trainers' organizations contracting with an association for a fair racing meeting or participating in mixed breed racing meetings as follows: two-thirds of 1 percent to the owners' organization and one-third of 1 percent to the trainers' organization for administrative expenses and services rendered to both owners and trainers, 1 percent for welfare funds, and 1 percent for a pension program for backstretch personnel, to be administered by the thoroughbred trainers' organization.

(e) Any association other than a fair that conducts a quarter horse racing meeting, except a mixed breed meeting, shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen an amount equal to its expenses, but not to exceed 3 percent of the portion. The remainder of the portion shall be distributed as purses.

(f) For racing meetings other than thoroughbred meetings, if no contract has been signed between the association conducting the racing meeting and the organization representing the horsemen by the time the racing meeting commences, the distribution of purses shall be governed by the following:

(1) If the association conducted a racing meeting within the past 15 months and a contract was in existence for that meeting with the horsemen's organization and the association is conducting a subsequent meeting for the same breed or mixed breeds, the amounts payable to the horsemen's organization under subdivision (c) shall be computed under the provisions of the last signed contract between the parties.

(2) This subdivision applies regardless of the cause of the failure to execute a contract, whether that failure is a result of inadvertence or otherwise.

(3) For racing meetings that do not come within paragraph (1), the board shall, within 15 days after the commencement of the racing meeting, determine the amounts payable to the horsemen's organization for administrative expenses and services, and provide for the direct payment of those amounts.

(g) Amounts distributed pursuant to this section are derived from owners' purses.

(h) For the purposes of this section, the following definitions shall apply:

(1) "Owner" means a person currently licensed by the board as an owner of a thoroughbred racehorse.

(2) "Trainer" means a person currently licensed by the board as an owner and trainer or as a trainer of a thoroughbred racehorse.

(i) This section shall become operative on January 1, 1999.

SEC. 4. (a) All organizations representing horsemen and horsewomen, and trainers as defined in Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code, shall submit an audited report of all expenditures from the previous calendar year to the California Horse Racing Board, which report shall be published as part of the board's annual report pursuant to Section 19441 of the Business and Professions Code.

(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.

CHAPTER 595

An act to amend Sections 19406 and 19414 of, and to amend, add, and repeal Section 19613 of, the Business and Professions Code, relating to horseracing.

[Approved by Governor September 15, 1996. Filed with Secretary of State September 17, 1996.]

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

SECTION 1. Section 19406 of the Business and Professions Code is amended to read:

19406. (a) A "California-bred horse" is a foal dropped by a mare in California after being conceived in California and remaining in California until the foal is weaned.

(b) A "California-bred thoroughbred" is a horse dropped by a mare in California after being conceived in California, or any thoroughbred horse dropped by a mare in California if the mare remains in California to be next bred to a thoroughbred stallion standing in California. If the mare cannot be bred for two successive breeding seasons but remains in California during that period, her foal shall be considered to be a California-bred thoroughbred.

(c) A "California-bred quarter horse" is a quarter horse foal conceived in California by a stallion standing in California at the time of conception.

(d) A "California-bred standardbred horse" is a standardbred foal dropped by a mare in California after being conceived in California and remaining in California until the foal is weaned, or any standardbred foal which is conceived in California on or after January 1, 1984.

(e) A "California-bred Appaloosa horse" is a horse dropped by a mare in California after being conceived in California, or any

Appaloosa horse dropped by a mare in California if the mare remains in California to be next bred to an Appaloosa stallion standing in California. If the mare cannot be bred for two successive breeding seasons but remains in California during that period, her foal shall be considered to be a California-bred Appaloosa horse.

SEC. 2. Section 19414 of the Business and Professions Code is amended to read:

19414. "Quarter horse racing" means that form of horseracing in which the participating horses are "quarter horses," as defined in Section 19413.5, and are ridden by jockeys in races over distances not more than five and one-half furlongs.

SEC. 3. Section 19613 of the Business and Professions Code is amended to read:

19613. (a) Except as provided in subdivisions (b), (c), (d), (e), and (f), the portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association other than a fair that conducts a thoroughbred racing meeting shall pay to the owners' organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to owners, an amount not to exceed two-thirds of 1 percent of the portion, and to a trainers' organization for administrative expenses and services rendered to trainers and backstretch employees an amount equivalent to one-third of 1 percent of the portion. That association shall also pay an amount for a pension plan for backstretch personnel to be administered by the trainers' organization equivalent to an additional 1 percent of the portion. The remainder of the portion shall be distributed as purses.

(c) Any other association may pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen, an amount out of the portion as may be determined by the association by agreement or otherwise, but, in all events, shall include, relative to a thoroughbred horsemen's organization racing, 1 percent of the portion for a pension plan for backstretch personnel to be administered by the trainers' organization. The remainder of the portion shall be distributed as purses.

(d) Notwithstanding subdivisions (b) and (c), any association conducting a fair racing meeting or conducting a mixed breed racing meeting shall pay to the horsemen's organizations contracting with the association, with respect to the conduct of races for their respective breeds of horses at the meetings for administrative expenses and services rendered to their respective horsemen, those amounts out of the portion as determined by the horsemen's organization for the respective breeds with the approval of the board.

Pursuant to this subdivision, amounts not to exceed 3 percent of the portion for the owners' and trainers' organizations shall be distributed to any thoroughbred owners' and trainers' organizations

contracting with an association for a fair racing meeting or participating in mixed breed racing meetings as follows: two-thirds of one percent to the owners' organization and one-third of 1 percent to the trainers' organization for administrative expenses and services rendered to both owners and trainers, 1 percent for welfare funds, and 1 percent for a pension program for backstretch personnel, to be administered by the thoroughbred trainers' organization.

(e) Any association other than a fair that conducts a quarter horse racing meeting, except a mixed breed meeting, shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen, an amount not to exceed 3 percent of the portion. The remainder of the portion shall be distributed as purses.

(f) For racing meetings other than thoroughbred meetings, if no contract has been signed between the association conducting the racing meeting and the organization representing the horsemen by the time the racing meeting commences, the distribution of purses shall be governed by the following:

(1) If the association conducted a racing meeting within the past 15 months and a contract was in existence for that meeting with the horsemen's organization and the association is conducting a subsequent meeting for the same breed or mixed breeds, the amounts payable to the horsemen's organization under subdivision (c) shall be computed under the provisions of the last signed contract between the parties.

(2) This subdivision applies regardless of the cause of the failure to execute a contract, whether that failure is a result of inadvertence or otherwise.

(3) For racing meetings that do not come within paragraph (1), the board, within 15 days after the commencement of the racing meeting, shall determine the amounts payable to the horsemen's organization for administrative expenses and services, and provide for the direct payment of those amounts.

(g) Amounts distributed pursuant to this section are derived from owners' purses.

(h) For the purposes of this section, the following definitions shall apply:

(1) "Owner" means a person currently licensed by the board as an owner of a thoroughbred racehorse.

(2) "Trainer" means a person currently licensed by the board as an owner and trainer or as a trainer of a thoroughbred racehorse.

SEC. 4. Section 19613 of the Business and Professions Code is repealed.

SEC. 5. Section 19613 is added to the Business and Professions Code, to read:

19613. (a) Except as provided in subdivisions (b), (c), (d), (e), and (f), the portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association other than a fair that conducts a thoroughbred racing meeting shall pay to the owners' organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to owners, an amount not to exceed two-thirds of $1^1/_2$ percent of the portion, and to a trainers' organization for administrative expenses and services rendered to trainers and backstretch employees an amount equivalent to one-third of $1^1/_2$ percent of the portion. That association shall also pay an amount for a pension plan for backstretch personnel to be administered by the trainers' organization equivalent to an additional 1 percent of the portion. The remainder of the portion shall be distributed as purses.

(c) Any other association may pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen an amount out of the portion as may be determined by the association by agreement or otherwise, but, in all events, shall include, relative to a thoroughbred horsemen's organization racing, 1 percent of the portion for a pension plan for backstretch personnel to be administered by the trainers' organization. The remainder of the portion shall be distributed as purses.

(d) Notwithstanding subdivisions (b) and (c), any association conducting a fair racing meeting or conducting a mixed breed racing meeting shall pay to the horsemen's organizations contracting with the association with respect to the conduct of races for their respective breeds of horses at the meetings for administrative expenses and services rendered to their respective horsemen those amounts out of the portion as determined by the horsemen's organization for the respective breeds with the approval of the board.

Pursuant to this subdivision, amounts not to exceed 3 percent of the portion for the owners' and trainers' organizations shall be distributed to any thoroughbred owners' and trainers' organizations contracting with an association for a fair racing meeting or participating in mixed breed racing meetings as follows: two-thirds of 1 percent to the owners' organization and one-third of 1 percent to the trainers' organization for administrative expenses and services rendered to both owners and trainers, 1 percent for welfare funds, and 1 percent for a pension program for backstretch personnel, to be administered by the thoroughbred trainers' organization.

(e) Any association other than a fair that conducts a quarter horse racing meeting, except a mixed breed meeting, shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen, an amount not to

exceed 3 percent of the portion. The remainder of the portion shall be distributed as purses.

(f) For racing meetings other than thoroughbred meetings, if no contract has been signed between the association conducting the racing meeting and the organization representing the horsemen by the time the racing meeting commences, the distribution of purses shall be governed by the following:

(1) If the association conducted a racing meeting within the past 15 months and a contract was in existence for that meeting with the horsemen's organization and the association is conducting a subsequent meeting for the same breed or mixed breeds, the amounts payable to the horsemen's organization under subdivision (c) shall be computed under the provisions of the last signed contract between the parties.

(2) This subdivision applies regardless of the cause of the failure to execute a contract, whether that failure is a result of inadvertence or otherwise.

(3) For racing meetings that do not come within paragraph (1), the board shall, within 15 days after the commencement of the racing meeting, determine the amounts payable to the horsemen's organization for administrative expenses and services, and provide for the direct payment of those amounts.

(g) Amounts distributed pursuant to this section are derived from owners' purses.

(h) For the purposes of this section, the following definitions shall apply:

(1) "Owner" means a person currently licensed by the board as an owner of a thoroughbred racehorse.

(2) "Trainer" means a person currently licensed by the board as an owner and trainer or as a trainer of a thoroughbred racehorse.

(i) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

SEC. 6. Section 19613 is added to the Business and Professions Code, to read:

19613. (a) Except as provided in subdivisions (b), (c), (d), (e), and (f), the portion deducted for purses pursuant to this chapter shall be paid to or for the benefit of the horsemen at the racing meeting.

(b) Any association other than a fair that conducts a thoroughbred racing meeting shall pay to the owners' organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to owners, an amount not to exceed two-thirds of 1 percent of the portion, and to a trainers' organization for administrative expenses and services rendered to trainers and backstretch employees an amount equivalent to one-third of 1 percent of the portion. That association shall also pay an amount for a pension plan for backstretch personnel to be administered by the trainers' organization equivalent to an

additional 1 percent of the portion. The remainder of the portion shall be distributed as purses.

(c) Any other association may pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen an amount out of the portion as may be determined by the association by agreement or otherwise, but, in all events, shall include, relative to a thoroughbred horsemen's organization racing, 1 percent of the portion for a pension plan for backstretch personnel to be administered by the trainers' organization. The remainder of the portion shall be distributed as purses.

(d) Notwithstanding subdivisions (b) and (c), any association conducting a fair racing meeting or conducting a mixed breed racing meeting shall pay to the horsemen's organizations contracting with the association with respect to the conduct of races for their respective breeds of horses at the meetings for administrative expenses and services rendered to their respective horsemen those amounts out of the portion as determined by the horsemen's organization for the respective breeds with the approval of the board.

Pursuant to this subdivision, amounts not to exceed 3 percent of the portion for the owners' and trainers' organizations shall be distributed to any thoroughbred owners' and trainers' organizations contracting with an association for a fair racing meeting or participating in mixed breed racing meetings as follows: two-thirds of 1 percent to the owners' organization and one-third of 1 percent to the trainers' organization for administrative expenses and services rendered to both owners and trainers, 1 percent for welfare funds, and 1 percent for a pension program for backstretch personnel, to be administered by the thoroughbred trainers' organization.

(e) Any association other than a fair that conducts a quarter horse racing meeting, except a mixed breed meeting, shall pay to the horsemen's organization contracting with the association with respect to the conduct of racing meetings for administrative expenses and services rendered to horsemen, an amount not to exceed 3 percent of the portion. The remainder of the portion shall be distributed as purses.

(f) For racing meetings other than thoroughbred meetings, if no contract has been signed between the association conducting the racing meeting and the organization representing the horsemen by the time the racing meeting commences, the distribution of purses shall be governed by the following:

(1) If the association conducted a racing meeting within the past 15 months and a contract was in existence for that meeting with the horsemen's organization and the association is conducting a subsequent meeting for the same breed or mixed breeds, the amounts payable to the horsemen's organization under subdivision (c) shall be computed under the provisions of the last signed contract between the parties.

(2) This subdivision applies regardless of the cause of the failure to execute a contract, whether that failure is a result of inadvertence or otherwise.

(3) For racing meetings that do not come within paragraph (1), the board shall, within 15 days after the commencement of the racing meeting, determine the amounts payable to the horsemen's organization for administrative expenses and services, and provide for the direct payment of those amounts.

(g) Amounts distributed pursuant to this section are derived from owners' purses.

(h) For the purposes of this section, the following definitions shall apply:

(1) "Owner" means a person currently licensed by the board as an owner of a thoroughbred racehorse.

(2) "Trainer" means a person currently licensed by the board as an owner and trainer or as a trainer of a thoroughbred racehorse.

(i) This section shall become operative on January 1, 1999.

SEC. 7. Sections 4, 5, and 6 of this bill incorporate changes to Section 19613 of the Business and Professions Code proposed by both this bill and Assembly Bill 3106. Sections 4, 5, and 6 of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill affects Section 19613 of the Business and Professions Code, and (3) this bill is enacted after AB 3106, in which case Section 3 of this bill shall not become operative.

CHAPTER 596

An act to repeal and add Section 645 of the Penal Code, relating to crimes.

[Approved by Governor September 17, 1996. Filed with Secretary of State September 18, 1996.]

