Volume 1

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1997

Constitution of 1879 as Amended

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

1997–98 Regular Session
1997–98 First Extraordinary Session

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EFFECTIVE DATES

Regular Session

The 1997–98 Regular Session convened on December 2, 1996, and the interim study recess commenced on September 13, 1997. Statutes enacted in 1997, other than those taking immediate effect, will become effective January 1, 1998.

The effective date of a joint or concurrent resolution is the date it is filed with the Secretary of State.

An initiative statute or referendum or a constitutional amendment proposed by the Legislature and adopted by the people takes effect the day after the election unless the measure provides otherwise.

Statutes Which Take Effect Immediately. An urgency statute, and a statute calling an election, providing for a tax levy, or making an appropriation for the usual current expenses of the state may take effect immediately. Such a statute becomes *effective* on the date it is filed with the Secretary of State.

Operative Date. The provisions of a statute normally become operative on the date it takes effect. However, any statute may, by its own terms, delay the *operation* of its provisions until the happening of some contingency or until a specified time. Also, a later statute or a general provision in a particular code may delay the operation of a statute to a time after its effective date.

Extraordinary Sessions

An urgency statute enacted at a special session of the Legislature takes effect immediately, as outlined above, and the same rules apply with respect to a delayed *operative* date. A nonurgency statute takes effect on the 91st day after adjournment of the special session at which the bill was passed. The effective date of a joint resolution is the date it is filed with the Secretary of State.

The 1997–98 First Extraordinary Session convened in the Assembly on January 14, 1997, and in the Senate on January 13, 1997. This Extraordinary Session had not been adjourned prior to publication of this Statutes and Amendments to the Codes; please refer to the succeeding year's Statutes and Amendments to the Codes.

CONSTITUTION OF THE STATE OF CALIFORNIA

1879

CONSTITUTION OF THE STATE OF CALIFORNIA*

AS AMENDED AND IN FORCE NOVEMBER 5, 1996

PREAMBLE

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

ARTICLE I

DECLARATION OF RIGHTS

SECTION 1. [*Repealed November 5, 1974. See Section 1, below.*]

[*Inalienable Rights*]

SECTION 1. All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy. [*New section adopted November 5, 1974.*]

[*Liberty of Speech and of the Press—Newspersons' Refusal to Disclose Information Sources Not Adjudged in Contempt*]

SEC. 2. (a) Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.

(b) A publisher, editor, reporter, or other person connected with or employed upon a newspaper, magazine, or other periodical publication, or by a press association or wire service, or any person who has been so connected or employed, shall not be adjudged in contempt by a judicial, legislative, or administrative body, or any other body having the power to issue subpoenas, for refusing to disclose the source of any information procured while so connected or employed for publication in a newspaper, magazine or other periodical publication, or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.

Nor shall a radio or television news reporter or other person connected with or employed by a radio or television station, or any person who has been so connected or employed, be so adjudged in contempt for refusing to disclose the source of any information procured while so connected or employed for news or news commentary purposes on radio or television,

* Adopted by the people on May 7, 1879. Certain spelling and capitalization variances reflect State Printer's style in effect at time of adoption of amendments.

or for refusing to disclose any unpublished information obtained or prepared in gathering, receiving or processing of information for communication to the public.

As used in this subdivision, ‘‘unpublished information’’ includes information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and includes, but is not limited to, all notes, outtakes, photographs, tapes or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published information based upon or related to such material has been disseminated. [*As amended June 3, 1980.*]

[*Right to Assemble and to Petition*]

SEC. 3. The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good. [*New section adopted November 5, 1974.*]

SEC. 4. [*Repealed November 5, 1974. See Section 4, below.*]

[*Liberty of Conscience*]

SEC. 4. Free exercise and enjoyment of religion without discrimination or preference are guaranteed. This liberty of conscience does not excuse acts that are licentious or inconsistent with the peace or safety of the State. The Legislature shall make no law respecting an establishment of religion.

A person is not incompetent to be a witness or juror because of his or her opinions on religious beliefs. [*New section adopted November 5, 1974.*]

SEC. 5. [*Repealed November 5, 1974. See Section 5, below.*]

[*The Military*]

SEC. 5. The military is subordinate to civil power. A standing army may not be maintained in peacetime. Soldiers may not be quartered in any house in wartime except as prescribed by law, or in peacetime without the owner’s consent. [*New section adopted November 5, 1974.*]

SEC. 6. [*Repealed November 5, 1974. See Section 6, below.*]

[*Slavery Prohibited*]

SEC. 6. Slavery is prohibited. Involuntary servitude is prohibited except to punish crime. [*New section adopted November 5, 1974.*]

[*Due Process of Law—Use of Pupil School Assignment or Pupil Transportation*]

SEC. 7. (a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; provided, that nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official

any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this State may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.

Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this State, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of such modification.

In all actions or proceedings arising under or seeking application of the amendments to this subdivision proposed by the Legislature at its 1979–80 Regular Session, all courts, wherein such actions or proceedings are or may hereafter be pending, shall give such actions or proceedings first precedence over all other civil actions therein.

Nothing herein shall prohibit the governing board of a school district from voluntarily continuing or commencing a school integration plan after the effective date of this subdivision as amended.

In amending this subdivision, the Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support public education, maximizing the educational opportunities and protecting the health and safety of all public school pupils, enhancing the ability of parents to participate in the educational process, preserving harmony and tranquility in this State and its public schools, preventing the waste of scarce fuel resources, and protecting the environment.

[*Privileges and Immunities*]

(b) A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens. Privileges or immunities granted by the Legislature may be altered or revoked. [*As amended November 6, 1979.*]

[*Sex, Race, Etc., Not a Disqualification for Business*]

SEC. 8. A person may not be disqualified from entering or pursuing a business, profession, vocation, or employment because of sex, race, creed, color, or national or ethnic origin. [*Former Section 18 of Article XX, as renumbered and amended November 5, 1974.*]

SEC. 9. [*Repealed November 5, 1974. See Section 9, below.*]

[*Bill of Attainder—Ex Post Facto Law—Obligation of Contract*]

SEC. 9. A bill of attainder, ex post facto law, or law impairing the obligation of contracts may not be passed. [*New section adopted November 5, 1974.*]

SEC. 10. [*Repealed November 5, 1974. See Section 10, below.*]

[*Detention of Witnesses—No Imprisonment for Debt*]

SEC. 10. Witnesses may not be unreasonably detained. A person may not be imprisoned in a civil action for debt or tort, or in peacetime for a militia fine. [*New section adopted November 5, 1974.*]

SEC. 11. [*Repealed November 5, 1974. See Section 11, below.*]

[*Suspension of Habeas Corpus*]

SEC. 11. Habeas corpus may not be suspended unless required by public safety in cases of rebellion or invasion. [*New section adopted November 5, 1974.*]

[*Bail—Release on Own Recognizance*]

SEC. 12. A person shall be released on bail by sufficient sureties, except for:

(a) Capital crimes when the facts are evident or the presumption great;

(b) Felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others; or

(c) Felony offenses when the facts are evident or the presumption great and the court finds based on clear and convinving evidence that the person has threatened another with great bodily harm and that there is a substantial likelihood that the person would carry out the threat if released.

Excessive bail may not be required. In fixing the amount of bail, the court shall take into consideration the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case.

A person may be released on his or her own recognizance in the court's discretion. [*As amended November 8, 1994.*]

SEC. 13. [*Repealed November 5, 1974. See Section 13, below.*]

[*Unreasonable Seizure and Search—Warrant*]

SEC. 13. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable seizures and searches may not be violated; and a warrant may not issue except on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized. [*New section adopted November 5, 1974.*]

SEC. 14. [*Repealed November 5, 1974. See Section 14, below.*]

[*Felony Defendant Before Magistrate—Prosecutions*]

SEC. 14. Felonies shall be prosecuted as provided by law, either by indictment or, after examination and commitment by a magistrate, by information.

A person charged with a felony by complaint subscribed under penalty of perjury and on file in a court in the county where the felony is triable shall be taken without unnecessary delay before a magistrate of that court. The magistrate shall immediately give the defendant a copy of the complaint, inform the defendant of the defendant's right to counsel, allow the defendant a reasonable time to send for counsel, and on the defendant's request read the complaint to the defendant. On the defendant's request the magistrate shall require a peace officer to transmit within the county where the court is located a message to counsel named by defendant.

A person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings. [*New section adopted November 5, 1974.*]

[*Felony—Prosecution by Indictment*]

SEC. 14.1. If a felony is prosecuted by indictment, there shall be no postindictment preliminary hearing. [*New section adopted June 5, 1990. Initiative measure.*]

SEC. 14½. [*Repealed November 5, 1974.*]

SEC. 15. [*Repealed November 5, 1974. See Section 15, below.*]

[*Criminal Prosecutions—Rights of Defendant—Due Process of Law—Jeopardy—Depositions—Assistance of Counsel*]

SEC. 15. The defendant in a criminal cause has the right to a speedy public trial, to compel attendance of witnesses in the defendant's behalf, to have the assistance of counsel for the defendant's defense, to be personally present with counsel, and to be confronted with the witnesses against the defendant. The Legislature may provide for the deposition of a witness in the presence of the defendant and the defendant's counsel.

Persons may not twice be put in jeopardy for the same offense, be compelled in a criminal cause to be a witness against themselves, or be deprived of life, liberty, or property without due process of law. [*New section adopted November 5, 1974.*]

[*Trial by Jury*]

SEC. 16. Trial by jury is an inviolate right and shall be secured to all, but in a civil cause three-fourths of the jury may render a verdict. A jury may be waived in a criminal cause by the consent of both parties expressed in open court by the defendant and the defendant's counsel. In a civil cause a jury may be waived by the consent of the parties expressed as prescribed by statute.

[*Number of Jurors in Civil Trials*]

In civil causes the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. In civil causes in municipal or justice court the Legislature may provide that the jury shall consist of eight persons or a lesser number agreed on by the parties in open court.

[*Number of Jurors in Criminal Trials*]

In criminal actions in which a felony is charged, the jury shall consist of 12 persons. In criminal actions in which a misdemeanor is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. [*As amended November 4, 1980.*]

SEC. 17. [*Repealed November 5, 1974. See Section 17, below.*]

[*Unusual Punishment—Excessive Fines*]

SEC. 17. Cruel or unusual punishment may not be inflicted or excessive fines imposed. [*New section adopted November 5, 1974.*]

SEC. 18. [*Repealed November 5, 1974. See Section 18, below.*]

[*Treason*]

SEC. 18. Treason against the State consists only in levying war against it, adhering to its enemies, or giving them aid and comfort. A person may not be convicted of treason except on the evidence of two witnesses to the same overt act or by confession in open court. [*New section adopted November 5, 1974.*]

SEC. 19. [*Repealed November 5, 1974. See Section 19, below.*]

[*Eminent Domain*]

SEC. 19. Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner

of money determined by the court to be the probable amount of just compensation. [*New section adopted November 5, 1974.*]

SEC. 20. [*Repealed November 5, 1974. See Section 20, below.*]

[*Rights of Noncitizens*]

SEC. 20. Noncitizens have the same property rights as citizens. [*New section adopted November 5, 1974.*]

SEC. 21. [*Repealed November 5, 1974. See Section 21, below.*]

[*Separate Property of Husband and Wife*]

SEC. 21. Property owned before marriage or acquired during marriage by gift, will, or inheritance is separate property. [*Former Section 8 of Article XX, as renumbered November 5, 1974.*]

SEC. 22. [*Repealed November 5, 1974. See Section 22, below.*]

[*No Property Qualification for Electors*]

SEC. 22. The right to vote or hold office may not be conditioned by a property qualification. [*New section adopted November 5, 1974.*]

SEC. 23. [*Repealed November 5, 1974. See Section 23, below.*]

[*Grand Juries*]

SEC. 23. One or more grand juries shall be drawn and summoned at least once a year in each county. [*New section adopted November 5, 1974.*]

[*Constitutional Rights—Rights Reserved*]

SEC. 24. Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution.

In criminal cases the rights of a defendant to equal protection of the laws, to due process of law, to the assistance of counsel, to be personally present with counsel, to a speedy and public trial, to compel the attendance of witnesses, to confront the witnesses against him or her, to be free from unreasonable searches and seizures, to privacy, to not be compelled to be a witness against himself or herself, to not be placed twice in jeopardy for the same offense, and to not suffer the imposition of cruel or unusual punishment, shall be construed by the courts of this State in a manner consistent with the Constitution of the United States. This Constitution shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States, nor shall it be construed to afford greater rights to minors in juvenile proceedings on criminal causes than those afforded by the Constitution of the United States.

This declaration of rights may not be construed to impair or deny others retained by the people. [*As amended June 5, 1990. Initiative measure.*]

[*Right to Fish*]

SEC. 25. The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the purpose of fishing in any water containing fish that have been planted therein by the State; *provided*, that the Legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken. [*New section adopted November 8, 1910.*]

SEC. 26. [*Renumbered Section 1 of Article II June 8, 1976. See Section 26, below.*]

[*Constitution Mandatory and Prohibitory*]

SEC. 26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise. [*Former Section 28, as renumbered June 8, 1976.*]

SEC. 26a. [*Repealed November 8, 1949.*]

[*Death Penalty*]

SEC. 27. All statutes of this State in effect on February 17, 1972, requiring, authorizing, imposing, or relating to the death penalty are in full force and effect, subject to legislative amendment or repeal by statute, initiative, or referendum.

The death penalty provided for under those statutes shall not be deemed to be, or to constitute, the infliction of cruel or unusual punishments within the meaning of Article 1, Section 6 nor shall such punishment for such offenses be deemed to contravene any other provision of this constitution. [*New section adopted November 7, 1972. Initiative measure.*]

[*"The Victims' Bill of Rights"*]

SEC. 28. (a) The People of the State of California find and declare that the enactment of comprehensive provisions and laws ensuring a bill of rights for victims of crime, including safeguards in the criminal justice system to fully protect those rights, is a matter of grave statewide concern.

The rights of victims pervade the criminal justice system, encompassing not only the right to restitution from the wrongdoers for financial losses suffered as a result of criminal acts, but also the more basic expectation that persons who commit felonious acts causing injury to innocent victims will be appropriately detained in custody, tried by the courts, and sufficiently punished so that the public safety is protected and encouraged as a goal of highest importance.

Such public safety extends to public primary, elementary, junior high, and senior high school campuses, where students and staff have the right to be safe and secure in their persons.

To accomplish these goals, broad reforms in the procedural treatment of accused persons and the disposition and sentencing of convicted persons are necessary and proper as deterrents to criminal behavior and to serious disruption of people's lives.

(b) Restitution. It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to restitution from the persons convicted of the crimes for losses they suffer.

Restitution shall be ordered from the convicted persons in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss, unless compelling and extraordinary reasons exist to the contrary. The Legislature shall adopt provisions to implement this section during the calendar year following adoption of this section.

(c) Right to Safe Schools. All students and staff of public primary, elementary, junior high and senior high schools have the inalienable right to attend campuses which are safe, secure and peaceful.

(d) Right to Truth-in-Evidence. Except as provided by statute hereafter enacted by a two-thirds vote of the membership in each house of the Legislature, relevant evidence shall not be excluded in any criminal proceeding, including pretrial and post conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court. Nothing in this section shall affect any existing statutory rule of evidence relating to privilege or hearsay, or Evidence Code, Sections 352, 782 or 1103. Nothing in this section shall affect any existing statutory or constitutional right of the press.

(e) Public Safety Bail. A person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required. In setting, reducing or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at the trial or hearing of the case. Public safety shall be the primary consideration.

A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail. However, no person charged with the commission of any serious felony shall be released on his or her own recognizance.

Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney shall be given notice and reasonable opportunity to be heard on the matter.

When a judge or magistrate grants or denies bail or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes.

(f) Use of Prior Convictions. Any prior felony conviction of any person in any criminal proceeding, whether adult or juvenile, shall subsequently be used without limitation for purposes of impeachment or enhancement of sentence in any criminal proceeding. When a prior felony conviction is an element of any felony offense, it shall be proven to the trier of fact in open court.

(g) As used in this article, the term "serious felony" is any crime defined in Penal Code, Section 1192.7(c). [*New section adopted June 8, 1982. Initiative measure.*]

[*Criminal Cases—Due Process of Law—Speedy and Public Trial*]

SEC. 29. In a criminal case, the people of the State of California have the right to due process of law and to a speedy and public trial. [*New section adopted June 5, 1990. Initiative measure.*]

[*Criminal Cases—Jointure-Hearsay Evidence—Discovery*]

SEC. 30. (a) This Constitution shall not be construed by the courts to prohibit the joining of criminal cases as prescribed by the Legislature or by the people through the initiative process.

(b) In order to protect victims and witnesses in criminal cases, hearsay evidence shall be admissible at preliminary hearings, as prescribed by the Legislature or by the people through the initiative process.

(c) In order to provide for fair and speedy trials, discovery in criminal cases shall be reciprocal in nature, as prescribed by the Legislature or by the people through the initiative process. [*New section adopted June 5, 1990. Initiative measure.*]

[*Prohibition Against Discrimination or Preferential Treatment*]

SEC. 31. (a) The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

(b) This section shall apply only to action taken after the section's effective date.

(c) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.

(d) Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as of the effective date of this section.

(e) Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the State.

(f) For the purposes of this section, "State" shall include, but not necessarily be limited to, the State itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the State.

(g) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as are otherwise available for violations of then-existing California antidiscrimination law.

(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section. [*New section adopted November 5, 1996. Initiative measure.*]

ARTICLE II. [*Repealed November 7, 1972. See Article II, below.*]

ARTICLE II*

VOTING, INITIATIVE AND REFERENDUM, AND RECALL

[*Heading as amended June 8, 1976.*]

SEC. 1. [*Renumbered Section 2 June 8, 1976. See Section 1, below.*]

[*Purpose of Government*]

SECTION 1. All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and they have the right to alter or reform it when the public good may require. [*Former Section 26 of Article I, as renumbered June 8, 1976.*]

SEC. 1½. [*Repealed November 7, 1972.*]

SEC. 2. [*Renumbered Section 3 June 8, 1976. See Section 2, below.*]

[*Right to Vote*]

SEC. 2. A United States citizen 18 years of age and resident in this State may vote. [*Former Section 1, as renumbered June 8, 1976.*]

SEC. 2.5. [*Repealed November 7, 1972.*]

SEC. 2¾. [*Repealed November 7, 1972.*]

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* New Article II adopted November 7, 1972.

SEC. 3. [*Renumbered Section 4 June 8, 1976. See Section 3, below.*]

[*Residence—Registration—Free Elections*]

SEC. 3. The Legislature shall define residence and provide for registration and free elections. [*Former Section 2, as renumbered June 8, 1976.*]

SEC. 4. [*Renumbered Section 5 June 8, 1976. See Section 4, below.*]

[*Improper Practices That Affect Elections—Mentally Incompetent, Etc.*]

SEC. 4. The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole for the conviction of a felony. [*Former Section 3, as renumbered June 8, 1976.*]

SEC. 5. [*Renumbered Section 6 June 8, 1976. See Section 5, below.*]

[*Primary Elections for Partisan Offices—Open Presidential Primary*]

SEC. 5. The Legislature shall provide for primary elections for partisan offices, including an open presidential primary whereby the candidates on the ballot are those found by the Secretary of State to be recognized candidates throughout the nation or throughout California for the office of President of the United States, and those whose names are placed on the ballot by petition, but excluding any candidate who has withdrawn by filing an affidavit of noncandidacy. [*Former Section 4, as renumbered June 8, 1976.*]

[*Nonpartisan Offices*]

SEC. 6. (a) All judicial, school, county, and city offices shall be nonpartisan.

(b) No political party or party central committee may endorse, support, or oppose a candidate for nonpartisan office. [*As amended June 3, 1986.*]

[*Voting—Secret*]

SEC. 7. Voting shall be secret. [*Former Section 6, as renumbered June 8, 1976.*]

[*Initiative*]

SEC. 8. (a) The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.

(b) An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by electors equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the votes for all candidates for Governor at the last gubernatorial election.

(c) The Secretary of State shall then submit the measure at the next general election held at least 131 days after it qualifies or at any special statewide election held prior to that general election. The Governor may call a special statewide election for the measure.

(d) An initiative measure embracing more than one subject may not be submitted to the electors or have any effect. [*Former Section 22 of Article IV, as renumbered June 8, 1976.*]

[*Referendum*]

SEC. 9. (a) The referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the State.