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

SECTION 1. Section 645 of the Penal Code is repealed.

SEC. 2. Section 645 is added to the Penal Code, to read:

645. (a) Any person guilty of a first conviction of any offense specified in subdivision (c), where the victim has not attained 13 years of age, may, upon parole, undergo medroxyprogesterone acetate treatment or its chemical equivalent, in addition to any other punishment prescribed for that offense or any other provision of law, at the discretion of the court.

(b) Any person guilty of a second conviction of any offense specified in subdivision (c), where the victim has not attained 13 years of age, shall, upon parole, undergo medroxyprogesterone

acetate treatment or its chemical equivalent, in addition to any other punishment prescribed for that offense or any other provision of law.

(c) This section shall apply to the following offenses:

(1) Subdivision (c) or (d) of Section 286.

(2) Paragraph (1) of subdivision (b) of Section 288.

(3) Subdivision (b) or (d) of Section 288a.

(4) Subdivision (a) or (j) of Section 289.

(d) The parolee shall begin medroxyprogesterone acetate treatment one week prior to his or her release from confinement in the state prison or other institution and shall continue treatments until the Department of Corrections demonstrates to the Board of Prison Terms that this treatment is no longer necessary.

(e) If a person voluntarily undergoes a permanent, surgical alternative to hormonal chemical treatment for sex offenders, he or she shall not be subject to this section.

(f) The Department of Corrections shall administer this section and implement the protocols required by this section. Nothing in the protocols shall require an employee of the Department of Corrections who is a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act to participate against his or her will in the administration of the provisions of this section. These protocols shall include, but not be limited to, a requirement to inform the person about the effect of hormonal chemical treatment and any side effects that may result from it. A person subject to this section shall acknowledge the receipt of this information.

CHAPTER 597

An act to amend Section 3003 of the Penal Code, relating to prisoners.

[Approved by Governor September 17, 1996. Filed with Secretary of State September 18, 1996.]

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

SECTION 1. Section 3003 of the Penal Code is amended to read:

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration.

For purposes of this subdivision, "last legal residence" shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county if that would be in the best interests of the public. If the Board of Prison Terms setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, or the Department of Corrections setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing him or her to the county where the joint venture program employer is located if that employer states to the paroling authority that he or she intends to employ the inmate upon release.

(e) (1) The Department of Corrections shall establish a pilot project in San Bernardino County in which the following information, if available, shall be released to the local law enforcement agencies regarding a paroled inmate who is released in San Bernardino County:

(A) Last, first, and middle name.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole and discharge.

(E) Registration status if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date the address as provided pursuant to this subparagraph was last verified.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.

(2) The information required by this subdivision shall come from the parolee activity report and sex registrants file. The information obtained from each source shall be based on the same timeframe.

(3) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be done by modem or tape transfer at least once each month.

(4) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(5) The San Bernardino County Sheriff's Department shall provide a project evaluation to the Department of Corrections at least once per month. The information shall be provided in a form available for transfer by modem or tape.

(6) The Department of Corrections shall prepare and submit to the Legislature on or before June 30, 1996, a report on the pilot project that includes a recommendation on whether the pilot project should be expanded and an evaluation of the resources necessary to expand the project statewide. In preparing the report, the department shall consult with the San Bernardino County Sheriff's Department, the Los Angeles City Police Department, and the Long Beach City Police Department in order to receive their input regarding the feasibility of expanding the project statewide.

(7) The Office of Criminal Justice Planning shall investigate the availability of funding necessary to implement the project statewide, with particular emphasis on any federal funding that may be available.

(f) Notwithstanding any other law, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, of subdivision (c) of Section 667.5 or a felony in which the defendant inflicts great bodily injury on any person other than an accomplice that has been charged and proved as provided for in Section 12022.7 or 12022.9, if the victim or witness has requested additional distance in the placement of the inmate on

parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of a victim or witness.

(g) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

(h) An inmate may be paroled to another state pursuant to any other law.

CHAPTER 598

An act to amend Sections 190 and 2933 of, and to add Section 2933.2 to, the Penal Code, relating to sentencing.

[Approved by Governor September 17, 1996. Filed with Secretary of State September 18, 1996.]

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

SECTION 1. Section 190 of the Penal Code is amended to read:

190. (a) Every person guilty of murder in the first degree shall suffer death, confinement in the state prison for life without the possibility of parole, or confinement in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

Except as provided in subdivision (b) or (c), every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 15 years to life.

(b) Every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 25 years to life if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a) or (b) of Section 830.2, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was such a peace officer engaged in the performance of his or her duties.

(c) Every person guilty of murder in the second degree shall suffer confinement in the state prison for a term of 20 years to life if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury.

(d) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of a sentence imposed pursuant to this section. A person sentenced pursuant to this section shall not be released on parole prior to

serving the minimum term of confinement prescribed by this section.

SEC. 2. Section 2933 of the Penal Code is amended to read:

2933. (a) It is the intent of the Legislature that persons convicted of a crime and sentenced to the state prison under Section 1170 serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the Director of Corrections for performance in work, training or education programs established by the Director of Corrections. Worktime credits shall apply for performance in work assignments and performance in elementary, high school, or vocational education programs. Enrollment in a two- or four-year college program leading to a degree shall result in the application of time credits equal to that provided in Section 2931. For every six months of full-time performance in a credit qualifying program, as designated by the director, a prisoner shall be awarded worktime credit reductions from his or her term of confinement of six months. A lesser amount of credit based on this ratio shall be awarded for any lesser period of continuous performance. Less than maximum credit should be awarded pursuant to regulations adopted by the director for prisoners not assigned to a full-time credit qualifying program. Every prisoner who refuses to accept a full-time credit qualifying assignment or who is denied the opportunity to earn worktime credits pursuant to subdivision (a) of Section 2932 shall be awarded no worktime credit reduction. Every prisoner who voluntarily accepts a half-time credit qualifying assignment in lieu of a full-time assignment shall be awarded worktime credit reductions from his or her term of confinement of three months for each six-month period of continued performance. Except as provided in subdivision (a) of Section 2932, every prisoner willing to participate in a full-time credit qualifying assignment but who is either not assigned to a full-time assignment or is assigned to a program for less than full time, shall receive no less credit than is provided under Section 2931. Under no circumstances shall any prisoner receive more than six months' credit reduction for any six-month period under this section.

(b) Worktime credit is a privilege, not a right. Worktime credit must be earned and may be forfeited pursuant to the provisions of Section 2932. Except as provided in subdivision (a) of Section 2932, every prisoner shall have a reasonable opportunity to participate in a full-time credit qualifying assignment in a manner consistent with institutional security and available resources.

(c) Under regulations adopted by the Department of Corrections, which shall require a period of not more than one year free of disciplinary infractions, worktime credit which has been previously forfeited may be restored by the director. The regulations shall provide for separate classifications of serious disciplinary infractions as they relate to restoration of credits, the time period required before forfeited credits or a portion thereof may be restored, and the

percentage of forfeited credits that may be restored for these time periods. For credits forfeited for commission of a felony specified in paragraph (1) of subdivision (a) of Section 2932, the Department of Corrections may provide that up to 180 days of lost credit shall not be restored and up to 90 days of credit shall not be restored for a forfeiture resulting from conspiracy or attempts to commit one of those acts. No credits may be restored if they were forfeited for a serious disciplinary infraction in which the victim died or was permanently disabled. Upon application of the prisoner and following completion of the required time period free of disciplinary offenses, forfeited credits eligible for restoration under the regulations for disciplinary offenses other than serious disciplinary infractions punishable by a credit loss of more than 90 days shall be restored unless, at a hearing, it is found that the prisoner refused to accept or failed to perform in a credit qualifying assignment, or extraordinary circumstances are present that require that credits not be restored. "Extraordinary circumstances" shall be defined in the regulations adopted by the director. However, in any case in which worktime credit was forfeited for a serious disciplinary infraction punishable by a credit loss of more than 90 days, restoration of credit shall be at the discretion of the director.

The prisoner may appeal the finding through the Department of Corrections review procedure, which shall include a review by an individual independent of the institution who has supervisorial authority over the institution.

(d) The provisions of subdivision (c) shall also apply in cases of credit forfeited under Section 2931 for offenses and serious disciplinary infractions occurring on or after January 1, 1983.

SEC. 3. Section 2933.2 is added to the Penal Code, to read:

2933.2. (a) Notwithstanding Section 2933.1 or any other law, any person who is convicted of murder, as defined in Section 187, shall not accrue any credit, as specified in Section 2933.

(b) The limitation provided in subdivision (a) shall apply whether the defendant is sentenced under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2 or sentenced under some other law.

(c) Notwithstanding Section 4019 or any other provision of law, no credit pursuant to Section 4019 may be earned against a period of confinement in, or commitment to, a county jail, industrial farm, or road camp, or a city jail, industrial farm, or road camp, following arrest for any person specified in subdivision (a).

(d) This section shall only apply to murder that is committed on or after the date on which this section becomes operative.

SEC. 4. Section 1 of this act affects an initiative statute and shall become effective only when submitted to, and approved by, the voters pursuant to subdivision (c) of Section 10 of Article II of the California Constitution.

SEC. 5. Sections 2 and 3 of this act shall become operative only if the provisions of Section 1 of this act are adopted by the voters.

CHAPTER 599

An act to amend Section 827 of the Welfare and Institutions Code, relating to juvenile offenders.

[Approved by Governor September 17, 1996. Filed with Secretary of State September 18, 1996.]

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

SECTION 1. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the district attorney, a city attorney or city prosecutor authorized to prosecute criminal or juvenile cases under state law, the minor who is the subject of the proceeding, his or her parents or guardian, the attorneys for the parties, and judges, referees, other hearing officers, probation officers and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor, the superintendent or designee of the school district where the minor is enrolled or attending school, members of the child protective agencies as defined in Section 11165.9 of the Penal Code, members of children's multidisciplinary teams, persons or agencies providing treatment or supervision of the minor, and any other person who may be designated by court order of the judge of the juvenile court upon filing a petition therefor.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any of those records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of

a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, and other forms of delinquency.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor's case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal may disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, his or her parents or guardians, law enforcement personnel, and the juvenile's probation officer is necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the

superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Unlawful Dissemination Of This Information Is A Misdemeanor." Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor's subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches the age of 18, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 600

An act to amend Section 53069.3 of the Government Code, to amend Sections 594, 594.1, 594.6, 594.8, 640.5, 640.6, and 4024.2 of the Penal Code, to amend Section 13202.6 of the Vehicle Code, and to amend Section 729.1 of the Welfare and Institutions Code, relating to graffiti.

[Approved by Governor September 17, 1996. Filed with Secretary of State September 18, 1996.]

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

SECTION 1. Section 53069.3 of the Government Code is amended to read:

53069.3. (a) A city, county, or city and county may enact an ordinance to provide for the use of city or county funds to remove graffiti or other inscribed material from publicly or privately owned real or personal property located within the city, county, or city and county and to replace or repair public or privately owned property within that city, county, or city and county that has been defaced with graffiti or other inscribed material that cannot be removed cost effectively.

(b) The ordinance shall authorize only the removal of the graffiti or other inscribed material itself, or, if the graffiti or other inscribed material cannot be removed cost effectively, the repair or replacement of the portion of the property that was defaced, and not the painting, repair, or replacement of other parts of the property that were not defaced.

(c) (1) The removal, repair, or replacement may be performed, in the case of publicly owned real or personal property, only after securing the consent of the public entity having jurisdiction over the property, and in the case of privately owned real or personal property, only after securing the consent of the owner or possessor.

(2) The law enforcement agency with primary jurisdiction in a city, county, or city and county that enacts an ordinance pursuant to this section may promulgate procedures for preremoval preservation of sufficient evidence of the graffiti or other inscribed material for criminal prosecutions or proceedings pursuant to Section 602 of the Welfare and Institutions Code pertaining to the person or persons who inscribed the graffiti or other material. These procedures shall

be followed by the city, county, or city and county prior to or during removal of graffiti or other inscribed material.

(d) (1) If a city enacts an ordinance pursuant to this section, the city may also enact an ordinance to establish a procedure pursuant to Section 38772, 38773, 38773.1, 38773.2, 38773.5, or 38773.6 to recover city funds used pursuant to this section to remove graffiti or other inscribed material from publicly or privately owned real or personal property within the city.

(2) If a county enacts an ordinance pursuant to this section, the county may enact an ordinance to establish a procedure pursuant to Section 25845 to recover county funds used pursuant to this section to remove graffiti or other inscribed material from publicly or privately owned real or personal property within the county.

(3) As used in this section, "city or county funds" include, but are not limited to, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, costs of administering and monitoring the participation of a defendant and his or her parents or guardians in a graffiti abatement program, and the law enforcement costs incurred by the city or county in identifying and apprehending the person who created, caused, or committed the graffiti or other inscribed material on the publicly or privately owned permanent real or personal property within the city or county.

(e) As used in this section, "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on any real or personal property.

(f) This section does not preclude the abatement of graffiti or other inscribed material as a nuisance pursuant to Section 25845 or 38773.5 or the enactment or enforcement of any criminal law with respect to nuisance.

SEC. 2. Section 594 of the Penal Code is amended to read:

594. (a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:

(1) Defaces with graffiti or other inscribed material.

(2) Damages.

(3) Destroys.

Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, or furnishings belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.

(b) (1) If the amount of defacement, damage, or destruction is fifty thousand dollars ($50,000) or more, vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one

year, or by a fine of not more than fifty thousand dollars ($50,000), or by both that fine and imprisonment.

(2) If the amount of defacement, damage, or destruction is five thousand dollars ($5,000) or more but less than fifty thousand dollars ($50,000), vandalism is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

(3) If the amount of defacement, damage, or destruction is four hundred dollars ($400) or more but less than five thousand dollars ($5,000), vandalism is punishable by imprisonment in a county jail not exceeding one year, or by a fine of five thousand dollars ($5,000), or by both that fine and imprisonment.

(4) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), vandalism is punishable by imprisonment in a county jail for not more than six months, or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(c) Upon conviction of any person under this section for acts of vandalism consisting of defacing property with graffiti or other inscribed materials, the court may, in addition to any punishment imposed under subdivision (b), order the defendant to clean up, repair, or replace the damaged property himself or herself, or, if the jurisdiction has adopted a graffiti abatement program, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti for up to one year. Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent upon a finding of good cause.

(e) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(f) As used in this section, "graffiti abatement program" means a program adopted by a city, county, or city and county by resolution or ordinance that provides for the administration and financing of graffiti removal, community education on the prevention of graffiti, and enforcement of graffiti laws.

(g) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (c) to undergo counseling.

SEC. 3. Section 594.1 of the Penal Code is amended to read:

594.1. (a) (1) It shall be unlawful for any person, firm, or corporation, except a parent or legal guardian, to sell or give or in any way furnish to another person, who is in fact under the age of 18 years, any aerosol container of paint that is capable of defacing property without first obtaining bona fide evidence of majority and identity.

(2) For purposes of this subdivision, "bona fide evidence of majority and identity" is any document evidencing the age and identity of an individual which has been issued by a federal, state, or local governmental entity, and includes, but is not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Selective Service Act, or an identification card issued to a member of the armed forces.

(3) This subdivision shall not apply to the furnishing of six ounces or less of an aerosol container of paint to a minor for the minor's use or possession under the supervision of the minor's parent, guardian, instructor, or employer.

(4) Aerosol containers of paint or related substances may be furnished for use in school-related activities that are part of the instructional program when used under controlled and supervised situations within the classroom or on the site of a supervised project. These containers may not leave the supervised site and shall be inventoried by the instructor. This use shall comply with Section 32060 of the Education Code regarding the safe use of toxic art supplies in schools.

(b) It shall be unlawful for any person under the age of 18 years to purchase an aerosol container of paint that is capable of defacing property.

(c) Every retailer selling or offering for sale in this state aerosol containers of paint capable of defacing property shall post in a conspicuous place a sign in letters at least three-eighths of an inch high stating: "Any person who maliciously defaces real or personal property with paint is guilty of vandalism which is punishable by a fine, imprisonment, or both."

(d) It is unlawful for any person to carry on his or her person and in plain view to the public an aerosol container of paint while in any posted public facility, park, playground, swimming pool, beach, or recreational area, other than a highway, street, alley, or way, unless he or she has first received valid authorization from the governmental entity which has jurisdiction over the public area.

As used in this subdivision, "posted" means a sign placed in a reasonable location or locations stating it is a misdemeanor to possess a spray can of paint in that public facility, park, playground, swimming pool, beach, or recreational area without valid authorization.

(e) (1) It is unlawful for any person under the age of 18 years to possess an aerosol container of paint for the purpose of defacing property while on any public highway, street, alley, or way, or other

public place, regardless of whether that person is or is not in any automobile, vehicle, or other conveyance.

(2) As a condition of probation for any violation of this subdivision, the court may order a defendant convicted of a violation of this subdivision to perform community service as follows:

(A) For a first conviction under this subdivision, community service not to exceed 100 hours over a period not to exceed 90 days during a time other than his or her hours of school attendance or employment.

(B) If the person has a prior conviction under this subdivision, community service not to exceed 200 hours over a period of 180 days during a time other than his or her hours of school attendance or employment.

(C) If the person has two prior convictions under this subdivision, community service not to exceed 300 hours over a period not to exceed 240 days during a time other than his or her hours of school attendance or employment.

(f) Violation of any provision of this section is a misdemeanor. Upon conviction of any person under this section, the court may, in addition to any other punishment imposed, if the jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti, as follows:

(1) For a first conviction under this section, for 90 days.

(2) If the defendant has a prior conviction under this section, for 180 days.

(3) If the defendant has two or more prior convictions under this section, for 240 days.

Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(g) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (e) or (f) to undergo counseling.

SEC. 4. Section 594.6 of the Penal Code is amended to read:

594.6. (a) Every person who, having been convicted previously of vandalism or affixing graffiti or other inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7, or any combination of these offenses, on two separate occasions, and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted of vandalism under Section 594, may be ordered by the court as a condition of probation to perform community service not to exceed 300 hours over a period not to exceed 240 days during a time other than his or her hours of school attendance or employment.

(b) In lieu of the community service that may be ordered pursuant to subdivision (a), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, as a condition of probation, to keep a specified property in the community free of graffiti for up to one year. Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(c) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (a) or (b) to undergo counseling.

SEC. 5. Section 594.8 of the Penal Code is amended to read:

594.8. (a) Any person convicted of possession of a destructive implement with intent to commit graffiti or willfully affixing graffiti under Section 594.2, 640.5, 640.6, or 640.7, where the offense was committed when he or she was under the age of 18 years, shall perform not less than 24 hours of community service during a time other than his or her hours of school attendance or employment. One parent or guardian shall be present at the community service site for at least one-half of the hours of community service required under this section unless participation by the parent, guardian, or foster parent is deemed by the court to be inappropriate or potentially detrimental to the child.

(b) In lieu of the community service required pursuant to subdivision (a), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep a specified property in the community free of graffiti for at least 60 days. Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(c) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (a) or (b) to undergo counseling.

SEC. 6. Section 640.5 of the Penal Code is amended to read:

640.5. (a) (1) Any person who defaces with graffiti or other inscribed material the interior or exterior of the facilities or vehicles of a governmental entity, as defined by Section 811.2 of the Government Code, or the interior or exterior of the facilities or vehicles of a public transportation system as defined by Section 99211 of the Public Utilities Code, or the interior or exterior of the facilities of or vehicles operated by entities subsidized by the Department of Transportation or the interior or exterior of any leased or rented facilities or vehicles for which any of the above entities incur costs of less than two hundred fifty dollars ($250) for cleanup, repair, or

replacement is guilty of an infraction, punishable by a fine not to exceed five hundred dollars ($500) and by a minimum of 24 hours of community service for a total time not to exceed 100 hours over a period not to exceed 90 days, during a time other than his or her hours of school attendance or employment. This subdivision does not preclude application of Section 594.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep a specified property in the community free of graffiti for 90 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(b) (1) If the person has been convicted previously of an infraction under subdivision (a) or has a prior conviction of Section 594, 594.3, 594.4, 640.6, or 640.7, the offense is a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine. As a condition of probation, the court shall order the defendant to perform a minimum of 48 hours of community service not to exceed 200 hours over a period not to exceed 180 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, as a condition of probation, to keep a specified property in the community free of graffiti for 180 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(c) (1) Every person who, having been convicted previously under this section or Section 594, 594.3, 594.4, 640.6, or 640.7, or any combination of these offenses, on two separate occasions, and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted under this section, shall be punished by imprisonment in a county jail not to exceed one year. As a condition of probation, the court may order the defendant to perform community service not to exceed 300 hours over a period not to exceed 240 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service that may be ordered pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f)

of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, as a condition of probation, to keep a specified property in the community free of graffiti for 240 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(d) (1) Upon conviction of any person under subdivision (a), the court, in addition to any punishment imposed pursuant to subdivision (a), (b), or (c), at the victim's option, may order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person.

(2) If a minor is personally unable to pay any fine levied for violating subdivision (a), (b), or (c), the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent or legal guardian upon a finding of good cause.

(e) Any fine levied for a violation of subdivision (a), (b), or (c) shall be credited by the county treasurer pursuant to Section 1463.29 to the governmental entity having jurisdiction over, or responsibility for, the facility or vehicle involved, to be used for removal of the graffiti or other inscribed material or replacement or repair of the property defaced by the graffiti or other inscribed material. Before crediting these fines to the appropriate governmental entity, the county may determine the administrative costs it has incurred pursuant to this section, and retain an amount equal to those costs.

Any community service which is required pursuant to subdivision (a), (b), or (c) of a person under the age of 18 years may be performed in the presence, and under the direct supervision, of the person's parent or legal guardian.

(f) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(g) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (a), (b), (c), or (d) to undergo counseling.

SEC. 6.5. Section 640.5 of the Penal Code is amended to read:

640.5. (a) (1) Any person who defaces with graffiti or other inscribed material the interior or exterior of the facilities or vehicles of a governmental entity, as defined by Section 811.2 of the Government Code, or the interior or exterior of the facilities or vehicles of a public transportation system as defined by Section 99211 of the Public Utilities Code, or the interior or exterior of the facilities of or vehicles operated by entities subsidized by the Department of Transportation or the interior or exterior of any leased or rented facilities or vehicles for which any of the above entities incur costs of less than two hundred fifty dollars ($250) for cleanup, repair, or

replacement is guilty of an infraction, punishable by a fine not to exceed one thousand dollars ($1,000) and by a minimum of 48 hours of community service for a total time not to exceed 200 hours over a period not to exceed 180 days, during a time other than his or her hours of school attendance or employment. This subdivision does not preclude application of Section 594.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep a specified property in the community free of graffiti for 90 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(b) (1) If the person has been convicted previously of an infraction under subdivision (a) or has a prior conviction of Section 594, 594.3, 594.4, 640.6, or 640.7, the offense is a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, by a fine not to exceed two thousand dollars ($2,000), or by both that imprisonment and fine. As a condition of probation, the court shall order the defendant to perform a minimum of 96 hours of community service not to exceed 400 hours over a period not to exceed 350 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, as a condition of probation, to keep a specified property in the community free of graffiti for 180 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(c) (1) Every person who, having been convicted previously under this section or Section 594, 594.3, 594.4, 640.6, or 640.7, or any combination of these offenses, on two separate occasions, and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted under this section, shall be punished by imprisonment in a county jail not to exceed one year, by a fine not to exceed three thousand dollars ($3,000), or by both that imprisonment and fine. As a condition of probation, the court may order the defendant to perform community service not to exceed 600 hours over a period not to exceed 480 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service that may be ordered pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, as a condition of probation, to keep a specified property in the community free of graffiti for 240 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(d) (1) Upon conviction of any person under subdivision (a), the court, in addition to any punishment imposed pursuant to subdivision (a), (b), or (c), at the victim's option, may order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person.

(2) If a minor is personally unable to pay any fine levied for violating subdivision (a), (b), or (c), the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent or legal guardian upon a finding of good cause.

(e) Any fine levied for a violation of subdivision (a), (b), or (c) shall be credited by the county treasurer pursuant to Section 1463.29 to the governmental entity having jurisdiction over, or responsibility for, the facility or vehicle involved, to be used for removal of the graffiti or other inscribed material or replacement or repair of the property defaced by the graffiti or other inscribed material. Before crediting these fines to the appropriate governmental entity, the county may determine the administrative costs it has incurred pursuant to this section, and retain an amount equal to those costs.

Any community service which is required pursuant to subdivision (a), (b), or (c) of a person under the age of 18 years may be performed in the presence, and under the direct supervision, of the person's parent or legal guardian.

(f) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(g) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (a), (b), (c), or (d) to undergo counseling.

SEC. 7. Section 640.6 of the Penal Code is amended to read:

640.6. (a) (1) Except as provided in Section 640.5, any person who defaces with graffiti or other inscribed material any real or personal property not his or her own, when the amount of the defacement, damage, or destruction is less than two hundred fifty dollars ($250), is guilty of an infraction, punishable by a fine not to exceed five hundred dollars ($500). This subdivision does not preclude application of Section 594.

In addition to the penalty set forth in this section, the court shall order the defendant to perform a minimum of 24 hours of community service not to exceed 100 hours over a period not to exceed 90 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep a specified property in the community free of graffiti for 90 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(b) (1) If the person has been convicted previously of an infraction under subdivision (a) or has a prior conviction of Section 594, 594.3, 594.4, 640.5, or 640.7, the offense is a misdemeanor, punishable by not to exceed six months in a county jail, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine. As a condition of probation, the court shall order the defendant to perform a minimum of 48 hours of community service not to exceed 200 hours over a period not to exceed 180 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, as a condition of probation, to keep a specified property in the community free of graffiti for 180 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(c) (1) Every person who, having been convicted previously under this section or Section 594, 594.3, 594.4, 640.5, or 640.7, or any combination of these offenses, on two separate occasions, and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted under this section, shall be punished by imprisonment in a county jail not to exceed one year. As a condition of probation, the court may order the defendant to perform community service not to exceed 300 hours over a period not to exceed 240 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service that may be ordered pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant

is a minor, as a condition of probation, to keep a specified property in the community free of graffiti for 240 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(d) Upon conviction of any person under subdivision (a), the court, in addition to any punishment imposed pursuant to subdivision (a), (b), or (c), at the victim's option, may order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person.

(e) If a minor is personally unable to pay any fine levied for violating subdivision (a), (b), or (c), the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent or legal guardian upon a finding of good cause.

Any community service which is required pursuant to subdivision (a), (b), or (c) of a person under the age of 18 years may be performed in the presence, and under the direct supervision, of the person's parent or legal guardian.

(f) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(g) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (a), (b), (c), or (d) to undergo counseling.

SEC. 7.5. Section 640.6 of the Penal Code is amended to read:

640.6. (a) (1) Except as provided in Section 640.5, any person who defaces with graffiti or other inscribed material any real or personal property not his or her own, when the amount of the defacement, damage, or destruction is less than two hundred fifty dollars ($250), is guilty of an infraction, punishable by a fine not to exceed one thousand dollars ($1,000). This subdivision does not preclude application of Section 594.

In addition to the penalty set forth in this section, the court shall order the defendant to perform a minimum of 48 hours of community service not to exceed 200 hours over a period not to exceed 180 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, to keep a specified property in the community free of graffiti for 90 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation

to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(b) (1) If the person has been convicted previously of an infraction under subdivision (a) or has a prior conviction of Section 594, 594.3, 594.4, 640.5, or 640.7, the offense is a misdemeanor, punishable by not to exceed six months in a county jail, by a fine not to exceed two thousand dollars ($2,000), or by both that imprisonment and fine. As a condition of probation, the court shall order the defendant to perform a minimum of 96 hours of community service not to exceed 400 hours over a period not to exceed 350 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, as a condition of probation, to keep a specified property in the community free of graffiti for 180 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(c) (1) Every person who, having been convicted previously under this section or Section 594, 594.3, 594.4, 640.5, or 640.7, or any combination of these offenses, on two separate occasions, and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted under this section, shall be punished by imprisonment in a county jail not to exceed one year, by a fine not to exceed three thousand dollars ($3,000), or by both that imprisonment and fine. As a condition of probation, the court may order the defendant to perform community service not to exceed 600 hours over a period not to exceed 480 days during a time other than his or her hours of school attendance or employment.