(b) A referendum measure may be proposed by presenting to the Secretary of State, within 90 days after the enactment date of the statute, a petition certified to have been signed by electors equal in number to 5 percent of the votes for all candidates for Governor at the last gubernatorial election, asking that the statute or part of it be submitted to the electors. In the case of a statute enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, the petition may not be presented on or after January 1 next following the enactment date unless a copy of the petition is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II before January 1.

(c) The Secretary of State shall then submit the measure at the next general election held at least 31 days after it qualifies or at a special statewide election held prior to that general election. The Governor may call a special statewide election for the measure. [*As amended June 5, 1990.*]

[*Initiative and Referendum—Vote and Effective Date—Conflicts—Legislative Repeal or Amendment—Titling*]

SEC. 10. (a) An initiative statute or referendum approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If a referendum petition is filed against a part of a statute the remainder shall not be delayed from going into effect.

(b) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail.

(c) The Legislature may amend or repeal referendum statutes. It may amend or repeal an initiative statute by another statute that becomes effective only when approved by the electors unless the initiative statute permits amendment or repeal without their approval.

(d) Prior to circulation of an initiative or referendum petition for signatures, a copy shall be submitted to the Attorney General who shall prepare a title and summary of the measure as provided by law.

(e) The Legislature shall provide the manner in which petitions shall be circulated, presented, and certified, and measures submitted to the electors. [*Former Section 24 of Article IV, as renumbered June 8, 1976.*]

[*Initiative and Referendum—Cities or Counties*]

SEC. 11. Initiative and referendum powers may be exercised by the electors of each city or county under procedures that the Legislature shall provide. This section does not affect a city having a charter. [*Former Section 25 of Article IV, as renumbered June 8, 1976.*]

[*Naming Individual or Private Corporation to Office or Duty Prohibited*]

SEC. 12. No amendment to the Constitution, and no statute proposed to the electors by the Legislature or by initiative, that names any individual to hold any office, or names or identifies any private corporation to perform any function or to have any power or duty, may be submitted to the electors or have any effect. [*Former Section 26 of Article IV, as renumbered June 8, 1976.*]

[*Recall Defined*]

SEC. 13. Recall is the power of the electors to remove an elective officer. [*New section adopted June 8, 1976.*]

[*Recall Petitions*]

SEC. 14. (a) Recall of a state officer is initiated by delivering to the Secretary of State a petition alleging reason for recall. Sufficiency of reason is not reviewable. Proponents have 160 days to file signed petitions.

(b) A petition to recall a statewide officer must be signed by electors equal in number to 12 percent of the last vote for the office, with signatures from each of 5 counties equal in number to 1 percent of the last vote for the office in the county. Signatures to recall Senators, members of the Assembly, members of the Board of Equalization, and judges of courts of appeal and trial courts must equal in number 20 percent of the last vote for the office.

(c) The Secretary of State shall maintain a continuous count of the signatures certified to that office. [*New section adopted June 8, 1976.*]

[*Recall Elections*]

SEC. 15. (a) An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures.

(b) A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

(c) If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI. [*As amended November 8, 1994.*]

[*Legislature to Provide for Petitions, Etc.*]

SEC. 16. The Legislature shall provide for circulation, filing, and certification of petitions, nomination of candidates, and the recall election. [*New section adopted June 8, 1976.*]

[*Recall of Governor or Secretary of State*]

SEC. 17. If recall of the Governor or Secretary of State is initiated, the recall duties of that office shall be performed by the Lieutenant Governor or Controller, respectively. [*New section adopted June 8, 1976.*]

[*Reimbursement of Recall Election Expenses*]

SEC. 18. A state officer who is not recalled shall be reimbursed by the State for the officer's recall election expenses legally and personally incurred. Another recall may not be initiated against the officer until six months after the election. [*New section adopted June 8, 1976.*]

[*Recall of Local Officers*]

SEC. 19. The Legislature shall provide for recall of local officers. This section does not affect counties and cities whose charters provide for recall. [*New section adopted June 8, 1976.*]

[*Terms of Elective Offices*]

SEC. 20. Terms of elective offices provided for by this Constitution, other than Members of the Legislature, commence on the Monday after January 1 following election. The election shall be held in the last even-numbered year before the term expires. [*New section adopted June 8, 1976.*]

ARTICLE III. [*Repealed November 7, 1972. See Article III, below.*]

ARTICLE III*

STATE OF CALIFORNIA

[*United States Constitution Supreme Law*]

SEC. 1. The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land. [*New section adopted November 7, 1972.*]

[*Boundaries of the State—Sacramento Seat of Government*]

SEC. 2. The boundaries of the State are those stated in the Constitution of 1849 as modified pursuant to statute. Sacramento is the capital of California. [*New section adopted November 7, 1972.*]

[*Separation of Powers*]

SEC. 3. The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution. [*New section adopted November 7, 1972.*]

[*Administrative Agencies: Declaration Statute Unenforceable or Unconstitutional Prohibited*]

SEC. 3.5. An administrative agency, including an administrative agency created by the Constitution or an initiative statute, has no power:

(a) To declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional;

(b) To declare a statute unconstitutional;

(c) To declare a statute unenforceable, or to refuse to enforce a statute on the basis that federal law or federal regulations prohibit the enforcement of such statute unless an appellate court has made a determination that the enforcement of such statute is prohibited by federal law or federal regulations. [*New section adopted June 6, 1978.*]

[*Salaries of Elected State Officers—Salaries of Judges*]

SEC. 4. (a) Except as provided in subdivision (b), salaries of elected state officers may not be reduced during their term of office. Laws that set these salaries are appropriations.

(b) Beginning on January 1, 1981, the base salary of a judge of a court of record shall equal the annual salary payable as of July 1, 1980, for that

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* New Article III adopted November 7, 1972.

office had the judge been elected in 1978. The Legislature may prescribe increases in those salaries during a term of office, and it may terminate prospective increases in those salaries at any time during a term of office, but it shall not reduce the salary of a judge during a term of office below the highest level paid during that term of office. Laws setting the salaries of judges shall not constitute an obligation of contract pursuant to Section 9 of Article I or any other provision of law. [*As amended November 4, 1980.*]

[*Suits Against State*]

SEC. 5. Suits may be brought against the State in such manner and in such courts as shall be directed by law. [*New section adopted November 7, 1972.*]

[*Official State Language*]

SEC. 6. (a) Purpose.

English is the common language of the people of the United States of America and the State of California. This section is intended to preserve, protect and strengthen the English language, and not to supersede any of the rights guaranteed to the people by this Constitution.

(b) English as the Official Language of California.

English is the official language of the State of California.

(c) Enforcement.

The Legislature shall enforce this section by appropriate legislation. The Legislature and officials of the State of California shall take all steps necessary to insure that the role of English as the common language of the State of California is preserved and enhanced. The Legislature shall make no law which diminishes or ignores the role of English as the common language of the State of California.

(d) Personal Right of Action and Jurisdiction of Courts.

Any person who is a resident of or doing business in the State of California shall have standing to sue the State of California to enforce this section, and the Courts of record of the State of California shall have jurisdiction to hear cases brought to enforce this section. The Legislature may provide reasonable and appropriate limitations on the time and manner of suits brought under this section. [*New section adopted November 4, 1986. Initiative measure.*]

[*Retirement Benefits for Elected Constitutional Officers*]

SEC. 7. (a) The retirement allowance for any person, all of whose credited service in the Legislators' Retirement System was rendered or was deemed to have been rendered as an elective officer of the State whose office is provided for by the California Constitution, other than a judge and other than a Member of the Senate or Assembly, and all or any part of

whose retirement allowance is calculated on the basis of the compensation payable to the officer holding the office which the member last held prior to retirement, or for the survivor or beneficiary of such a person, shall not be increased or affected in any manner by changes on or after November 5, 1986, in the compensation payable to the officer holding the office which the member last held prior to retirement.

(b) This section shall apply to any person, survivor, or beneficiary described in subdivision (a) who receives, or is receiving, from the Legislators' Retirement System a retirement allowance on or after November 5, 1986, all or any part of which allowance is calculated on the basis of the compensation payable to the officer holding the office which the member last held prior to retirement.

(c) It is the intent of the people, in adopting this section, to restrict retirement allowances to amounts reasonably to be expected by certain members and retired members of the Legislators' Retirement System and to preserve the basic character of earned retirement benefits while prohibiting windfalls and unforeseen advantages which have no relation to the real theory and objective of a sound retirement system. It is not the intent of this section to deny any member, retired member, survivor, or beneficiary a reasonable retirement allowance. Thus, this section shall not be construed as a repudiation of a debt nor the impairment of a contract for a substantial and reasonable retirement allowance from the Legislators' Retirement System.

(d) The people and the Legislature hereby find and declare that the dramatic increase in the retirement allowances of persons described in subdivision (a) which would otherwise result when the compensation for those offices increases on November 5, 1986, or January 5, 1987, are not benefits which could have reasonably been expected. The people and the Legislature further find and declare that the Legislature did not intend to provide in its scheme of compensation for those offices such windfall benefits. [*New section adopted November 4, 1986.*]

[*California Citizens Compensation Commission*]

SEC. 8. (a) The California Citizens Compensation Commission is hereby created and shall consist of seven members appointed by the Governor. The commission shall establish the annual salary and the medical dental, insurance, and other similar benefits of state officers.

(b) The commission shall consist of the following persons:

(1) Three public members, one of whom has expertise in the area of compensation, such as an economist, market researcher, or personnel manager; one of whom is a member of a nonprofit public interest organization; and one of whom is representative of the general population and may include, among others, a retiree, homemaker, or person of median income. No person appointed pursuant to this paragraph may, during the 12 months

prior to his or her appointment, have held public office, either elective or appointive, have been a candidate for elective public office, or have been a lobbyist, as defined by the Political Reform Act of 1974.

(2) Two members who have experience in the business community, one of whom is an executive of a corporation incorporated in this State which ranks among the largest private sector employers in the State based on the number of employees employed by the corporation in this State and one of whom is an owner of a small business in this State.

(3) Two members, each of whom is an officer or member of a labor organization.

(c) The Governor shall strive insofar as practicable to provide a balanced representation of the geographic, gender, racial, and ethnic diversity of the State in appointing commission members.

(d) The Governor shall appoint commission members and designate a chairperson for the commission not later than 30 days after the effective date of this section. The terms of two of the initial appointees shall expire on December 31, 1992, two on December 31, 1994, and three on December 31, 1996, as determined by the Governor. Thereafter, the term of each member shall be six years. Within 15 days of any vacancy, the Governor shall appoint a person to serve the unexpired portion of the term.