(2) In lieu of the community service that may be ordered pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594, order the defendant, and his or her parents or guardians if the defendant is a minor, as a condition of probation, to keep a specified property in the community free of graffiti for 240 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(d) Upon conviction of any person under subdivision (a), the court, in addition to any punishment imposed pursuant to subdivision (a), (b), or (c), at the victim's option, may order the defendant to

perform the necessary labor to clean up, repair, or replace the property damaged by that person.

(e) If a minor is personally unable to pay any fine levied for violating subdivision (a), (b), or (c), the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent or legal guardian upon a finding of good cause.

Any community service which is required pursuant to subdivision (a), (b), or (c) of a person under the age of 18 years may be performed in the presence, and under the direct supervision, of the person's parent or legal guardian.

(f) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(g) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (a), (b), (c), or (d) to undergo counseling.

SEC. 8. Section 4024.2 of the Penal Code is amended to read:

4024.2. (a) Notwithstanding any other law, the board of supervisors of any county may authorize the sheriff or other official in charge of county correctional facilities to offer a voluntary program under which any person committed to the facility may participate in a work release program pursuant to criteria described in subdivision (b), in which one day of participation will be in lieu of one day of confinement.

(b) The criteria for a work release program are the following:

(1) The work release program shall consist of any of the following:

(A) Manual labor to improve or maintain levees or public facilities, including, but not limited to, streets, parks, and schools.

(B) Manual labor in support of nonprofit organizations, as approved by the sheriff or other official in charge of the correctional facilities. As a condition of assigning participants of a work release program to perform manual labor in support of nonprofit organizations pursuant to this section, the board of supervisors shall obtain workers' compensation insurance which shall be adequate to cover work-related injuries incurred by those participants, in accordance with Section 3363.5 of the Labor Code.

(C) Performance of graffiti cleanup for local governmental entities, including participation in a graffiti abatement program as defined in subdivision (f) of Section 594, as approved by the sheriff or other official in charge of the correctional facilities.

(D) Performance of house repairs or yard services for senior citizens and the performance of repairs to senior centers through contact with local senior service organizations, as approved by the sheriff or other official in charge of the correctional facilities. Where a work release participant has been assigned to this task, the sheriff or other official shall agree upon in advance with the senior service

organization about the type of services to be rendered by the participant and the extent of contact permitted between the recipients of these services and the participant.

(E) Any person who is not able to perform manual labor as specified in this paragraph because of a medical condition, physical disability, or age, may participate in a work release program involving any other type of public sector work that is designated and approved by the sheriff or other official in charge of county correctional facilities.

(2) The sheriff or other official may permit a prisoner participating in a work release program to receive work release credit for participation in education, vocational training, or substance abuse programs in lieu of performing labor in a work release program on an hour-for-hour basis. However, credit for that participation may not exceed one-half of the hours established for the work release program, and the remaining hours shall consist of manual labor described in paragraph (1).

(3) The work release program shall be under the direction of a responsible person appointed by the sheriff or other official in charge.

(4) The hours of labor to be performed pursuant to this section shall be uniform for all persons committed to a facility in a county and may be determined by the sheriff or other official in charge of county correctional facilities, and each day shall be a minimum of 8 and a maximum of 10 hours, in accordance with the normal working hours of county employees assigned to supervise the programs. However, reasonable accommodation may be made for participation in a program under paragraph (2).

As used in this section, "nonprofit organizations" means organizations established or operated for the benefit of the public or in support of a significant public interest, as set forth in Section 501(c)(3) of the Internal Revenue Code. Organizations established or operated for the primary purpose of benefiting their own memberships are specifically excluded.

(c) The board of supervisors may prescribe reasonable rules and regulations under which a work release program is operated and may provide that participants wear clothing of a distinctive character while performing the work. As a condition of participating in a work release program, a person shall give his or her promise to appear for work or assigned activity by signing a notice to appear before the sheriff or at the education, vocational, or substance abuse program at a time and place specified in the notice and shall sign an agreement that the sheriff may immediately retake the person into custody to serve the balance of his or her sentence if the person fails to appear for the program at the time and place agreed to, does not perform the work or activity assigned, or for any other reason is no longer a fit subject for release under this section. A copy of the notice shall be delivered to the person and a copy shall be retained by the sheriff. Any person who willfully violates his or her written promise to appear

at the time and place specified in the notice is guilty of a misdemeanor.

Whenever a peace officer has reasonable cause to believe the person has failed to appear at the time and place specified in the notice or fails to appear or work at the time and place agreed to or has failed to perform the work assigned, the peace officer may, without a warrant, retake the person into custody, or the court may issue an arrest warrant for the retaking of the person into custody, to complete the remainder of the original sentence. A peace officer may not retake a person into custody under this subdivision, without a warrant for arrest, unless the officer has a written order to do so, signed by the sheriff or other person in charge of the program, that describes with particularity the person to be retaken.

(d) Nothing in this section shall be construed to require the sheriff or other official in charge to assign a person to a program pursuant to this section if it appears from the record that the person has refused to satisfactorily perform as assigned or has not satisfactorily complied with the reasonable rules and regulations governing the assignment or any other order of the court.

A person shall be eligible for work release under this section only if the sheriff or other official in charge concludes that the person is a fit subject therefor.

(e) The board of supervisors may prescribe a program administrative fee, not to exceed the pro rata cost of administration, to be paid by each person according to his or her ability to pay.

SEC. 9. Section 13202.6 of the Vehicle Code is amended to read:

13202.6. (a) (1) For every conviction of a person for a violation of Section 594, 594.3, or 594.4 of the Penal Code, committed while the person was 13 years of age or older, the court may suspend the person's driving privilege for one year. If the person convicted does not yet have the privilege to drive, the court may order the department to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. However, if there is no further conviction for violating Section 594, 594.3, or 594.4 of the Penal Code in a 12-month period after the conviction, the court, upon petition of the person affected, may modify the order imposing the delay of the privilege. For each successive offense, the court shall suspend the person's driving privilege for those possessing a license or delay the eligibility for those not in possession of a license at the time of their conviction for one additional year.

(2) Any person whose driving privilege is suspended or delayed for an act involving vandalism in violation of Section 594, 594.3, or 594.4 of the Penal Code, may elect to reduce the period of suspension or delay imposed by the court by performing community service under the supervision of the probation department. The period of suspension or delay ordered under paragraph (1) shall be reduced at the rate of one day for each hour of community service performed.

If the jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594 of the Penal Code, the period of suspension or delay ordered under paragraph (1) shall be reduced at the rate of one day for each day of community service performed in the graffiti abatement program when the defendant and his or her parents or guardians are responsible for keeping a specified property in the community free of graffiti for a specified period of time. The suspension shall be reduced only when the specified period of participation has been completed. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children. For purposes of this paragraph, "community service" means cleaning up graffiti from any public property, including public transit vehicles.

(3) As used in this section, the term "conviction" includes the findings in juvenile proceedings specified in Section 13105.

(b) (1) Whenever the court suspends driving privileges pursuant to subdivision (a), the court in which the conviction is made shall require all drivers' licenses held by the person to be surrendered to the court. The court shall, within 10 days following the conviction, transmit a certified abstract of the conviction, together with any drivers' licenses surrendered, to the department.

(2) Violations of restrictions imposed pursuant to this section are subject to Section 14603.

(c) When the court is considering suspending or delaying driving privileges pursuant to subdivision (a), the court shall consider if a personal or family hardship exists that requires the person to have a driver's license for his or her own, or a member of his or her family's, employment or medically related purposes.

(d) The suspension, restriction, or delay of driving privileges pursuant to this section shall be in addition to any penalty imposed upon conviction of any violation of Section 594, 594.3, or 594.4 of the Penal Code.

SEC. 9.5. Section 13202.6 of the Vehicle Code is amended to read:

13202.6. (a) (1) For every conviction of a person for a violation of Section 594, 594.3, or 594.4 of the Penal Code, committed while the person was 13 years of age or older, the court shall suspend the person's driving privilege for one year, except when the court finds that a personal or family hardship exists that requires the person to have a driver's license for his or her own, or a member of his or her family's, employment or medically related purposes. If the person convicted does not yet have the privilege to drive, the court shall order the department to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. However, if there is no further conviction for violating Section 594, 594.3, or 594.4 of the Penal Code in a 12-month period after the conviction, the court, upon petition of the person affected, may modify the order imposing the delay of the privilege. For each

successive offense, the court shall suspend the person's driving privilege for those possessing a license or delay the eligibility for those not in possession of a license at the time of their conviction for one additional year.

(2) Any person whose driving privilege is suspended or delayed for an act involving vandalism in violation of Section 594, 594.3, or 594.4 of the Penal Code, may elect to reduce the period of suspension or delay imposed by the court by performing community service under the supervision of the probation department. The period of suspension or delay ordered under paragraph (1) shall be reduced at the rate of one day for each hour of community service performed. If the jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594 of the Penal Code, the period of suspension or delay ordered under paragraph (1) shall be reduced at the rate of one day for each day of community service performed in the graffiti abatement program when the defendant and his or her parents or guardians are responsible for keeping a specified property in the community free of graffiti for a specified period of time. The suspension shall be reduced only when the specified period of participation has been completed. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children. For purposes of this paragraph, "community service" means cleaning up graffiti from any public property, including public transit vehicles.

(3) As used in this section, the term "conviction" includes the findings in juvenile proceedings specified in Section 13105.

(b) (1) Whenever the court suspends driving privileges pursuant to subdivision (a), the court in which the conviction is had shall require all drivers' licenses held by the person to be surrendered to the court. The court shall, within 10 days following the conviction, transmit a certified abstract of the conviction, together with any drivers' licenses surrendered, to the department.

(2) Violations of restrictions imposed pursuant to this section are subject to Section 14603.

(c) The suspension, restriction, or delay of driving privileges pursuant to this section shall be in addition to any penalty imposed upon conviction of any violation of Section 594, 594.3, or 594.4 of the Penal Code.

SEC. 10. Section 729.1 of the Welfare and Institutions Code is amended to read:

729.1. (a) (1) If a minor is found to be a person described in Section 602 by reason of the commission of a crime which takes place on a public transit vehicle, and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons that the condition would be inappropriate, shall require the minor to wash, paint, repair or

replace the damaged or destroyed property, or otherwise make restitution to the property owner. If restitution is found to be inappropriate, the court, except in any case in which the court makes a finding and states on the record its reasons that the condition would be inappropriate, shall require the minor to perform specified community service. Nothing in this section shall be construed to limit the authority of a juvenile court to provide conditions of probation.

(2) In lieu of the community service required pursuant to paragraph (1), the court may, if a jurisdiction has adopted a graffiti abatement program as defined in subdivision (f) of Section 594 of the Penal Code, order the defendant, and his or her parents or guardians, as a condition of probation, to keep a specified property in the community free of graffiti for 90 days. Participation of a parent or guardian is not required under this paragraph if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(b) As used in subdivision (a), "public transit vehicle" means any motor vehicle, street car, trackless trolley, bus, shuttle, light rail system, rapid transit system, subway, train, taxi cab, or jitney, which transports members of the public for hire.

(c) The court may order any person ordered to perform community service or graffiti removal pursuant to subdivision (a) to undergo counseling.

SEC. 11. Section 6.5 of this bill incorporates amendments to Section 640.5 of the Penal Code proposed by both this bill and AB 2433. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 640.5 of the Penal Code, and (3) this bill is enacted after AB 2433, in which case Section 6 of this bill shall not become operative.

SEC. 12. Section 7.5 of this bill incorporates amendments to Section 640.6 of the Penal Code proposed by both this bill and AB 2433. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 640.6 of the Penal Code, and (3) this bill is enacted after AB 2433, in which case Section 7 of this bill shall not become operative.

SEC. 13. Section 9.5 of this bill incorporates amendments to Section 13202.6 of the Vehicle Code proposed by both this bill and AB 2331. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1997, (2) each bill amends Section 13202.6 of the Vehicle Code, and (3) this bill is enacted after AB 2331, in which case Section 9 of this bill shall not become operative.

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 that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government

Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 601

An act to amend Sections 12300, 12301, 12303, 12310, 12311, 12312, 12314, 12316, 12980, 12981, 12984, 12986, 12987, 12988, and 12989 of, to amend and repeal Section 12987.5 of, and to add Sections 12318, 12994, and 12995 to, the Water Code, relating to water.

[Approved by Governor September 18, 1996. Filed with Secretary of State September 19, 1996.]

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

SECTION 1. Section 12300 of the Water Code is amended to read:

12300. (a) The Delta Flood Protection Fund is hereby created in the State Treasury. There shall be deposited in the fund all moneys appropriated to the fund and all income derived from the investment of moneys that are in the fund.

(b) It is the intent of the Legislature to appropriate, in accordance with Section 12938, twelve million dollars ($12,000,000) each year through fiscal year 1998–99 to the Delta Flood Protection Fund from moneys deposited in the California Water Fund pursuant to subdivision (b) of Section 6217 of the Public Resources Code. It is further the intent of the Legislature to appropriate annually moneys in the Delta Flood Protection Fund to the department for expenditure and allocation, without regard to fiscal years, in the following amounts and for the following purposes:

(1) Six million dollars ($6,000,000) annually for local assistance under the delta levee maintenance subventions program pursuant to Part 9 (commencing with Section 12980), and for the administration thereof.

(2) Six million dollars ($6,000,000) annually for special delta flood protection projects under Chapter 2 (commencing with Section 12310) and subsidence studies and monitoring, and the administration thereof. These funds shall only be allocated for projects on Bethel, Bradford, Holland, Hotchkiss, Jersey, Sherman, Twitchell, and Webb Islands, and at other locations in the delta and for the Towns of Thornton and Walnut Grove and for approximately 12 miles of levees on islands bordering the Northern Suisun Bay from Van Sickle Island westerly to Montezuma Slough.

(c) Any moneys unexpended at the end of a fiscal year shall revert to the Delta Flood Protection Fund and shall be available for appropriation by the Legislature for the purposes specified in subdivision (b).

(d) It is the intent of the Legislature that, to the extent consistent with Sections 12314, 12987, and 78543, projects funded under subdivision (b) shall be consistent with the delta ecosystem restoration strategy of the CALFED Bay-Delta Program.

SEC. 2. Section 12301 of the Water Code is amended to read:

12301. The Delta Flood Protection Fund is hereby abolished on July 1, 2006, and all unencumbered moneys in the fund are transferred to the General Fund.

SEC. 3. Section 12303 of the Water Code is amended to read:

12303. (a) It is the intent of the Legislature that, subject to subdivision (b) of Section 12929.12, if twelve million dollars ($12,000,000) or any lesser amount is transferred pursuant to paragraph (3) of subdivision (b) of Section 12937 to the California Water Fund from the California Water Resources Development Bond Fund in each of the fiscal years 1990–91 to 1997–98, inclusive, and if six million dollars ($6,000,000) or any lesser amount is so transferred in the 1998–99 fiscal year, that amount shall be appropriated to the Delta Flood Protection Fund for the purposes specified in subdivision (b) of Section 12300, in lieu of the funds deposited in the California Water Fund pursuant to subdivision (b) of Section 6217 of the Public Resources Code. However, that the director, in consultation with the Department of Finance, may accelerate payments to the California Water Fund for reappropriation to the Delta Flood Protection Fund if the director deems it appropriate to do so.

(b) The obligation of the State Water Resources Development System to reimburse the California Water Fund, pursuant to paragraph (3) of subdivision (b) of Section 12937, shall decrease by amounts equal to the amounts which are transferred from the California Water Resources Development Bond Fund to the California Water Fund and appropriated to the Delta Flood Protection Fund pursuant to subdivision (a).

(c) For any fiscal year, the Director of Finance, in consultation with the Director of Water Resources, may recommend in the Budget Act a source of funding for the Delta Flood Protection Fund which is different from that set forth in subdivision (a). If the Legislature approves the alternative source of funding, the portion of the State Water Resources Development System obligation specified in subdivision (b) which remains outstanding because of the selection of the alternative funding source shall be discharged pursuant to subdivision (b) of Section 11913.

(d) It is the intent of the Legislature, upon the creation of the Delta Levee Rehabilitation Subaccount pursuant to Section 78540, as proposed to be added by S.B. 900 of the 1995–96 Regular Session, that

subdivisions (a), (b), and (c) shall not apply to the Delta Levee Rehabilitation Subaccount and that the funds of the subaccount shall be available to fund equally both of the following:

(1) The delta levee maintenance subventions program pursuant to Part 9 (commencing with Section 12980), associated mitigation and habitat improvement programs, and the administration thereof.

(2) The special delta flood protection projects pursuant to Chapter 2 (commencing with Section 12310), associated mitigation and habitat improvement programs, and the administration thereof.

SEC. 4. Section 12310 of the Water Code is amended to read:

12310. As used in this chapter, the following terms have the following meanings:

(a) "Local public agency" means a reclamation district or levee district or other public agency responsible for the maintenance of a nonproject levee as defined in subdivision (d) of Section 12980 or a project levee as defined in subdivision (e) of Section 12980.

(b) "Project" means the flood control improvement and any mitigation and habitat improvement constructed, or interests in land acquired, for those purposes pursuant to this part.

(c) "Department" means the Department of Water Resources.

(d) "Delta" means the Sacramento-San Joaquin Delta as described in Section 12220.

(e) "Net long-term habitat improvement" means enhancement of riparian, fisheries, and wildlife habitat.

(f) "CALFED Bay Delta Program" or "CALFED program" means the program established in May 1995 as a joint effort among state and federal agencies with management and regulatory responsibilities in the San Francisco Bay and Sacramento-San Joaquin River Delta to develop long-term solutions to resource management problems involving the bay-delta.

SEC. 5. Section 12311 of the Water Code is amended to read:

12311. (a) The department shall develop and implement a program of flood control projects on Bethel, Bradford, Holland, Hotchkiss, Jersey, Sherman, Twitchell, and Webb Islands, and at other locations in the delta and for the Towns of Thornton and Walnut Grove, and for approximately 12 miles of levees on islands bordering Northern Suisun Bay from Van Sickle Island westerly to Montezuma Slough. This program shall have, as its primary purpose, the protection of discrete and identifiable public benefits, including the protection of public highways and roads, utility lines and conduits, and other public facilities, and the protection of urbanized areas, water quality, recreation, navigation, and fish and wildlife habitats, and other public benefits. The program shall also include net long-term habitat improvement.

(b) Notwithstanding subdivision (a), the department shall develop and recommend a plan of action, including alternatives, for flood control for the Towns of Thornton and Walnut Grove and shall submit the plan to the Legislature by January 1, 1989. The

department shall not allocate any funds for implementation of the plan of action for flood control for the Towns of Thornton and Walnut Grove until a plan is approved by the Legislature.

SEC. 6. Section 12312 of the Water Code is amended to read:

12312. The department may expend any moneys available to it pursuant to paragraph (2) of subdivision (b) of Section 12300 or any moneys available from other sources of funding appropriated by the Legislature for the purposes of this part. In addition, the department shall seek a sharing of costs with the beneficiaries or owners or operators of the public facilities benefited by the flood protection projects. The department shall also seek cost sharing with, or financial assistance from, federal agencies which have programs applicable to, or which have an interest in, the flood protection projects.

SEC. 7. Section 12314 of the Water Code is amended to read:

12314. (a) Guided by the approved priority list developed pursuant to Section 12313, the department shall develop project plans to accomplish the needed flood protection work in cooperation with the local public agency, the public beneficiary, and the Department of Fish and Game.

(b) The plans shall be subject to the approval of the appropriate local public agency or agencies and subject to any cost-sharing agreement the department may have entered into under Section 12312. Project plans may include, or be a combination of, the improvement, rehabilitation, or modification of existing levees, and the conveyance of interests in land to limit or to modify land management practices which have a negative impact on flood control facilities.

(c) Project plans shall include provision for the protection of fish and wildlife habitat determined to be necessary by the Department of Fish and Game and not injurious to the integrity of flood control works. The Department of Fish and Game shall consider the value of the riparian and fisheries habitat and the need to provide greater flood protection in preparing its requirements, and shall not approve any plan which calls for the use of channel islands or berms with significant riparian communities as borrow sites for levee repair materials, unless fully mitigated, or any plans that will result in a net long-term loss of riparian, fisheries, or wildlife habitat.

(d) After the memorandum of understanding required pursuant to Section 12307 is amended as required by Section 78543, the Department of Fish and Game shall also make a written determination as part of its review and approval of a plan or project pursuant to this section and Section 12987 that the proposed expenditures are consistent with a net long-term habitat improvement program and have a net benefit for aquatic species in the delta. The memorandum of understanding in effect prior to the amendments required by Section 78543 shall remain in effect with

regard to levee projects and plans until the memorandum of understanding is amended.

SEC. 8. Section 12316 of the Water Code is amended to read:

12316. In addition to any obligations assumed under an agreement with the department and to the extent consistent with that agreement, the local public agency shall do all of the following:

(a) Provide construction access to lands or rights-of-way which it owns or maintains for flood control purposes or for purposes with which the project's required uses are compatible and necessary to complete the project.

(b) Maintain the completed project pursuant to maintenance criteria developed and adopted in accordance with Section 12984.

(c) Apply for federal disaster assistance, whenever eligible, under Public Law 93-288.

(d) Hold and save the department, any other agency or department of the state, and their employees free from any and all liability for damages, except that caused by gross negligence, that may arise out of the construction, operation, or maintenance of the project.

(e) Acquire easements from the crown along levees for the control and reversal of subsidence in areas where the department determines that such an easement is desirable to maintain structural stability of the levee. The easement shall (1) restrict the use of the land to open-space uses, nontillable crops, the propagation of wildlife habitat, and other compatible uses, (2) provide full access to the local agency for levee maintenance and improvement purposes, and (3) allow the owner to retain reasonable rights of ingress and egress as well as reasonable rights of access to the waterways for water supply and drainage. The local public agency costs of acquisition of the easements shall be reimbursable by the department from moneys appropriated pursuant to paragraph (2) of subdivision (b) of Section 12300 or any sources of funding appropriated by the Legislature for purposes of this part.

(f) Comply with all habitat mitigation and improvement requirements pursuant to this part.

(g) Use subsidence control alternatives, where appropriate, to reduce long-term maintenance and improvement costs.

SEC. 9. Section 12318 is added to the Water Code, to read:

12318. (a) The Resources Agency may establish a team of federal, state, and local agencies, and other persons or entities with a stake in finding a solution to the problems of the delta levees, to develop recommendations for the beneficial reuse of dredged material, consistent with actions identified by the CALFED Bay-Delta Program as core actions, which are those actions included in all bay-delta solutions. The recommendations shall address all of the following needs:

(1) Long-term availability of cost-effective, environmentally safe, and appropriate dredged material for delta levee maintenance and improvements.

(2) Beneficial reuse of dredged or suitable alternative materials.

(3) Coordination of dredging projects to augment on-island stockpiles.

(4) Development of a comprehensive monitoring program of the effects of the reuse of dredged material.

(5) A study of the applicability and appropriateness of constructing channel sediment traps and dredged material rehandling facilities adjacent to frequently dredged channel sections.

SEC. 10. Section 12980 of the Water Code is amended to read:

12980. As used in this part:

(a) "Board" means the Reclamation Board.

(b) "Delta" means the Sacramento-San Joaquin Delta as described in Section 12220.

(c) "Local agency" means any city, county, district, or other political subdivision of the state which is authorized to maintain levees.

(d) "Net long-term habitat improvement" means enhancement of riparian, fisheries, and wildlife habitat.

(e) "Nonproject levee" means a local flood control levee in the delta that is not a project facility under the State Water Resources Law of 1945, as shown on page 38 of the Department of Water Resources "Sacramento-San Joaquin Delta Atlas," dated 1993.

(f) "Project levee" means a federal flood control levee, as shown on page 40 of the Department of Water Resources "Sacramento-San Joaquin Delta Atlas," dated 1993, that is a project facility under the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6), if not less than a majority of the acreage within the jurisdiction of the local agency that maintains the levee is within the primary zone of the delta, as defined in Section 29728 of the Public Resources Code.

SEC. 11. Section 12981 of the Water Code is amended to read:

12981. (a) The Legislature finds and declares that the delta is endowed with many invaluable and unique resources and that these resources are of major statewide significance.

(b) The Legislature further finds and declares that the delta's uniqueness is particularly characterized by its hundreds of miles of meandering waterways and the many islands adjacent thereto; that, in order to preserve the delta's invaluable resources, which include highly productive agriculture, recreational assets, fisheries, and wildlife environment, the physical characteristics of the delta should be preserved essentially in their present form; and that the key to preserving the delta's physical characteristics is the system of levees defining the waterways and producing the adjacent islands.

However, the Legislature recognizes that it may not be economically justifiable to maintain all delta islands.

(c) The Legislature further finds and declares that funds necessary to maintain and improve the delta's levees to protect the delta's physical characteristics should be used to fund levee work that would promote agricultural and habitat uses in the delta consistent with the purpose of preserving the delta's invaluable resources.

SEC. 12. Section 12984 of the Water Code is amended to read:

12984. The department shall develop and submit to the board, for adoption by the board, criteria for the maintenance and improvement of nonproject levees. The criteria shall vary as required to meet specific conditions and shall be multipurpose in nature, and include environmental considerations, when feasible. The criteria shall embody and implement both of the following:

(a) The short-term mitigation plan set forth in the "Flood Hazard Mitigation Plan for the Sacramento-San Joaquin Delta," prepared by the department for the Office of Emergency Services, dated September 15, 1983, or as amended.

(b) The "Vegetation Management Guidelines for Local Nonproject Delta Levees" dated April 1994, or any successor guidelines.

SEC. 13. Section 12986 of the Water Code, as amended by Section 5 of Chapter 28 of the Statutes of 1988, is amended to read:

12986. (a) It is the intention of the Legislature to reimburse an eligible local agency pursuant to this part for costs incurred in any year for the maintenance or improvement of project or nonproject levees as follows:

(1) No costs incurred shall be reimbursed if the entire cost incurred per mile of project or nonproject levee is one thousand dollars ($1,000) or less.

(2) Not more than 75 percent of any costs incurred in excess of one thousand dollars ($1,000) per mile of project or nonproject levee shall be reimbursed.

(3) (A) As part of the project plans approved by the board, the department shall require the local agency or an independent financial consultant to provide information regarding the agency's ability to pay for the cost of levee maintenance or improvement. Based on that information, the department may require the local agency or an independent financial consultant to prepare a comprehensive study on the agency's ability to pay.

(B) The information or comprehensive study of the agency's ability to pay shall be the basis for determining the maximum allowable reimbursement eligible under this part. Nothing in this paragraph shall be interpreted to increase the maximum reimbursement allowed under paragraph (2).

(4) Reimbursements made to the local agency in excess of the maximum allowable reimbursement shall be returned to the department.

(5) The department may recover, retroactively, excess reimbursements paid to the local agency from any time after January 1, 1997, based on an updated study of the agency's ability to pay.

(6) All final costs allocated or reimbursed under a plan shall be approved by the reclamation board for project and nonproject levee work.

(7) Costs incurred pursuant to this part that are eligible for reimbursement include construction costs and associated engineering services, financial or economic analyses, environmental costs, mitigation costs, and habitat improvement costs.

(b) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 14. Section 12986 of the Water Code, as added by Section 6 of Chapter 28 of the Statutes of 1988, is amended to read:

12986. (a) It is the intention of the Legislature to reimburse from the General Fund an eligible local agency pursuant to this part for costs incurred in any year for the maintenance or improvement of project or nonproject levees as follows:

(1) No costs incurred shall be reimbursed if the entire cost incurred per mile of levee is one thousand dollars ($1,000) or less.

(2) Fifty percent of any costs incurred in excess of one thousand dollars ($1,000) per mile of levee shall be reimbursed.