(e) No current or former officer or employee of this State is eligible for appointment to the commission.

(f) Public notice shall be given of all meetings of the commission, and the meetings shall be open to the public.

(g) On or before December 3, 1990, the commission shall, by a single resolution adopted by a majority of the membership of the commission, establish the annual salary and the medical, dental, insurance, and other similar benefits of state officers. The annual salary and benefits specified in that resolution shall be effective on and after December 3, 1990.

Thereafter, at or before the end of each of each fiscal year, the commission shall, by a single resolution adopted by a majority of the membership of the commission, adjust the annual salary and the medical, dental, insurance, and other similar benefits of state officers. The annual salary and benefits specified in the resolution shall be effective on and after the first Monday of the next December.

(h) In establishing or adjusting the annual salary and the medical, dental, insurance, and other similar benefits, the commission shall consider all of the following:

(1) The amount of time directly or indirectly related to the performance of the duties, functions, and services of a state officer.

(2) The amount of the annual salary and the medical, dental, insurance, and other similar benefits for other elected and appointed officers and officials in this State with comparable responsibilities, the judiciary, and, to the extent practicable, the private sector, recognizing, however, that state

officers do not receive, and do not expect to receive, compensation at the same levels as individuals in the private sector with comparable experience and responsibilities.

(3) The responsibility and scope of authority of the entity in which the state officer serves.

(i) Until a resolution establishing or adjusting the annual salary and the medical, dental, insurance, and other similar benefits for state officers takes effect, each state officer shall continue to receive the same annual salary and the medical, dental, insurance, and other similar benefits received previously.

(j) All commission members shall receive their actual and necessary expenses, including travel expenses, incurred in the performance of their duties. Each member shall be compensated at the same rate as members, other than the chairperson, of the Fair Political Practices Commission, or its successor, for each day engaged in official duties, not to exceed 45 days per year.

(k) It is the intent of the Legislature that the creation of the commission should not generate new state costs for staff and services. The Department of Personnel Administration, the Board of Administration of the Public Employees' Retirement System, or other appropriate agencies, or their successors, shall furnish, from existing resources, staff and services to the commission as needed for the performance of its duties.

(*l*) "State officer," as used in this section, means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner, Secretary of State, Superintendent of Public Instruction, Treasurer, member of the State Board of Equalization, and Member of the Legislature. [*New section adopted June 5, 1990.*]

ARTICLE IV

LEGISLATIVE

[*Heading as amended November 8, 1966.*]

SECTION 1. [*Repealed November 8, 1966. See Section 1, below.*]

[*Legislative Power*]

SEC. 1. The legislative power of this State is vested in the California Legislature which consists of the Senate and Assembly, but the people reserve to themselves the powers of initiative and referendum. [*New section adopted November 8, 1966.*]

SEC. 1a. [*Renumbered Section 20 of Article XIII and amended November 8, 1966.*]

SEC. 1b. [*Repealed November 8, 1966.*]

SEC. 1c. [*Repealed November 8, 1966.*]

SEC. 1d. [*Repealed November 8, 1966.*]

[*Legislators—Limitation on Incumbency—Restriction of Retirement Benefits—Limitation of Staff and Support Services—Number of Terms*]

SEC. 1.5. The people find and declare that the Founding Fathers established a system of representative government based upon free, fair, and competitive elections. The increased concentration of political power in the hands of incumbent representatives has made our electoral system less free, less competitive, and less representative.

The ability of legislators to serve unlimited number of terms, to establish their own retirement system, and to pay for staff and support services at state expense contribute heavily to the extremely high number of incumbents who are reelected. These unfair incumbent advantages discourage qualified candidates from seeking public office and create a class of career politicians, instead of the citizen representatives envisioned by the Founding Fathers. These career politicians become representatives of the bureaucracy, rather than of the people whom they are elected to represent.

To restore a free and democratic system of fair elections, and to encourage qualified candidates to seek public office, the people find and declare that the powers of incumbency must be limited. Retirement benefits must be restricted, state-financed incumbent staff and support services limited, and limitations placed upon the number of terms which may be served. [*New section adopted November 6, 1990. Initiative measure.*]

[*Senate and Assembly—Membership—Elections—Number of Terms—Qualifications—Vacancies*]

SEC. 2. (a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. No Senator may serve more than 2 terms.

The Assembly has a membership of 80 members elected for 2-year terms. No member of the Assembly may serve more than 3 terms.

Their terms shall commence on the first Monday in December next following their election.

(b) Election of members of the Assembly shall be on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as members of the Assembly.

(c) A person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States and a resident of California for 3 years, immediately preceding the election.

(d) When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy. [*As amended November 6, 1990. Initiative measure.*]

[*Legislative Sessions—Regular and Special Sessions*]

SEC. 3. (a) The Legislature shall convene in regular session at noon on the first Monday in December of each even-numbered year and each house shall immediately organize. Each session of the Legislature shall adjourn sine die by operation of the Constitution at midnight on November 30 of the following even-numbered year.

(b) On extraordinary occasions the Governor by proclamation may cause the Legislature to assemble in special session. When so assembled it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session. [*As amended June 8, 1976.*]

[*Legislators—Conflict of Interest—Prohibited Compensation—Earned Income*]

SEC. 4. (a) To eliminate any appearance of a conflict with the proper discharge of his or her duties and responsibilities, no Member of the Legislature may knowingly receive any salary, wages, commissions, or other similar earned income from a lobbyist or lobbying firm, as defined by the Political Reform Act of 1974, or from a person who, during the previous 12 months, has been under a contract with the Legislature. The Legislature shall enact laws that define earned income. However, earned income does not include any community property interest in the income of a spouse. Any Member who knowingly receives any salary, wages, commissions, or other similar earned income from a lobbyist employer, as defined by the Political Reform Act of 1974, may not, for a period of one year following its receipt, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the Legislature, other than an action or decision involving a bill described in subdivision (c) of Section 12 of this article, which he or she knows, or has reason to know, would have a direct and significant financial impact on the lobbyist employer and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, "public generally" includes an industry, trade, or profession.

[*Legislators—Travel and Living Expenses*]

(b) Travel and living expenses for Members of the Legislature in connection with their official duties shall be prescribed by statute passed by rollcall vote entered in the journal, two-thirds of the membership of each house concurring. A Member may not receive travel and living expenses during the times that the Legislature is in recess for more than three calendar days, unless the Member is traveling to or from, or is in attendance at, any meeting of a committee of which he or she is a member, or a meeting, conference, or other legislative function or responsibility as authorized by the rules of the house of which he or she is a member, which is held at a location at least 20 miles from his or her place of residence.

[*Legislators—Retirement*]

(c) The Legislature may not provide retirement benefits based on any portion of a monthly salary in excess of five hundred dollars ($500) paid to any Member of the Legislature unless the Member receives the greater amount while serving as a Member in the Legislature. The Legislature may, prior to their retirement, limit the retirement benefits payable to Members of the Legislature who serve during or after the term commencing in 1967.

When computing the retirement allowance of a Member who serves in the Legislature during the term commencing in 1967 or later, allowance may be made for increases in cost of living if so provided by statute, but only with respect to increases in the cost of living occurring after retirement of the Member. However, the Legislature may provide that no Member shall be deprived of a cost of living adjustment based on a monthly salary of five hundred dollars ($500) which has accrued prior to the commencement of the 1967 Regular Session of the Legislature. [*As amended June 5, 1990.*]

[*Legislators—Retirement*]

SEC. 4.5. Notwithstanding any other provision of this Constitution or existing law, a person elected to or serving in the Legislature on or after November 1, 1990, shall participate in the Federal Social Security (Retirement, Disability, Health Insurance) Program and the State shall pay only the employer's share of the contribution necessary to such participation. No other pension or retirement benefit shall accrue as a result of service in the Legislature, such service not being intended as a career occupation. This Section shall not be construed to abrogate or diminish any vested pension or retirement benefit which may have accrued under an existing law to a person holding or having held office in the Legislature, but upon adoption of this Act no further entitlement to nor vesting in any existing program shall accrue to any such person, other than Social Security to the extent herein provided. [*New section adopted November 6, 1990. Initiative measure.*]

[*Legislators—Qualifications—Expulsion*]

SEC. 5. (a) Each house shall judge the qualifications and elections of its Members and, by rollcall vote entered in the journal, two thirds of the membership concurring, may expel a Member.

[*Legislators—Honoraria*]

(b) No Member of the Legislature may accept any honorarium. The Legislature shall enact laws that implement this subdivision.

[*Legislators—Gifts—Conflict of Interest*]

(c) The Legislature shall enact laws that ban or strictly limit the acceptance of a gift by a Member of the Legislature from any source if the acceptance of the gift might create a conflict of interest.

[*Legislators—Prohibited Compensation or Activity*]

(d) No Member of the Legislature may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a Member knowingly accepts any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any local government board or agency, the Member may not, for a period of one year following the acceptance of the compensation, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the Legislature, other than an action or decision involving a bill described in subdivision (c) of Section 12 of this article, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, ''public generally'' includes an industry, trade, or profession. However, a Member may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or the Workers' Compensation Appeals Board, or act as an advocate without compensation or make an inquiry for information on behalf of a person before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the Member is a member if the Member does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from that action.

[*Legislators—Lobbying*]

(e) The Legislature shall enact laws that prohibit a Member of the Legislature whose term of office commences on or after December 3, 1990, from lobbying, for compensation, as governed by the Political Reform Act of 1974, before the Legislature for 12 months after leaving office.

[*Legislators—Conflict of Interest*]

(f) The Legislature shall enact new laws, and strengthen the enforcement of existing laws, prohibiting Members of the Legislature from engaging in activities or having interests which conflict with the proper discharge of their duties and responsibilities. However, the people reserve to themselves the power to implement this requirement pursuant to Article II. [*As amended June 5, 1990. Subdivision (b) operative December 3, 1990.*]

SEC. 6. [*Repealed June 3, 1980. See Section 6, below.*]

[*Senatorial and Assembly Districts*]

SEC. 6. For the purpose of choosing members of the Legislature, the State shall be divided into 40 Senatorial and 80 Assembly districts to be called Senatorial and Assembly Districts. Each Senatorial district shall choose one Senator and each Assembly district shall choose one member of the Assembly. [*New section adopted June 3, 1980.*]

[*House Rules—Officers—Quorum*]

SEC. 7. (a) Each house shall choose its officers and adopt rules for its proceedings. A majority of the membership constitutes a quorum, but a smaller number may recess from day to day and compel the attendance of absent members.