(3) The maximum total reimbursement from the General Fund shall not exceed two million dollars ($2,000,000) annually.

(b) This section shall become operative on July 1, 2006.

SEC. 15. Section 12987 of the Water Code is amended to read:

12987. (a) Local agencies maintaining project or nonproject levees shall be eligible for reimbursement pursuant to this part upon submission to and approval by the board of plans for the maintenance and improvement of the project or nonproject levees, including plans for the annual routine maintenance of the levees, in accordance with the criteria adopted by the board.

(b) The nonproject plans shall also be compatible with the plan for improvement of the delta levees as set forth in Bulletin No. 192-82 of the department, dated December 1982, and as approved in Section 12225. Both project and nonproject plans shall include provisions to acquire easements along levees that allow for the control and reversal of subsidence in areas where the department determines that such an easement is desirable to maintain structural stability of the levee. The easement shall (1) restrict the use of the land to open-space uses, nontillable crops, the propagation of wildlife habitat, and other compatible uses, (2) provide full access to the local agency for levee maintenance and improvement purposes, and (3) allow the owner to retain reasonable rights of ingress and egress as well as reasonable rights of access to the waterways for water supply and drainage. The local agency cost of acquisition of the easements shall be

reimbursable by the department from moneys appropriated pursuant to paragraph (1) of subdivision (b) of Section 12300, or any other sources appropriated by the Legislature for purposes of this part.

(c) The plans shall also include provision for protection of the fish and wildlife habitat determined to be necessary by the Department of Fish and Game and not injurious to the integrity of the levee. The Department of Fish and Game shall consider the value of the riparian and fisheries habitat and the need to provide safe levees in preparing its requirements. The Department of Fish and Game shall not approve any plan which calls for the use of channel islands or berms with significant riparian communities as borrow sites for levee repair material, unless fully mitigated, or any plans which will result in a net long-term loss of riparian, fisheries, or wildlife habitat.

(d) After the memorandum of understanding required pursuant to Section 12307 is amended as required by Section 78543, the Department of Fish and Game shall also make a written determination as part of its review and approval of a plan or project pursuant to Section 12314 and this section that the proposed expenditures are consistent with a net long-term habitat improvement program and have a net benefit for aquatic species in the delta. The memorandum of understanding in effect prior to the amendments required by Section 78543 shall remain in effect with regard to levee projects and plans until the memorandum of understanding is amended.

(e) The plans shall also take into account the most recently updated Delta Master Recreation Plan prepared by the Resources Agency.

(f) Upon approval of the plans by the board, the local agencies shall enter into an agreement with the board to perform the maintenance and improvement work, including the annual routine maintenance work, specified in the plans. If applications for state funding in any year exceed the state funds available, the board shall apportion the funds among those levees or levee segments that are identified by the department as most critical and beneficial, considering the needs of flood control, water quality, recreation, navigation, habitat improvements, and fish and wildlife.

SEC. 16. Section 12987.5 of the Water Code is amended to read:

12987.5. (a) In an agreement entered into under Section 12987, the board may provide for an advance to the applicant in an amount not to exceed 75 percent of the estimated state share. The agreement shall provide that no advance shall be made until the applicant has incurred costs averaging one thousand dollars ($1,000) per mile of levee.

(b) Advances made under subdivision (a) shall be subtracted from amounts to be reimbursed after the work has been performed. If the department finds that work has not been satisfactorily performed or where advances made actually exceed reimbursable

costs, the local agency shall promptly remit to the state all amounts advanced in excess of reimbursable costs. If advances are sought, the board may require a bond to be posted to ensure the faithful performance of the work set forth in the agreement.

(c) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 17. Section 12988 of the Water Code is amended to read:

12988. Upon the completion in any year of the maintenance or improvement work, including annual routine maintenance work, as specified in the plans approved by the board, the local agency shall notify the department, and the department shall inspect the completed work. The department, upon completion of such inspection, shall submit to the board a report as to its findings. Upon a finding that the work has been satisfactorily completed in accordance with the approved plans, the board shall certify for reimbursement 75 percent of any costs incurred per mile of levee if the entire cost incurred per mile of levee is greater than one thousand dollars ($1,000).

SEC. 18. Section 12989 of the Water Code is amended to read:

12989. (a) The department shall conduct at least one annual inspection of every levee for which maintenance or improvement costs have been reimbursed pursuant to this part. In addition, the department shall inspect nonproject levees of local agencies for the purpose of monitoring and ascertaining the degree of compliance with, or progress toward meeting, standards such as those set forth in Section 12984.

(b) The local agency shall cooperate with the department in the conduct of these inspections, including the provision of reasonable access over local agency lands and easements.

SEC. 19. Section 12994 is added to the Water Code, to read:

12994. (a) The Legislature finds and declares all of the following:

(1) The CALFED Bay-Delta Program has identified as a core action the need for emergency levee management planning for delta levees to improve system reliability.

(2) Even with active levee maintenance, the threat of delta levee failures from earthquake, flood, or poor levee foundation, will continue to exist.

(3) Because of this threat of failure, and the potential need to mobilize people and equipment in an emergency to protect delta levees and public benefits, the department needs authority that will enable it to act quickly.

(b) The department may do all of the following:

(1) In an emergency, as defined by Section 21060.3 of the Public Resources Code, that requires immediate levee work to protect public benefits in the delta, the department may use funds pursuant to this part without prior approval of a plan by the board or the

Department of Fish and Game, in which case the requirements of Sections 12987 and 12314, and the memorandum of understanding pursuant to Section 12307, shall be carried out as soon as possible.

(A) The amount of funds that may be expended each year on emergency levee work under this section shall not be greater than two hundred thousand dollars ($200,000) and the amount that may be expended per emergency levee site shall not be greater than fifty thousand dollars ($50,000). The local agency shall fund 25 percent of the total costs of the emergency repair at a site or shall fund an appropriate share of the costs as approved by the board and based upon information of the local agency's ability to pay for the repairs.

(B) Department contracts executed for emergency levee work under this section shall be exempted from Department of General Services approval required under the Public Contract Code.

(C) As soon a feasible after the emergency repair, the department shall submit a report to the board describing the levee work, costs incurred, and plans for future work at the site, including any necessary mitigation.

(D) This section is intended to supplement emergency services provided by the state or the United States. Nothing in this section overrides or supersedes the authority of the Director of the Office of Emergency Services under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) or the Natural Disaster Assistance Act (Chapter 7.5 (commencing with Section 8680) of Division 1 of Title 2 of the Government Code).

(2) Prepare and submit to the board for adoption a delta emergency response plan for levee failures. The plan is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The plan may include recommendations of the multiagency response team established pursuant to paragraph (3) and may include, but not be limited to, the following:

(A) Standardized contracts for emergency levee work to be executed by the department, local agencies, or other appropriate entities.

(B) Criteria for eligible emergency levee work.

(C) Definition of an emergency levee site.

(D) Documentation requirements.

(E) Proposals for complying with the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code) in an emergency.

(F) Stages of emergency response that may occur in various situations.

(3) Establish a multiagency emergency response team, consisting of representatives from the department, the board, the Department of Fish and Game, the California Conservation Corps, the Office of

Emergency Services, the Federal Emergency Management Agency, the United States Army Corps of Engineers, and the United States Fish and Wildlife Service to advise on methods to ensure that levee emergencies will be resolved as quickly and safely as possible.

SEC. 20. Section 12995 is added to the Water Code, to read:

12995. (a) The Legislature hereby finds and declares both of the following:

(1) There is an urgent need for rehabilitation and improvement of delta levees, and that the United States Army Corps of Engineers has a crucial and continuing role in that work.

(2) The department and the board have been cooperating with the United States Army Corps of Engineers in a feasibility study for rehabilitation and improvement of the levees in the delta. That feasibility study identified a federal interest in levee rehabilitation and improvements due to benefits to navigation, commerce, the environment, and flood damage reduction.

(b) The department and the board may cooperate with the United States Army Corps of Engineers to develop and implement delta levee rehabilitation, improvement, and realignment, and to enhance the environment.

SEC. 21. This act shall become operative only if Senate Bill 900 of the 1995–96 Regular Session is enacted and approved by the voters in the November 5, 1996, general election.

CHAPTER 602

An act to amend Sections 44344.5, 44344.7, 44362, and 44380 of, to add Sections 44344.4 and 44344.6 to, and to repeal Section 44344.3 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 18, 1996. Filed with Secretary of State September 19, 1996.]

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

SECTION 1. Section 44344.3 of the Health and Safety Code is repealed.

SEC. 2. Section 44344.4 is added to the Health and Safety Code, to read:

44344.4. (a) Except as provided in subdivision (d) and in Section 44344.7, a facility shall be exempt from further compliance with this part if the facility's prioritization scores for cancer and noncancer health effects are both equal to or less than one, based on the results of the most recent emissions inventory or emissions inventory update. An exempt facility shall no longer be required to pay any fee or submit any report to the district or the state board pursuant to this part.

(b) Except for facilities that are exempt from this part pursuant to subdivision (a), a facility for which the prioritization scores for cancer and noncancer health effects are both equal to or less than 10, based on the results of the most recent emissions inventory or emissions inventory update, shall not be required to pay any fee or submit any report to the district or the state board pursuant to this part, except for the quadrennial emissions inventory update required pursuant to Section 44344. A district may, by regulation, establish a fee to be paid by a facility operator in connection with the operator's submission to the district of a quadrennial emissions inventory update pursuant to this subdivision. The fee shall not be greater than one hundred twenty-five dollars ($125). A district may increase the fee above that amount upon the adoption of written findings that the costs of processing the emission inventory update exceed one hundred twenty-five dollars ($125). However, the district shall not adopt a fee greater than that supported by the written findings.

(c) For the purposes of this part, "prioritization score" means a facility's numerical score for cancer health effects or noncancer health effects, as determined by the district pursuant to Section 44360 in a manner consistent with facility prioritization guidelines prepared by the California Air Pollution Control Officers Association and approved by the state board.

(d) Notwithstanding subdivision (a) and Section 44344.7, if a district has good cause to believe that a facility may pose a potential threat to public health and that the facility therefore does not qualify for an exemption claimed by the facility pursuant to subdivision (a), the district may require the facility to document the facility's emissions and health impacts, or the changes in emissions expected to occur as a result of a particular physical change, a change in activities or operations at the facility, or a change in other factors. The district may deny the exemption if the documentation does not support the claim for the exemption.

SEC. 3. Section 44344.5 of the Health and Safety Code is amended to read:

44344.5. (a) The operator of any new facility that previously has not been subject to this part shall prepare and submit an emissions inventory plan and report.

(b) Notwithstanding subdivision (a), a new facility shall not be required to submit an emissions inventory plan and report if all of the following conditions are met:

(1) The facility is subject to a district permit program established pursuant to Section 42300.

(2) The district conducts an assessment of the potential emissions or their associated risks, whichever the district determines to be appropriate, attributable to the new facility and finds that the emissions will not result in a significant risk. A risk assessment conducted pursuant to this paragraph shall comply with paragraph (2) of subdivision (b) of Section 44360.

(3) The district issues a permit authorizing construction or operation of the new facility.

SEC. 4. Section 44344.6 is added to the Health and Safety Code, to read:

44344.6. A district shall redetermine a facility's prioritization score, or evaluate the prioritization score as calculated and submitted by the facility, within 90 days from the date of receipt of a quadrennial emissions inventory update pursuant to Section 44344 or subdivision (b) of Section 44344.4, within 90 days from the date of receipt of an emissions inventory update submitted pursuant to Section 44344.7, or within 90 days from the date of receiving notice that a facility has completed the implementation of a plan prepared pursuant to Section 44392.

SEC. 5. Section 44344.7 of the Health and Safety Code is amended to read:

44344.7. (a) A facility exempted from this part pursuant to subdivision (a) of Section 44344.4 shall, upon receipt of a notice from the district, again be subject to this part and the operator shall submit an emissions inventory update for those sources and substances for which a physical change in the facility or a change in activities or operations has occurred, as follows:

(1) The facility emits a substance newly listed pursuant to Section 44321.

(2) A sensitive receptor has been established or constructed within 500 meters of the facility after the facility became exempt.

(3) The facility emits a substance for which the potency factor has increased.

(b) The operator of a facility exempted from this part pursuant to subdivision (a) of Section 44344.4 shall submit an emissions inventory update for those sources and substances for which a particular physical change in the facility or a change in activities or operations occurs if, as a result of the particular change, either of the following has occurred:

(1) The facility has begun emitting a listed substance not included in the previous emissions inventory.

(2) The facility has increased its emissions of a listed substance to a level greater than the level previously reported for that substance, and the increase in emissions exceeds 100 percent of the previously reported level.

(c) Notwithstanding subdivision (b), a physical change or change in activities or operations at a facility shall not cause the facility to again be subject to this part if all of the following conditions are met:

(1) The physical change or change in activities or operations is subject to a district permit program established pursuant to Section 42300.

(2) The district conducts an assessment of the potential changes in emissions or their associated risks, whichever the district determines to be appropriate, attributable to the physical change or

change in activities or operations and finds that the changes in emissions will not result in a significant risk. A risk assessment conducted pursuant to this paragraph shall comply with paragraph (2) of subdivision (b) of Section 44360.

(3) The district issues a permit for the physical change or change in activities or operations.

SEC. 6. Section 44362 of the Health and Safety Code is amended to read:

44362. (a) Taking the comments of the Office of Environmental Health Hazard Assessment into account, the district shall approve or return for revision and resubmission and then approve, the health risk assessment within one year of receipt. If the health risk assessment has not been revised and resubmitted within 60 days of the district's request of the operator to do so, the district may modify the health risk assessment and approve it as modified.

(b) Upon approval of the health risk assessment, the operator of the facility shall provide notice to all exposed persons regarding the results of the health risk assessment prepared pursuant to Section 44361 if, in the judgment of the district, the health risk assessment indicates there is a significant health risk associated with emissions from the facility. If notice is required under this subdivision, the notice shall include only information concerning significant health risks attributable to the specific facility for which the notice is required. Any notice shall be made in accordance with procedures specified by the district.