[*Journals*]

(b) Each house shall keep and publish a journal of its proceedings. The rollcall vote of the members on a question shall be taken and entered in the journal at the request of 3 members present.

[*Public Proceedings—Closed Sessions*]

(c) (1) The proceedings of each house and the committees thereof shall be open and public. However, closed sessions may be held solely for any of the following purposes:

(A) To consider the appointment, employment, evaluation of performance, or dismissal of a public officer or employee, to consider or hear complaints or charges brought against a Member of the Legislature or other public officer or employee, or to establish the classification or compensation of an employee of the Legislature.

(B) To consider matters affecting the safety and security of Members of the Legislature or its employees or the safety and security of any buildings and grounds used by the Legislature.

(C) To confer with, or receive advice from, its legal counsel regarding pending or reasonably anticipated, or whether to initiate, litigation when discussion in open session would not protect the interests of the house or committee regarding the litigation.

(2) A caucus of the Members of the Senate, the Members of the Assembly, or the Members of both houses, which is composed of the members of the same political party, may meet in closed session.

(3) The Legislature shall implement this subdivision by concurrent resolution adopted by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, or by statute, and shall prescribe that, when a closed session is held pursuant to paragraph (1), reasonable notice of the closed session and the purpose of the closed session shall be

provided to the public. If there is a conflict between a concurrent resolution and statute, the last adopted or enacted shall prevail.

[*Recess*]

(d) Neither house without the consent of the other may recess for more than 10 days or to any other place. [*As amended June 5, 1990. Subdivision (c) operative December 3, 1990.*]

[*Legislature—Total Aggregate Expenditures*]

SEC. 7.5. In the fiscal year immediately following the adoption of this Act, the total aggregate expenditures of the Legislature for the compensation of members and employees of, and the operating expenses and equipment for, the Legislature may not exceed an amount equal to nine hundred fifty thousand dollars ($950,000) per member for that fiscal year or 80 percent of the amount of money expended for those purposes in the preceding fiscal year, whichever is less. For each fiscal year thereafter, the total aggregate expenditures may not exceed an amount equal to that expended for those purposes in the preceding fiscal year, adjusted and compounded by an amount equal to the percentage increase in the appropriations limit for the State established pursuant to Article XIII B. [*New section adopted November 6, 1990. Initiative measure.*]

[*Bills and Statutes—30-day Waiting Period*]

SEC. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.

[*Bills and Statutes—3 Readings*]

(b) The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring. No bill may be passed until the bill with amendments has been printed and distributed to the members. No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

[*Bills and Statutes—Effective Date*]

(c) (1) Except as provided in paragraphs (2) and (3) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

(3) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

[*Bills and Statutes—Urgency Statutes*]

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest. [*As amended June 5, 1990.*]

SEC. 9. [*Repealed November 8, 1966. See Section 9, below.*]

[*Statutes—Title—Section*]

SEC. 9. A statute shall embrace but one subject, which shall be expressed in its title. If a statute embraces a subject not expressed in its title, only the part not expressed is void. A statute may not be amended by reference to its title. A section of a statute may not be amended unless the section is re-enacted as amended. [*New section adopted November 8, 1966.*]

[*Governor's Veto—Bill Introduction in Biennial Session*]

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, two thirds of the membership concurring, it becomes a statute.

(b) (1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of

the legislative session, and in the possession of the Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within 12 days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the 12th day of the period within which the Governor is required to perform an act pursuant to paragraph (3) or (4) of this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.

(d) The Legislature may not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills. [*As amended June 5, 1990.*]

[*Committees*]

SEC. 11. The Legislature or either house may by resolution provide for the selection of committees necessary for the conduct of its business, including committees to ascertain facts and make recommendations to the Legislature on a subject within the scope of legislative control. [*As amended November 7, 1972.*]

[*Governor's Budget—Budget Bill—Other Appropriations*]

SEC. 12. (a) Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a bud-

get for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, the Governor shall recommend the sources from which the additional revenues should be provided.

(b) The Governor and the Governor-elect may require a state agency, officer or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) The budget shall be accompanied by a budget bill itemizing recommended expenditures. The bill shall be introduced immediately in each house by the persons chairing the committees that consider appropriations. The Legislature shall pass the budget bill by midnight on June 15 of each year. Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools, are void unless passed in each house by rollcall vote entered in the journal, two thirds of the membership concurring.

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies. [*As amended June 4, 1974, and November 5, 1974.*]

[*Legislators—Ineligible for Certain Offices*]

SEC. 13. A member of the Legislature may not, during the term for which the member is elected, hold any office or employment under the State other than an elective office. [*As amended November 5, 1974.*]

SEC. 14. [*Repealed November 8, 1966. See Section 14, below.*]

[*Members—Not Subject to Civil Process*]

SEC. 14. A member of the Legislature is not subject to civil process during a session of the Legislature or for 5 days before and after a session. [*New section adopted November 8, 1966.*]

[*Influencing Action or Vote of a Member—Felony*]

SEC. 15. A person who seeks to influence the vote or action of a member of the Legislature in the member's legislative capacity by bribery, promise of reward, intimidation, or other dishonest means, or a member of the Legislature so influenced, is guilty of a felony. [*As amended November 5, 1974.*]

[*Uniform Operation of General Laws—Special Statute—Invalid*]

SEC. 16. (a) All laws of a general nature have uniform operation.

(b) A local or special statute is invalid in any case if a general statute can be made applicable. [*As amended November 5, 1974.*]

SEC. 17. [*Repealed November 8, 1966. See Section 17, below.*]

[*Grant of Extra Compensation or Allowance Prohibited*]

SEC. 17. The Legislature has no power to grant, or to authorize a city, county, or other public body to grant, extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or to authorize the payment of a claim against the State or a city, county, or other public body under an agreement made without authority of law. [*New section adopted November 8, 1966.*]

SEC. 18. [*Repealed November 8, 1966. See Section 18, below.*]

[*Impeachment*]

SEC. 18. (a) The Assembly has the sole power of impeachment. Impeachments shall be tried by the Senate. A person may not be convicted unless, by rollcall vote entered in the journal, two thirds of the membership of the Senate concurs.

(b) State officers elected on a statewide basis, members of the State Board of Equalization, and judges of state courts are subject to impeachment for misconduct in office. Judgment may extend only to removal from office and disqualification to hold any office under the State, but the person convicted or acquitted remains subject to criminal punishment according to law. [*New section adopted November 8, 1966.*]

[*Lotteries—Horse Races Regulated—Bingo Games for Charitable Purposes*]

SEC. 19. (a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a) the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit casinos of the type currently operating in Nevada and New Jersey. [*As amended November 6, 1984. Initiative measure.*]

SEC. 20. [*Repealed November 8, 1966. See Section 20, below.*]

[*Fish and Game—Districts and Commission*]

SEC. 20. (a) The Legislature may provide for division of the State into fish and game districts and may protect fish and game in districts or parts of districts.

(b) There is a Fish and Game Commission of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 6-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. The Legislature may delegate to the commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. A member of the commission may be removed by concurrent resolution adopted by each house, a majority of the membership concurring. [*New section adopted November 8, 1966.*]

[*War- or Enemy-Caused Disaster*]

SEC. 21. To meet the needs resulting from war-caused or enemy-caused disaster in California, the Legislature may provide for:

(a) Filling the offices of members of the Legislature should at least one fifth of the membership of either house be killed, missing, or disabled, until they are able to perform their duties or successors are elected.

(b) Filling the office of Governor should the Governor be killed, missing, or disabled, until the Governor or the successor designated in this Constitution is able to perform the duties of the office of Governor or a successor is elected.

(c) Convening the Legislature.

(d) Holding elections to fill offices that are elective under this Constitution and that are either vacant or occupied by persons not elected thereto.

(e) Selecting a temporary seat of state or county government. [*As amended November 5, 1974.*]

[*Accountability—Session Goals and Objectives*]

SEC. 22. It is the right of the people to hold their legislators accountable. To assist the people in exercising this right, at the convening of each regular session of the Legislature, the President pro Tempore of the Senate, the Speaker of the Assembly, and the minority leader of each house shall report to their house the goals and objectives of that house during that session and, at the close of each regular session, the progress made toward meeting those goals and objectives. [*New section adopted June 5, 1990.*]

SEC. 22a. [*Repealed November 8, 1966.*]

SEC. 23. [*Renumbered Section 9 of Article II June 8, 1976.*]

SEC. 23a. [*Repealed November 8, 1966.*]

SEC. 23b. [*Repealed November 8, 1966.*]

SEC. 24. [*Renumbered Section 10 of Article II June 8, 1976.*]

SEC. 25. [*Renumbered Section 11 of Article II June 8, 1976.*]

SEC. 25a. [*Repealed November 8, 1966.*]

SEC. 25½. [*Repealed November 8, 1966.*]

SEC. 25⅝. [*Renumbered Section 22 of Article XIII and amended November 8, 1966.*]

SEC. 25¾. [*Renumbered Section 25.7 and amended November 6, 1962.*]

SEC. 25.7. [*Repealed November 8, 1966.*]

SEC. 26. [*Renumbered Section 12 of Article II June 8, 1976.*]

SEC. 27. [*Repealed June 3, 1980.*]

[*State Capitol Maintenance—Appropriations*]

SEC. 28. (a) Notwithstanding any other provision of this Constitution, no bill shall take effect as an urgency statute if it authorizes or contains an appropriation for either (1) the alteration or modification of the color, detail, design, structure or fixtures of the historically restored areas of the first, second, and third floors and the exterior of the west wing of the State Capitol from that existing upon the completion of the project of restoration or rehabilitation of the building conducted pursuant to Section 9124 of the Government Code as such section read upon the effective date of this section, or (2) the purchase of furniture of different design to replace that restored, replicated, or designed to conform to the historic period of the historically restored areas specified above, including the legislators' chairs and desks in the Senate and Assembly Chambers.

(b) No expenditures shall be made in payment for any of the purposes described in subdivision (a) of this section unless funds are appropriated expressly for such purposes.

(c) This section shall not apply to appropriations or expenditures for ordinary repair and maintenance of the State Capitol building, fixtures and furniture. [*New Section adopted June 3, 1980.*]

SEC. 29. [*Renumbered Section 23 of Article XIII and amended November 8, 1966.*]

SEC. 30. [*Renumbered Section 24 of Article XIII and amended November 8, 1966.*]

SEC. 31. [*Renumbered Section 25 of Article XIII and amended November 8, 1966.*]

SEC. 31a. [*Renumbered Section 26 of Article XIII and amended November 8, 1966.*]

SEC. 31b. [*As adopted by Assembly Constitutional Amendment 14 of 1931, repealed November 6, 1956.*]

SEC. 31b. [*As adopted November 8, 1932, renumbered Section 27 of Article XIII and amended November 8, 1966.*]

SEC. 31c. [*As adopted November 3, 1936, renumbered Section 28 of Article XIII and amended November 8, 1966.*]

SEC. 31c. [*As adopted November 3, 1942, repealed November 6, 1956.*]

SEC. 31d. [*Repealed November 6, 1956.*]

SEC. 32. [*Repealed November 8, 1966.*]

SEC. 33. [*Repealed November 8, 1966.*]

SEC. 34. [*Repealed November 8, 1966.*]

SEC. 34a. [*Repealed November 8, 1966.*]

SEC. 35. [*Repealed November 8, 1966.*]

SEC. 36. [*Repealed November 8, 1966.*]

SEC. 37. [*Repealed November 8, 1966.*]

SEC. 38. [*Repealed November 8, 1966.*]

ARTICLE V. [*Repealed November 8, 1966. See Article V, below.*]

ARTICLE V*

EXECUTIVE

[*Executive Power Vested in Governor*]

SECTION 1. The supreme executive power of this State is vested in the Governor. The Governor shall see that the law is faithfully executed. [*As amended November 5, 1974.*]

[*Election—Eligibility—Number of Terms*]

SEC. 2. The Governor shall be elected every fourth year at the same time and places as members of the Assembly and hold office from the Monday after January 1 following the election until a successor qualifies. The Governor shall be an elector who has been a citizen of the United States and a resident of this State for 5 years immediately preceding the Governor's election. The Governor may not hold other public office. No Governor may serve more than 2 terms. [*As amended November 6, 1990. Initiative measure.*]

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* New Article V adopted November 8, 1966.

[*Report to Legislature—Recommendations*]

SEC. 3. The Governor shall report to the Legislature each calendar year on the condition of the State and may make recommendations. [*As amended November 7, 1972.*]

SEC. 4. [*Repealed November 8, 1966. See Section 4, below.*]

[*Information From Executive Officers, Etc.*]

SEC. 4. The Governor may require executive officers and agencies and their employees to furnish information relating to their duties. [*New section adopted November 8, 1966.*]

[*Filling Vacancies—Confirmation by Legislature*]

SEC. 5. (a) Unless the law otherwise provides, the Governor may fill a vacancy in office by appointment until a successor qualifies.

(b) Whenever there is a vacancy in the office of the Superintendent of Public Instruction, the Lieutenant Governor, Secretary of State, Controller, Treasurer, or Attorney General, or on the State Board of Equalization, the Governor shall nominate a person to fill the vacancy who shall take office upon confirmation by a majority of the membership of the Senate and a majority of the membership of the Assembly and who shall hold office for the balance of the unexpired term. In the event the nominee is neither confirmed nor refused confirmation by both the Senate and the Assembly within 90 days of the submission of the nomination, the nominee shall take office as if he or she had been confirmed by a majority of the Senate and Assembly; provided, that if such 90-day period ends during a recess of the Legislature, the period shall be extended until the sixth day following the day on which the Legislature reconvenes. [*As amended November 2, 1976.*]

SEC. 6. [*Repealed November 8, 1966. See Section 6, below.*]

[*Executive Assignment and Agency Reorganization*]

SEC. 6. Authority may be provided by statute for the Governor to assign and reorganize functions among executive officers and agencies and their employees, other than elective officers and agencies administered by elective officers. [*New section adopted November 8, 1966.*]

[*Commander of Militia*]

SEC. 7. The Governor is commander in chief of a militia that shall be provided by statute. The Governor may call it forth to execute the law. [*As amended November 5, 1974.*]

[*Reprieves—Pardons—Commutations*]

SEC. 8. (a) Subject to application procedures provided by statute, the Governor, on conditions the Governor deems proper, may grant a reprieve,

pardon, and commutation, after sentence, except in case of impeachment. The Governor shall report to the Legislature each reprieve, pardon, and commutation granted, stating the pertinent facts and the reasons for granting it. The Governor may not grant a pardon or commutation to a person twice convicted of a felony except on recommendation of the Supreme Court, 4 judges concurring.

(b) No decision of the parole authority of this State with respect to the granting, denial, revocation, or suspension of parole of a person sentenced to an indeterminate term upon conviction of murder shall become effective for a period of 30 days, during which the Governor may review the decision subject to procedures provided by statute. The Governor may only affirm, modify, or reverse the decision of the parole authority on the basis of the same factors which the parole authority is required to consider. The Governor shall report to the Legislature each parole decision affirmed, modified, or reversed, stating the pertinent facts and reasons for the action. [*As amended November 8, 1988.*]

[*Lieutenant Governor—Qualifications—Casting Vote*]

SEC. 9. The Lieutenant Governor shall have the same qualifications as the Governor. The Lieutenant Governor is President of the Senate but has only a casting vote. [*As amended November 5, 1974.*]

[*Succession*]

SEC. 10. The Lieutenant Governor shall become Governor when a vacancy occurs in the office of Governor.

The Lieutenant Governor shall act as Governor during the impeachment, absence from the State, or other temporary disability of the Governor or of a Governor-elect who fails to take office.

The Legislature shall provide an order of precedence after the Lieutenant Governor for succession to the office of Governor and for the temporary exercise of the Governor's functions.

The Supreme Court has exclusive jurisdiction to determine all questions arising under this section.

Standing to raise questions of vacancy or temporary disability is vested exclusively in a body provided by statute. [*As amended November 5, 1974.*]

[*Other State Officers—Election—Number of Terms*]

SEC. 11. The Lieutenant Governor, Attorney General, Controller, Secretary of State, and Treasurer shall be elected at the same time and places and for the same term as the Governor. No Lieutenant Governor, Attorney General, Controller, Secretary of State, or Treasurer may serve in the same office for more than 2 terms. [*As amended November 6, 1990. Initiative measure.*]

SEC. 12. [*Repealed June 5, 1990.*]

[*Attorney General—Chief Law Officer*]

SEC. 13. Subject to the powers and duties of the Governor, the Attorney General shall be the chief law officer of the State. It shall be the duty of the Attorney General to see that the laws of the State are uniformly and adequately enforced. The Attorney General shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make reports concerning the investigation, detection, prosecution, and punishment of crime in their respective jurisdictions as to the Attorney General may seem advisable. Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases the Attorney General shall have all the powers of a district attorney. When required by the public interest or directed by the Governor, the Attorney General shall assist any district attorney in the discharge of the duties of that office. [*As amended November 5, 1974.*]

[*State Officers—Conflict of Interest—Prohibited Compensation—Earned Income*]

SEC. 14. (a) To eliminate any appearance of a conflict with the proper discharge of his or her duties and responsibilities, no state officer may knowingly receive any salary, wages, commissions, or other similar earned income from a lobbyist or lobbying firm, as defined by the Political Reform Act of 1974, or from a person who, during the previous 12 months, has been under a contract with the state agency under the jurisdiction of the state officer. The Legislature shall enact laws that define earned income. However, earned income does not include any community property interest in the income of a spouse. Any state officer who knowingly receives any salary, wages, commissions, or other similar earned income from a lobbyist employer, as defined by the Political Reform Act of 1974, may not, for a period of one year following its receipt, vote upon or make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the agency for which the state officer serves, other than an action or decision involving a bill described in subdivision (c) of Section 12 of Article IV, which he or she knows, or has reason to know, would have a direct and significant financial impact on the lobbyist employer and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, "public generally" includes an industry, trade, or profession.

[*State Officers—Honoraria*]

(b) No state officer may accept any honorarium. The Legislature shall enact laws that implement this subdivision.

[*State Officers—Gifts—Conflict of Interest*]

(c) The Legislature shall enact laws that ban or strictly limit the acceptance of a gift by a state officer from any source if the acceptance of the gift might create a conflict of interest.

[*State Officers—Prohibited Compensation or Activity*]

(d) No state officer may knowingly accept any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any state government board or agency. If a state officer knowingly accepts any compensation for appearing, agreeing to appear, or taking any other action on behalf of another person before any local government board or agency, the state officer may not, for a period of one year following the acceptance of the compensation, make, participate in making, or in any way attempt to use his or her official position to influence an action or decision before the state agency for which the state officer serves, other than an action or decision involving a bill described in subdivision (c) of Section 12 of Article IV, which he or she knows, or has reason to know, would have a direct and significant financial impact on that person and would not impact the public generally or a significant segment of the public in a similar manner. As used in this subdivision, ''public generally'' includes an industry, trade, or profession. However, a state officer may engage in activities involving a board or agency which are strictly on his or her own behalf, appear in the capacity of an attorney before any court or the Workers' Compensation Appeals Board, or act as an advocate without compensation or make an inquiry for information on behalf of a person before a board or agency. This subdivision does not prohibit any action of a partnership or firm of which the state officer is a member if the state officer does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from that action.

[*State Officers—Lobbying*]

(e) The Legislature shall enact laws that prohibit a state officer, or a secretary of an agency or director of a department appointed by the Governor, who has not resigned or retired from state service prior to January 7, 1991, from lobbying, for compensation, as governed by the Political Reform Act of 1974, before the executive branch of state government for 12 months after leaving office.

[*State Officer—Definition*]

(f) ''State officer,'' as used in this section, means the Governor, Lieutenant Governor, Attorney General, Controller, Insurance Commissioner, Secretary of State, Superintendent of Public Instruction, Treasurer, and

member of the State Board of Equalization. [*New section adopted June 5, 1990. Subdivision (b) operative December 3, 1990.*]

SEC. 15. [*Repealed November 8, 1966.*]

SEC. 16. [*Repealed November 8, 1966.*]

SEC. 17. [*Repealed November 8, 1966.*]

SEC. 18. [*Repealed November 8, 1966.*]

SEC. 20. [*Repealed November 8, 1966.*]

SEC. 21. [*Repealed November 8, 1966.*]

SEC. 22. [*Repealed November 8, 1966.*]

ARTICLE VI. [*Repealed November 8, 1966. See Article VI, below.*]

ARTICLE VI*

JUDICIAL

[*Judicial Power Vested in Courts*]

SEC. 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, superior courts, and municipal courts. All courts are courts of record. [*As amended November 8, 1994. Operative January 1, 1995.*]

SEC. 1a. [*Repealed November 8, 1966.*]

SEC. 1b. [*Repealed November 8, 1966.*]

SEC. 1c. [*Repealed November 8, 1966.*]

[*Supreme Court—Composition*]

SEC. 2. The Supreme Court consists of the Chief Justice of California and 6 associate justices. The Chief Justice may convene the court at any time. Concurrence of 4 judges present at the argument is necessary for a judgment.