SEC. 7. Section 44380 of the Health and Safety Code is amended to read:

44380. (a) The state board shall adopt a regulation which does all of the following:

(1) Sets forth the amount of revenue which the district must collect to recover the reasonable anticipated cost which will be incurred by the state board and the Office of Environmental Health Hazard Assessment to implement and administer this part.

(2) Requires each district to adopt a fee schedule which recovers the costs of the district and which assesses a fee upon the operator of every facility subject to this part, except as specified in subdivision (b) of Section 44344.4. A district may request the state board to adopt a fee schedule for the district if the district's program costs are approved by the district board and transmitted to the state board by April 1 of the year in which the request is made.

(3) Requires any district that has an approved toxics emissions inventory compiled pursuant to this part by August 1 of the preceding year to adopt a fee schedule, as described in paragraph (2), which imposes on facility operators fees which are, to the maximum extent practicable, proportionate to the extent of the releases identified in the toxics emissions inventory and the level of priority assigned to that source by the district pursuant to Section 44360.

(b) Commencing August 1, 1992, and annually thereafter, the state board shall review and may amend the fee regulation.

(c) The district shall notify each person who is subject to the fee of the obligation to pay the fee. If a person fails to pay the fee within 60 days after receipt of this notice, the district, unless otherwise provided by district rules, shall require the person to pay an additional administrative civil penalty. The district shall fix the penalty at not more than 100 percent of the assessed fee, but in an amount sufficient in its determination, to pay the district's additional expenses incurred by the person's noncompliance. If a person fails to pay the fee within 120 days after receipt of this notice, the district may initiate permit revocation proceedings. If any permit is revoked, it shall be reinstated only upon full payment of the overdue fee plus any late penalty, and a reinstatement fee to cover administrative costs of reinstating the permit.

(d) Each district shall collect the fees assessed pursuant to subdivision (a). After deducting the costs to the district to implement and administer this part, the district shall transmit the remainder to the Controller for deposit in the Air Toxics Inventory and Assessment Account, which is hereby created in the General Fund. The money in the account is available, upon appropriation by the Legislature, to the state board and the Office of Environmental Health Hazard Assessment for the purposes of administering this part.

(e) For the 1997–98 fiscal year, air toxics program revenues for the state board and the Office of Environmental Health Hazard Assessment shall not exceed two million dollars ($2,000,000), and for each fiscal year thereafter, shall not exceed one million three hundred fifty thousand dollars ($1,350,000). Funding for the Office of Environmental Health Hazard Assessment for conducting risk assessment reviews shall be on a fee-for-service basis.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 603

An act to add Section 40930 to the Health and Safety Code, relating to air pollution.

[Approved by Governor September 18, 1996. Filed with Secretary of State September 19, 1996.]

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

SECTION 1. Section 40930 is added to the Health and Safety Code, to read:

40930. (a) Each district that has adopted a plan pursuant to this chapter shall, on or before January 31 of each year, prepare and submit to the state board a report identifying the number of days during the preceding calendar year that air quality in the district violated each state ambient air quality standard for which the district's status is nonattainment.

(b) For any pollutant for which the report indicates that the applicable state ambient air quality standard was not violated during more than three days during the calendar year at any one or more monitoring locations within the district, the district shall not adopt any new or more stringent control measure until after preparation, and approval by the district board, of an analysis that does all of the following:

(1) Assesses the costs and benefits of all additional district, state, and federal regulatory actions that would be necessary to achieve attainment of the applicable state ambient air quality standard, taking into account only the additional costs and benefits attributable to achieving the state standard for the remaining three or fewer days each year.

(2) Includes consideration of all of the socioeconomic impacts specified in Section 40728.5.

(3) Identifies, if the district is an upwind district, the benefits of the additional regulatory actions in the district on the air quality in any downwind district, and identifies the costs attributable to those regulatory actions.

(c) The state board shall review the district analyses prepared pursuant to subdivision (b) to ensure expeditious progress towards attainment in both the district that prepared the analysis and any downwind district and to ensure that any resulting action of the district that prepared the analysis does not adversely affect any downwind district.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative

on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 604

An act to add Section 55601.1 to the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 18, 1996. Filed with Secretary of State September 19, 1996.]

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

SECTION 1. Section 55601.1 is added to the Food and Agricultural Code, to read:

55601.1. Section 55601.5 shall be known, and may be cited as, the "Clare Berryhill Grape Crush Report Act of 1976."

CHAPTER 605

An act to amend Sections 8589.7 and 51018 of the Government Code, and to add Section 3233 to the Public Resources Code, relating to oil and gas.

[Approved by Governor September 18, 1996. Filed with Secretary of State September 19, 1996.]

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

SECTION 1. Section 8589.7 of the Government Code is amended to read:

8589.7. (a) In carrying out its responsibilities pursuant to subdivision (b) of Section 8574.17, the Office of Emergency Services shall serve as the central point in state government for the emergency reporting of spills, unauthorized releases, or other accidental releases of hazardous materials and shall coordinate the notification of the appropriate state and local administering agencies that may be required to respond to those spills, unauthorized releases, or other accidental releases. The Office of Emergency Services is the only state agency required to make the notification required by subdivision (b).

(b) Upon receipt of a report concerning a spill, unauthorized release, or other accidental release involving hazardous materials, as defined in Section 25501 of the Health and Safety Code, or concerning a rupture of, or an explosion or fire involving, a pipeline

reportable pursuant to Section 51018, the Office of Emergency Services shall immediately inform the following agencies of the incident:

(1) For an oil spill reportable pursuant to Section 8670.25.5, the Office of Emergency Services shall inform the administrator for oil spill response, the State Lands Commission, the California Coastal Commission, and the California regional water quality control board having jurisdiction over the location of the discharged oil.

(2) For a rupture, explosion, or fire involving a pipeline reportable pursuant to Section 51018, the Office of Emergency Services shall inform the State Fire Marshal.

(3) For a discharge in or on any waters of the state of a hazardous substance or sewage reportable pursuant to Section 13271 of the Water Code, the Office of Emergency Services shall inform the appropriate California regional water quality control board.

(4) For a spill or other release of petroleum reportable pursuant to Section 25270.8 of the Health and Safety Code, the Office of Emergency Services shall inform the local administering agency that has jurisdiction over the spill or release.

(5) For a crude oil spill reportable pursuant to Section 3233 of the Public Resources Code, the Office of Emergency Services shall inform the Division of Oil, Gas, and Geothermal Resources and the appropriate California regional water quality control board.

(c) This section does not relieve a person who is responsible for an incident specified in subdivision (b) from the duty to make an emergency notification to a local agency, or the 911 emergency system, under any other law.

(d) A person who is subject to Section 25507 of the Health and Safety Code shall immediately report all releases or threatened releases pursuant to that section to the appropriate local administering agency and each local administering agency shall notify the Office of Emergency Services and businesses in their jurisdiction of the appropriate emergency telephone number that can be used for emergency notification to the administering agency on a 24-hour basis. The administering agency shall notify other local agencies of releases or threatened releases within their jurisdiction, as appropriate.

(e) No facility, owner, operator, or other person required to report an incident specified in subdivision (b) to the Office of Emergency Services shall be liable for any failure of the Office of Emergency Services to make a notification required by this section or to accurately transmit the information reported.

SEC. 2. Section 51018 of the Government Code is amended to read:

51018. (a) Every rupture, explosion, or fire involving a pipeline, including a pipeline system otherwise exempted by subdivision (a) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported by the pipeline operator to the fire

department having fire suppression responsibilities and to the Office of Emergency Services. In addition, the pipeline operator shall within 30 days of the rupture, explosion, or fire file a report with the State Fire Marshal containing all the information that the State Fire Marshal may reasonably require to prepare the report required pursuant to subdivision (d).

(b) (1) The Office of Emergency Services shall immediately notify the State Fire Marshal of the incident, who shall immediately dispatch his or her employees to the scene. The State Fire Marshal or his or her employees, upon arrival, shall provide technical expertise and advise the operator and all public agencies on activities needed to mitigate the hazard.

(2) For purposes of this subdivision, the Legislature does not intend to hinder or disrupt the workings of the "incident commander system," but does intend to establish a recognized element of expertise and direction for the incident command to consult and acknowledge as an authority on the subject of pipeline incident mitigation. Furthermore, it is expected that the State Fire Marshal will recognize the expertise of the pipeline operator and any other emergency agency personnel who may be familiar with the particular location of the incident and respect their knowledgeable input regarding the mitigation of the incident.

(c) For purposes of this section, "rupture" includes every unintentional liquid leak, including any leak that occurs during hydrostatic testing, except that a crude oil leak of less than five barrels from a pipeline or flow line in a rural area, or any crude oil or petroleum product leak in any in-plant piping system of less than five barrels, when no fire, explosion, or bodily injury results or no waterway is contaminated thereby, does not constitute a rupture for purposes of the reporting requirements of subdivision (a).

(d) The State Fire Marshal shall, every fifth year commencing in 1999, issue a report identifying pipeline leak incident rate trends, reviewing current regulatory effectiveness with regard to pipeline safety, and recommending any necessary changes to the Legislature. This report shall include all of the following: total length of regulated pipelines, total length of regulated piggable pipeline, total number of line sections, average length of each section, number of leaks during study period, average spill size, average damage per incident, average age of leak pipe, average diameter of leak pipe, injuries during study period, cause of the leak or spill, fatalities during study period, and other information as deemed appropriate by the State Fire Marshal.

(e) This section does not preempt any other applicable federal or state reporting requirement.

(f) Except as otherwise provided in this section and Section 8589.7, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency.

(g) This section does not apply to pipeline ruptures involving nonreportable crude oil spills under Section 3233 of the Public Resources Code, unless the spill involves a fire or explosion.

SEC. 3. Section 3233 is added to the Public Resources Code, to read:

3233. (a) The division may develop field rules which establish volumetric thresholds for emergency reporting by the operator of oil discharges to land associated with onshore drilling, exploration, or production operations, where the oil discharges, because of the circumstances established pursuant to paragraph (1) of subdivision (c), cannot pass into or threaten the waters of the state. The division may not adopt field rules under this section, unless the State Water Resources Control Board and the Department of Fish and Game first concur with the volumetric reporting thresholds contained in the proposed field rules. Subchapter 1 (commencing with Section 1710) of Chapter 4 of Division 2 of Title 14 of the California Code of Regulations shall apply to the adoption and implementation of field rules authorized by this section.

(b) The authority granted to the division pursuant to subdivision (a) shall apply solely to oil fields located in the San Joaquin Valley, as designated by the division. The division shall adopt the field rules not later than January 1, 1998.

(c) For purposes of implementing this section, the division, the State Water Resources Control Board, and the Department of Fish and Game shall enter into an agreement that defines the process for establishing both of the following:

(1) The circumstances, such as engineered containment, under which oil discharges cannot pass into or threaten the waters of this state.

(2) The volumetric reporting thresholds that are applicable under the circumstances established pursuant to paragraph (1).

(d) In no case shall a reporting threshold established in the field rules, where the oil discharge cannot pass into or threaten the waters of this state, be less than one barrel (42 gallons), unless otherwise established by federal law or regulation. Until field rules are adopted, emergency reporting of oil discharges shall continue as required by existing statute and regulations.

(e) An operator who discharges oil in amounts less than the volumetric thresholds adopted by the division pursuant to this section is exempt from all applicable state and local reporting requirements. Discharges of oil in amounts equal to, or greater than, the volumetric thresholds adopted by the division pursuant to this section shall be immediately reported to the Office of Emergency Services which shall inform the division and other local or state agencies as required by Section 8589.7 of the Government Code. Reporting to the Office of Emergency Services shall be deemed to be compliance with all applicable state and local reporting requirements.

(f) Oil discharges below the reporting thresholds established in the field rules shall be exempt from the emergency notification or reporting requirements, and any penalties provided for nonreporting, established under paragraph (1) of subdivision (a) of Section 13260 of the Water Code, subdivisions (a), (c), and (e) of Section 13272 of the Water Code, Section 25507 of the Health and Safety Code, Sections 8670.25.5 and 51018 of the Government Code, and subdivision (h) of Section 1722 of Title 14 of the California Code of Regulations. Oil discharge reporting requirements under Section 51018 of the Government Code shall be applicable if a spill involves a fire or explosion.

(g) This section shall not affect existing reporting or notification requirements under federal law.

(h) Nothing in this section shall be construed to relieve any party of any responsibility established by statute, regulation, or order, to clean up or remediate any oil discharge, whether reportable or exempt pursuant to this section.

(i) Reporting provided pursuant to this section is not intended to prohibit any department or agency from seeking and obtaining any supplemental postreporting information to which the department or agency might otherwise be entitled.

(j) For purposes of this section, "oil" means naturally occurring crude oil.

CHAPTER 606

An act to amend Section 46003.5 of, to add Chapter 10.5 (commencing with Section 47000) to Division 17 of, and to repeal Article 5 (commencing with Section 58101) of Chapter 1 of Part 1 of Division 21 of, the Food and Agricultural Code, relating to the Department of Food and Agriculture.

[Approved by Governor September 18, 1996. Filed with Secretary of State September 19, 1996.]

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

SECTION 1. Section 46003.5 of the Food and Agricultural Code is amended to read:

46003.5. (a) Following the promulgation of the national materials list by the United States Department of Agriculture pursuant to the federal Organic Foods Production Act of 1990 (7 U.S.C. Secs. 6501 to 6522, incl.), the secretary, in consultation with the Organic Food Advisory Board, shall adopt regulations listing specific substances that are in compliance or not in compliance with the definition of "prohibited materials," as defined in subdivision (p) of

Section 26569.21 of the Health and Safety Code, for use in the production and handling of organic foods.

Prior to the promulgation of the national materials list by the United States Department of Agriculture pursuant to the federal Organic Foods Production Act of 1990, the Organic Food Advisory Board, in consultation with the secretary, shall determine which, if any, substance may be allowed for use in the production and handling of organic foods in this state. Within 90 days of promulgation of the national materials list by the United States Department of Agriculture, the Organic Food Advisory Board, in consultation with the secretary, shall determine which, if any, substance allowed for use by the national materials list may be allowed for use in the production and handling of organic foods in this state.