An acting Chief Justice shall perform all functions of the Chief Justice when the Chief Justice is absent or unable to act. The Chief Justice or, if the Chief Justice fails to do so, the court shall select an associate justice as acting Chief Justice. [*As amended November 5, 1974.*]

[*Judicial Districts—Courts of Appeal*]

SEC. 3. The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division consists of a presiding justice and 2 or more associate justices. It has the

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* New Article VI adopted November 8, 1966.

power of a court of appeal and shall conduct itself as a 3-judge court. Concurrence of 2 judges present at the argument is necessary for a judgment.

An acting presiding justice shall perform all functions of the presiding justice when the presiding justice is absent or unable to act. The presiding justice or, if the presiding justice fails to do so, the Chief Justice shall select an associate justice of that division as acting presiding justice. [*As amended November 5, 1974.*]

[*Superior Courts*]

SEC. 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.

The county clerk is ex officio clerk of the superior court in the county. [*As amended November 5, 1974.*]

SEC. 4a. [*Repealed November 8, 1966.*]

SEC. 4b. [*Repealed November 8, 1966.*]

SEC. 4c. [*Repealed November 8, 1966.*]

SEC. 4d. [*Repealed November 8, 1966.*]

SEC. 4e. [*Repealed November 8, 1966.*]

SEC. 4½. [*Repealed November 8, 1966.*]

SEC. 4¾. [*Repealed November 8, 1966.*]

[*Municipal and Justice Courts*]

SEC. 5. (a) Each county shall be divided into municipal court districts as provided by statute, but a city may not be divided into more than one district. Each municipal court shall have one or more judges. Each municipal court district shall have no fewer than 40,000 residents; provided that each county shall have at least one municipal court district. The number of residents shall be determined as provided by statute.

(b) On the operative date of this subdivision, all existing justice courts shall become municipal courts, and the number, qualifications, and compensation of judges, officers, attachés, and employees shall continue until changed by the Legislature. Each judge of a part-time municipal court is deemed to have agreed to serve full time and shall be available for assignment by the Chief Justice for the balance of time necessary to comprise a full-time workload.

(c) The Legislature shall provide for the organization and prescribe the jurisdiction of municipal courts. It shall prescribe for each municipal court the number, qualifications, and compensation of judges, officers, and employees.

(d) Notwithstanding subdivision (a), any city in San Diego County may be divided into more than one municipal court district if the Legislature determines that unusual geographic conditions warrant such division. [*As amended November 8, 1994. Operative January 1, 1995.*]

SEC. 5.5. [*Repealed June 8, 1976.*]

[*Judicial Council—Membership and Powers*]

SEC. 6. The Judicial Council consists of the Chief Justice and one other judge of the Supreme Court, 3 judges of courts of appeal, 5 judges of superior courts, and 5 judges of municipal courts, each appointed by the Chief Justice for a 2-year term; 4 members of the State Bar appointed by its governing body for 2-year terms; and one member of each house of the Legislature appointed as provided by the house.

Council membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term.

The council may appoint an Administrative Director of the Courts, who serves at its pleasure and performs functions delegated by the council or the Chief Justice, other than adopting rules of court administration, practice and procedure.

To improve the administration of justice the council shall survey judicial business and make recommendations to the courts, make recommendations annually to the Governor and Legislature, adopt rules for court administration, practice and procedure, not inconsistent with statute, and perform other functions prescribed by statute.

The Chief Justice shall seek to expedite judicial business and to equalize the work of judges. The Chief Justice may provide for the assignment of any judge to another court but only with the judge's consent if the court is of lower jurisdiction. A retired judge who consents may be assigned to any court.

Judges shall report to the Judicial Council as the Chief Justice directs concerning the condition of judicial business in their courts. They shall cooperate with the council and hold court as assigned. [*As amended November 8, 1994. Operative January 1, 1995.*]

SEC. 7. [*Repealed November 8, 1966. See Section 7, below.*]

[*Commission on Judicial Appointments—Membership*]

SEC. 7. The Commission on Judicial Appointments consists of the Chief Justice, the Attorney General, and the presiding justice of the court of appeal of the affected district or, if there are 2 or more presiding justices, the one who has presided longest or, when a nomination or appointment to the Supreme Court is to be considered, the presiding justice who has presided longest on any court of appeal. [*New section adopted November 8, 1966.*]

[*Commission on Judicial Performance—Membership*]

SEC. 8. (a) The Commission on Judicial Performance consists of one judge of a court of appeal, one judge of a superior court, and one judge of a municipal court, each appointed by the Supreme Court; 2 members of the State Bar of California who have practiced law in this State for 10 years, each appointed by the Governor; and 6 citizens who are not judges, retired judges, or members of the State Bar of California, 2 of whom shall be appointed by the Governor, 2 by the Senate Committee on Rules, and 2 by the Speaker of the Assembly. Except as provided in subdivision (b), all terms are for 4 years. No member shall serve more than 2 4-year terms, or for more than a total of 10 years if appointed to fill a vacancy.

Commission membership terminates if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing power for the remainder of the term. A member whose term has expired may continue to serve until the vacancy has been filled by the appointing power. Appointing powers may appoint members who are already serving on the commission prior to March 1, 1995, to a single 2-year term, but may not appoint them to an additional term thereafter.

(b) To create staggered terms among the members of the Commission on Judicial Performance, the following members shall be appointed, as follows:

(1) Two members appointed by the Supreme Court to a term commencing March 1, 1995, shall each serve a term of 2 years and may be reappointed to one full term.

(2) One attorney appointed by the Governor to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(3) One citizen member appointed by the Governor to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(4) One member appointed by the Senate Committee on Rules to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(5) One member appointed by the Speaker of the Assembly to a term commencing March 1, 1995, shall serve a term of 2 years and may be reappointed to one full term.

(6) All other members shall be appointed to full 4-year terms commencing March 1, 1995. [*As amended November 8, 1994. Operative March 1, 1995.*]

SEC. 9. [*Repealed November 8, 1966. See Section 9, below.*]

[*State Bar*]

SEC. 9. The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a

member of the State Bar except while holding office as a judge of a court of record. [*New section adopted November 8, 1966.*]

SEC. 10. [*Repealed November 8, 1966. See Section 10, below.*]

[*Jurisdiction—Original*]

SEC. 10. The Supreme Court, courts of appeal, superior courts, and their judges have original jurisdiction in habeas corpus proceedings. Those courts also have original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition.

Superior courts have original jurisdiction in all causes except those given by statute to other trial courts.

The court may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the cause. [*New section adopted November 8, 1966.*]

SEC. 10a. [*Repealed November 8, 1966.*]

SEC. 10b. [*Repealed November 8, 1966.*]

[*Jurisdiction—Appellate*]

SEC. 11. The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior courts have original jurisdiction and in other causes prescribed by statute.

Superior courts have appellate jurisdiction in causes prescribed by statute that arise in municipal courts in their counties.

The Legislature may permit appellate courts to take evidence and make findings of fact when jury trial is waived or not a matter of right. [*As amended November 8, 1994. Operative January 1, 1995.*]

[*Transfer of Causes—Jurisdiction—Review of Decisions*]

SEC. 12. (a) The Supreme Court may, before decision, transfer to itself a cause in a court of appeal. It may, before decision, transfer a cause from itself to a court of appeal or from one court of appeal or division to another. The court to which a cause is transferred has jurisdiction.

(b) The Supreme Court may review the decision of a court of appeal in any cause.

(c) The Judicial Council shall provide, by rules of court, for the time and procedure for transfer and for review, including, among other things, provisions for the time and procedure for transfer with instructions, for review of all or part of a decision, and for remand as improvidently granted.

(d) This section shall not apply to an appeal involving a judgment of death. [*As amended November 6, 1984. Operative May 6, 1985.*]

[*Judgment—When Set Aside*]

SEC. 13. No judgment shall be set aside, or new trial granted, in any cause, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice. [*New section adopted November 8, 1966.*]

SEC. 14. [*Repealed November 8, 1966. See Section 14, below.*]

[*Supreme Court and Appellate Court—Published Opinions*]

SEC. 14. The Legislature shall provide for the prompt publication of such opinions of the Supreme Court and courts of appeal as the Supreme Court deems appropriate, and those opinions shall be available for publication by any person.

Decisions of the Supreme Court and courts of appeal that determine causes shall be in writing with reasons stated. [*New section adopted November 8, 1966.*]

[*Judges—Eligibility*]

SEC. 15. A person is ineligible to be a judge of a court of record unless for 5 years immediately preceding selection to a municipal court or 10 years immediately preceding selection to other courts, the person has been a member of the State Bar or served as a judge of a court of record in this State. A judge eligible for municipal court service may be assigned by the Chief Justice to serve on any court. [*As amended November 8, 1994. Operative January 1, 1995.*]

SEC. 15.5. [*Repealed January 1, 1995.*]

[*Judges—Elections—Terms—Vacancies*]

SEC. 16. (a) Judges of the Supreme Court shall be elected at large and judges of courts of appeal shall be elected in their districts at general elections at the same time and places as the Governor. Their terms are 12 years beginning the Monday after January 1 following their election, except that a judge elected to an unexpired term serves the remainder of the term. In creating a new court of appeal district or division the Legislature shall provide that the first elective terms are 4, 8, and 12 years.

(b) Judges of other courts shall be elected in their counties or districts at general elections. The Legislature may provide that an unopposed incumbent's name not appear on the ballot.

(c) Terms of judges of superior courts are 6 years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the January 1 fol-

lowing the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins.

(d) Within 30 days before August 16 preceding the expiration of the judge's term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by the judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the votes on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.

The Governor shall fill vacancies in those courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of superior courts. [*As amended November 5, 1974.*]

[*Judges—Restrictions, Other Employment, and Benefits*]

SEC. 17. A judge of a court of record may not practice law and during the term for which the judge was selected is ineligible for public employment or public office other than judicial employment or judicial office, except a judge of a court of record may accept a part-time teaching position that is outside the normal hours of his or her judicial position and that does not interfere with the regular performance of his or her judicial duties while holding office. A judge of a trial court of record may, however, become eligible for election to other public office by taking a leave of absence without pay prior to filing a declaration of candidacy. Acceptance of the public office is a resignation from the office of judge.