(b) Prior to adoption of these regulations, the secretary shall issue administratively a preliminary, nonexhaustive list of materials that are in compliance or not in compliance with subdivision (p) of Section 26569.21 of the Health and Safety Code based on the listings of permitted materials published by California Certified Organic Farmers, the Organic Foods Production Association of North America, and the Departments of Agriculture of the States of Oregon and Washington.

SEC. 1.5. Chapter 10.5 (commencing with Section 47000) is added to Division 17 of the Food and Agricultural Code, to read:

CHAPTER 10.5. DIRECT MARKETING

Article 1. General Provisions

47000. The Legislature finds and declares all of the following with regard to the direct marketing of agricultural products:

(a) Direct marketing of agricultural products benefits the agricultural community and the consumer by, among other things, providing an alternative method for growers to sell their products while benefiting the consumer by supplying quality produce at reasonable prices.

(b) Direct marketing is a good public relations tool for the agricultural industry which brings the farmer face-to-face with consumers.

(c) The marketing potential of a wide variety of California-produced agricultural products should be maximized.

(d) The department should maintain a direct marketing program and the industry should continue to encourage the sale of California-grown fresh produce.

(e) A regulatory scheme should be developed which provides flexibility that will make direct marketing a viable alternative without disrupting other produce marketing systems.

(f) The department should assist producers in organizing certified farmers' markets and other forms of direct marketing by providing

technical advice on marketing methods and in complying with the regulations that affect direct marketing programs.

(g) The department is encouraged to establish an ad hoc advisory committee to assist the department in establishing regulations affecting direct marketing of products and to advise the secretary in all matters pertaining to direct marketing.

47001. (a) The secretary may adopt regulations to allow and encourage the direct sale by farmers to consumers of all types of certified agricultural products and noncertifiable agricultural products produced within the state, as defined in subdivisions (*l*) and (m), respectively, of Section 1392.2 of Title 3 of the California Code of Regulations.

(b) These regulations may include provisions to ensure and maintain quality and wholesomeness of the products.

47002. The secretary may adopt regulations to exempt any products from established grade, size, labeling, packaging, and other requirements, if the secretary finds that the requirements unnecessarily increase the cost of marketing the products directly to the consumer, and if the secretary finds that the exemption will not adversely affect the orderly marketing of California agricultural products. In adopting any proposed regulations pursuant to this section, the secretary shall take into consideration any adverse effects the proposed regulations may have on producers, wholesalers, retailers, and consumers. No exemption shall be issued that would allow the quality of any product sold directly to the consumer to be below the minimum established by the secretary under other regulations.

47003. The secretary may establish qualifications for persons selling products directly to consumers whenever the sales involve the use of any exemption granted by the secretary. Certified farmers' markets and producers' sales outlets, at or near the location of production, may likewise be subject to qualifications.

47004. (a) The secretary may allow certified farmers' markets to establish rules and procedures that are more restrictive or do not violate state law or regulation governing or implementing this chapter.

(b) Any person aggrieved by the implementation of a rule or procedure established by a certified farmers' market under subdivision (a) may submit a written appeal to the secretary within the time period and by the means specified by the secretary by regulation to ensure due process is followed and the rule or procedure is consistent with state laws or regulations governing or implementing this chapter.

Article 2. Certified Farmers' Market Advisory Committee

47010. (a) The secretary shall establish a committee which shall be known as the Certified Farmers' Market Advisory Committee.

The primary goal of the committee shall be to ensure the integrity of certified farmers' markets.

(b) The committee shall be composed of 17 members and their alternates. The secretary shall appoint the members of the committee from a list of nominees provided by the industry subject to this chapter. The secretary shall appoint eight members and their alternates who shall be active certified producers, four members and their alternates who shall be certified farmers' market managers or representatives, two representatives from different major state direct marketing associations, one public member, and two members and their alternates who shall be county agricultural commissioners. An alternate member shall serve at a committee meeting only in the absence of, and shall have the same powers and duties as, the member for whom he or she is designated as alternate.

(c) The secretary shall appoint only one certified producer, certified farmers' market manager, or representative to represent any one farm or certified farmers' market and shall make every effort to ensure that there is a diverse representation from major production and market areas.

(d) The committee shall meet at the request of the secretary, the committee chairperson, or upon the request of four committee members. It shall meet at least once each year.

(e) The committee shall appoint its own officers, including a chairperson, a vice chairperson, a secretary, and any other officers it deems necessary. The committee may adopt rules that it deems are necessary for the conduct of its meetings and functions to carry out the objectives of this chapter.

47011. The committee shall be advisory to the secretary on all matters pertaining to direct marketing of agricultural products at certified farmers' markets and may make recommendations including, but not limited to, the following:

(a) The amendment, repeal, or adoption of legislation and regulations that relate to the administration and enforcement of this chapter.

(b) Administrative policies and procedures that relate to the inspection of certified producers and certified farmers' markets.

(c) Administrative civil penalties for violations of direct marketing regulations.

(d) Certification fees collected pursuant to Section 47020.

(e) Statewide review of enforcement actions.

47012. (a) Except as provided in subdivisions (b) and (c), the term of any member of the committee shall be two years.

(b) With respect to the terms of initial members of the committee, eight members shall serve for one year and nine members shall serve for two years, with the determinations of the term of each member to be made by lot. No member of the committee shall serve more than four full consecutive two-year terms.

(c) Any vacancy that occurs during an unexpired term shall be filled by appointment for the unexpired term.

47013. The members of the committee and any alternate shall serve without compensation.

47014. This article shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

Article 3. Certificates

47020. (a) A certified farmers' market certificate issued by a county agricultural commissioner shall be valid for 12 months from the date of issue. The county agricultural commissioner shall inspect every certified farmers' market within his or her jurisdiction at least once, in every six months of operation. The county agricultural commissioner may charge a certification and inspection fee up to a maximum rate of sixty dollars ($60) per hour, unless the county board of supervisors elects not to charge inspection and certificate costs. Inspections shall be required notwithstanding a county board of supervisors' election not to charge certificate and inspection fees. If a fee is charged for conducting the certification and inspection, it shall include either the itemized actual costs, or the weighted average hourly rate, as determined on an annual basis by the county, which shall be provided to the certified market manager prior to the payment of the fee.

(b) A certified producer's certificate issued by a county agricultural commissioner may be valid for up to 12 months from the date of issue. The county agricultural commissioner in each county shall perform at least one annual onsite inspection of the property or properties listed on every certified producer's certificate issued in their county to verify production of the commodities listed on the certificate or the existence in storage of the harvested production, or both. If the certificate is issued for a period of seven months or more, the county agricultural commissioner in each county shall perform at least one additional onsite inspection or other equally appropriate measure to verify production or storage, or both. The county agricultural commissioner may charge a certificate and inspection fee up to a maximum rate of sixty dollars ($60) per hour, unless the county board of supervisors elects not to charge inspection and certificate costs. Inspections shall be required notwithstanding a county board of supervisors' election not to charge certificate and inspection fees. If a fee is charged for conducting the certification and inspection, it shall include either the itemized actual costs, or the weighted average hourly rate, as determined on an annual basis by the county, which shall be provided to the producer prior to the payment of the fee.

(c) Each certified producer also shall pay a state certificate fee of ten dollars ($10). All fees collected pursuant to this section shall be

deposited in the Department of Food and Agriculture Fund and shall be used only for administering, implementing, and enforcing this chapter. Authorized uses shall include, but are not limited to, expenses incurred in all of the following:

(1) Coordinating the Certified Farmers' Market Advisory Committee.

(2) Evaluate county enforcement and assist in enforcement problems that cross county lines.

(3) Enacting and adopting new legislation and regulations.

(4) Appeals from actions enforcing this chapter.

(5) Maintaining a current statewide listing of certified farmers' market times and locations.

(6) Maintain a current statewide listing of certified producers.

(7) Disseminating to all certified farmers' markets information regarding the suspension or revocation of any certified producer's certificate.

(8) Other administrative duties and tasks that are recommended by the Certified Farmers' Market Advisory Committee.

(d) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

47020. (a) A certified farmers' market certificate issued by a county agricultural commissioner shall be valid for 12 months from the date of issue. The county agricultural commissioner shall inspect every certified farmers' market within his or her jurisdiction at least once, in every six months of operation. The county agricultural commissioner may charge a certification and inspection fee up to a maximum rate of sixty dollars ($60) per hour, unless the county board of supervisors elects not to charge inspection and certificate costs. Inspections shall be required notwithstanding a county board of supervisors' election not to charge certificate and inspection fees. If a fee is charged for conducting the certification and inspection, it shall include either the itemized actual costs, or the weighted average hourly rate, as determined on an annual basis by the county, which shall be provided to the certified market manager prior to the payment of the fee.

(b) A certified producer's certificate issued by a county agricultural commissioner may be valid for up to 12 months from the date of issue. The county agricultural commissioner in each county shall perform at least one annual onsite inspection of the property or properties listed on every certified producer's certificate issued in their county to verify production of the commodities listed on the certificate or the existence in storage of the harvested production, or both. If the certificate is issued for a period of seven months or more, the county agricultural commissioner in each county shall perform at least one additional onsite inspection or other equally appropriate measure to verify production or storage, or both. The county agricultural commissioner may charge a certificate and inspection

fee up to a maximum rate of sixty dollars ($60) per hour, unless the county board of supervisors elects not to charge inspection and certificate costs. Inspections shall be required notwithstanding a county board of supervisors' election not to charge certificate and inspection fees. If a fee is charged for conducting the certification and inspection, it shall include either the itemized actual costs, or the weighted average hourly rate, as determined on an annual basis by the county, which shall be provided to the producer prior to the payment of the fee.

(c) This section shall become operative on January 1, 2000.

Article 4. Violations and Enforcement

47025. (a) In lieu of prosecution, but not precluding suspension or revocation of certified producer's certificates or certified farmers' market certificates, the secretary or the county commissioner may levy a civil penalty against a person who violates this chapter or any regulation implemented pursuant to this chapter.

(b) Civil penalties shall be levied in proportion to the violation, measured as either "serious," "moderate," or "minor."

(1) "Serious" violations are repeat or intentional violations, punishable by a civil penalty of not less than four hundred one dollars ($401) and up to a maximum of one thousand dollars ($1,000) per violation.

(2) "Moderate" violations are repeat violations or violations that are not intentional, punishable by a civil penalty of not less than one hundred fifty-one dollars ($151), but not more than four hundred dollars ($400) per violation.

(3) "Minor" violations are violations that are procedural in nature, punishable by a civil penalty of not less than fifty dollars ($50), but not more than one hundred fifty dollars ($150) per violation.

(c) Before a civil penalty is levied pursuant to this section, the person charged with the violation shall receive written notice of the proposed action including the nature of the violation and the amount of the proposed penalty. The person shall have the right to request a hearing within 20 days after receiving notice of the proposed action. A notice that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or if the notice is not accepted at that address. If a hearing is requested, notice of the time and place of the hearing shall be given at least 10 days before the date set for the hearing. At the hearing, the person shall be given an opportunity to review the commissioner's evidence and to present evidence on his or her own behalf. If a hearing is not timely requested, the commissioner may take the action proposed without a hearing.

(d) If the person, upon whom the commissioner levied a civil penalty, requested and appeared at a hearing, the person may appeal the commissioner's decision to the secretary within 30 days of the

date of receiving a copy of the commissioner's decision. The following procedures apply to the appeal:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent, state the grounds for the appeal, and include a copy of the commissioner's decision. The appellant shall file a copy of the appeal with the commissioner at the same time it is filed with the secretary.

(2) The appellant and the commissioner, at the time of filing the appeal or within 10 days thereafter or at a later time prescribed by the secretary, may present the record of the hearing and a written argument to the secretary stating the ground for affirming, modifying, or reversing the commissioner's decision.

(3) The secretary may grant oral arguments upon application made at the time written arguments are filed.

(4) If an application to present an oral argument is granted, written notice of the time and place for the oral argument shall be given at least 10 days before the date set therefor. The times may be altered by mutual agreement of the appellant, the commissioner, and the secretary.

(5) The secretary shall decide the appeal on the record of the hearing, including the written evidence and the written argument described in paragraph (2), that he or she has received. If the secretary finds substantial evidence in the record to support the commissioner's decision, the secretary shall affirm the decision.

(6) The secretary shall render a written decision within 45 days of the date of appeal or within 15 days of the date of oral arguments or as soon thereafter as practical.

(7) On an appeal pursuant to this section, the secretary may affirm the commissioner's decision, modify the commissioner's decision by reducing or increasing the amount of the penalty levied so that it is within the secretary's guidelines for imposing civil penalties, or reverse the commissioner's decision. Any civil penalty increased by the secretary shall not be higher than that proposed in the commissioner's notice of proposed action given pursuant to subdivision (c). A copy of the secretary's decision shall be delivered or mailed to the appellant and the commissioner.

(8) Any person who does not request a hearing with the commissioner pursuant to a penalty assessed under subdivision (c) may not file an appeal to the secretary pursuant to this subdivision.

(9) Review of a decision of the secretary may be sought by the appellant within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(e) After the exhaustion of the appeal and review of procedures provided in this section, the commissioner, or his or her representative, may file a certified copy of a final decision of the commissioner that directs the payment of a civil penalty, and, if applicable, a copy of any decision of the secretary, or his or her authorized representative, rendered on an appeal from the

commissioner's decision and a copy of 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.

(f) In addition to the civil penalties prescribed in subdivision (b), the appellant may be required to cover the cost of the administrative hearing unless the decision of the secretary or county agricultural commissioner is overturned.

(g) "Person," as used in this section, means any applicant for a certified producers' certificate or certified farmers' market certificate, producer of agricultural products, certified producer, family member or employees of a certified producer, certified farmers' market manager, or certified farmers' market operator engaged or involved in the direct marketing of agricultural products at a certified farmers' market pursuant to this chapter.

47026. This article shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2000, deletes or extends that date.

SEC. 2. Article 5 (commencing with Section 58101) of Chapter 1 of Part 1 of Division 21 of the Food and Agricultural Code is repealed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because of costs that may be incurred by a local agency or school district because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Moreover, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a 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, within the meaning of Section 17556 of the Government Code.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.