A judicial officer may not receive fines or fees for personal use.

A judicial officer may not earn retirement service credit from a public teaching position while holding judicial office. [*As amended November 8, 1988.*]

[*Judges—Discipline*]

SEC. 18. (a) A judge is disqualified from acting as a judge, without loss of salary, while there is pending (1) an indictment or an information charging the judge in the United States with a crime punishable as a felony under California or federal law, or (2) a petition to the Supreme Court to review a determination by the Commission on Judicial Performance to remove or retire a judge.

(b) The Commission on Judicial Performance may disqualify a judge from acting as a judge, without loss of salary, upon notice of formal proceedings by the commission charging the judge with judicial misconduct or disability.

(c) The Commission on Judicial Performance shall suspend a judge from office without salary when in the United States the judge pleads guilty or no contest or is found guilty of a crime punishable as a felony under California or federal law or of any other crime that involves moral turpitude under that law. If the conviction is reversed, suspension terminates, and the judge shall be paid the salary for the judicial office held by the judge for the period of suspension. If the judge is suspended and the conviction becomes final, the Commission on Judicial Performance shall remove the judge from office.

(d) Except as provided in subdivision (f), the Commission on Judicial Performance may (1) retire a judge for disability that seriously interferes with the performance of the judge's duties and is or is likely to become permanent, or (2) censure a judge or former judge or remove a judge for action occurring not more than 6 years prior to the commencement of the judge's current term or of the former judge's last term that constitutes willful misconduct in office, persistent failure or inability to perform the judge's duties, habitual intemperance in the use of intoxicants or drugs, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or (3) publicly or privately admonish a judge or former judge found to have engaged in an improper action or dereliction of duty. The commission may also bar a former judge who has been censured from receiving an assignment, appointment, or reference of work from any California state court. Upon petition by the judge or former judge, the Supreme Court may, in its discretion, grant review of a determination by the commission to retire, remove, censure, admonish, or disqualify pursuant to subdivision (b) a judge or former judge. When the Supreme Court reviews a determination of the commission, it may make an independent review of the record. If the Supreme Court has not acted within 120 days after granting the petition, the decision of the commission shall be final.

(e) A judge retired by the commission shall be considered to have retired voluntarily. A judge removed by the commission is ineligible for judicial office, including receiving an assignment, appointment, or reference of work from any California state court, and pending further order of the court is suspended from practicing law in this State. The State Bar may institute appropriate attorney disciplinary proceedings against any judge who retires or resigns from office with judicial disciplinary charges pending.

(f) A determination by the Commission on Judicial Performance to admonish or censure a judge or former judge of the Supreme Court or re-

move or retire a judge of the Supreme Court shall be reviewed by a tribunal of 7 court of appeal judges selected by lot.

(g) No court, except the Supreme Court, shall have jurisdiction in a civil action or other legal proceeding of any sort brought against the commission by a judge. Any request for injunctive relief or other provisional remedy shall be granted or denied within 90 days of the filing of the request for relief. A failure to comply with the time requirements of this section does not affect the validity of commission proceedings.

(h) Members of the commission, the commission staff, and the examiners and investigators employed by the commission shall be absolutely immune from suit for all conduct at any time in the course of their official duties. No civil action may be maintained against a person, or adverse employment action taken against a person, by any employer, public or private, based on statements presented by the person to the commission.

(i) The Commission on Judicial Performance shall make rules implementing this section, including, but not limited to, the following:

(1) The commission shall make rules for the investigation of judges. The commission may provide for the confidentiality of complaints to and investigations by the commission.

(2) The commission shall make rules for formal proceedings against judges when there is cause to believe there is a disability or wrongdoing within the meaning of subdivision (d).

(j) When the commission institutes formal proceedings, the notice of charges, the answer, and all subsequent papers and proceedings shall be open to the public for all formal proceedings instituted after February 28, 1995.

(k) The commission may make explanatory statements.

(*l*) The budget of the commission shall be separate from the budget of any other state agency or court.

(m) The Supreme Court shall make rules for the conduct of judges, both on and off the bench, and for judicial candidates in the conduct of their campaigns. These rules shall be referred to as the Code of Judicial Ethics. [*As amended November 8, 1994. Operative March 1, 1995.*]

[*Disciplined Judge Under Consideration for Judicial Appointment*]

SEC. 18.5. (a) Upon request, the Commission on Judicial Performance shall provide to the Governor of any State of the Union the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission's action, with respect to any applicant whom the Governor of any State of the Union indicates is under consideration for any judicial appointment.

(b) Upon request, the Commission on Judicial Performance shall provide the President of the United States the text of any private admonish-

ment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission's action, with respect to any applicant whom the President indicates is under consideration for any federal judicial appointment.

(c) Upon request, the Commission on Judicial Performance shall provide the Commission on Judicial Appointments the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission action, with respect to any applicant whom the Commission on Judicial Appointments indicates is under consideration for any judicial appointment.

(d) All information released under this section shall remain confidential and privileged.

(e) Notwithstanding subdivision (d), any information released pursuant to this section shall also be provided to the applicant about whom the information was requested.

(f) ''Private admonishment'' refers to a disciplinary action against a judge by the Commission on Judicial Performance as authorized by subdivision (c) of Section 18 of Article VI, as amended November 8, 1988. [*New section adopted November 8, 1994. Operative March 1, 1995.*]

[*Judges—Compensation*]

SEC. 19. The Legislature shall prescribe compensation for judges of courts of record.

A judge of a court of record may not receive the salary for the judicial office held by the judge while any cause before the judge remains pending and undetermined for 90 days after it has been submitted for decision. [*As amended November 5, 1974.*]

SEC. 20. [*Repealed November 8, 1966. See Section 20, below.*]

[*Judges—Retirement—Disability*]

SEC. 20. The Legislature shall provide for retirement, with reasonable allowance, of judges of courts of record for age or disability. [*New section adopted November 8, 1966.*]

SEC. 21. [*Repealed November 8, 1966. See Section 21, below.*]

[*Temporary Judges*]

SEC. 21. On stipulation of the parties litigant the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause. [*New section adopted November 8, 1966.*]

[*Appointment of Officers—Subordinate Judicial Duties*]

SEC. 22. The Legislature may provide for the appointment by trial courts of record of officers such as commissioners to perform subordinate judicial duties. [*New section adopted November 8, 1966.*]

SEC. 23. [*Repealed November 8, 1966.*]

SEC. 24. [*Repealed November 8, 1966.*]

SEC. 26. [*Repealed November 8, 1966.*]

ARTICLE VII*

PUBLIC OFFICERS AND EMPLOYEES

[*Civil Service*]

SECTION 1. (a) The civil service includes every officer and employee of the State except as otherwise provided in this Constitution.

(b) In the civil service permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination. [*New section adopted June 8, 1976.*]

[*Personnel Board—Membership and Compensation*]

SEC. 2. (a) There is a Personnel Board of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for 10-year terms and until their successors are appointed and qualified. Appointment to fill a vacancy is for the unexpired portion of the term. A member may be removed by concurrent resolution adopted by each house, two-thirds of the membership of each house concurring.

(b) The board annually shall elect one of its members as presiding officer.

(c) The board shall appoint and prescribe compensation for an executive officer who shall be a member of the civil service but not a member of the board. [*New section adopted June 8, 1976.*]

[*Personnel Board—Duties*]

SEC. 3. (a) The board shall enforce the civil service statutes and, by majority vote of all its members, shall prescribe probationary periods and classifications, adopt other rules authorized by statute, and review disciplinary actions.

(b) The executive officer shall administer the civil service statutes under rules of the board. [*New section adopted June 8, 1976.*]

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* New Article VII adopted June 8, 1976.

[*Exempt Positions*]

SEC. 4. The following are exempt from civil service:

(a) Officers and employees appointed or employed by the Legislature, either house, or legislative committees.

(b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

(c) Officers elected by the people and a deputy and an employee selected by each elected officer.

(d) Members of boards and commissions.

(e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.

(f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

(g) A deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).

(h) Officers and employees of the University of California and the California State Colleges.

(i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.

(j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.

(k) Members of the militia while engaged in military service.

(*l*) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.

(m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees. [*New section adopted June 8, 1976.*]

[*Temporary Appointments*]

SEC. 5. A temporary appointment may be made to a position for which there is no employment list. No person may serve in one or more positions under temporary appointment longer than 9 months in 12 consecutive months. [*New section adopted June 8, 1976.*]

[*Veterans' Preferences—Special Rules*]

SEC. 6. (a) The Legislature may provide preferences for veterans and their surviving spouses.

(b) The board by special rule may permit persons in exempt positions, brought under civil service by constitutional provision, to qualify to continue in their positions.

(c) When the State undertakes work previously performed by a county, city, public district of this State or by a federal department or agency, the board by special rule shall provide for persons who previously performed this work to qualify to continue in their positions in the state civil service subject to such minimum standards as may be established by statute. [*New section adopted June 8, 1976.*]

[*Dual Office Holding*]

SEC. 7. A person holding a lucrative office under the United States or other power may not hold a civil office of profit. A local officer or postmaster whose compensation does not exceed 500 dollars per year or an officer in the militia or a member of a reserve component of the armed forces of the United States except where on active federal duty for more than 30 days in any year is not a holder of a lucrative office, nor is the holding of a civil office of profit affected by this military service. [*New section adopted June 8, 1976.*]

[*Disqualification From Holding Office or Serving on Jury—Free Suffrage*]

SEC. 8. (a) Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure personal election or appointment.

(b) Laws shall be made to exclude persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes from office or serving on juries. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice. [*New section adopted June 8, 1976.*]

[*Persons or Organizations Advocating Overthrow of Government*]

SEC. 9. Notwithstanding any other provision of this Constitution, no person or organization which advocates the overthrow of the Government of the United States or the State by force or violence or other unlawful means or who advocates the support of a foreign government against the United States in the event of hostilities shall:

(a) Hold any office or employment under this State, including but not limited to the University of California, or with any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State; or

(b) Receive any exemption from any tax imposed by this State or any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State.

The Legislature shall enact such laws as may be necessary to enforce the provisions of this section. [*New section adopted June 8, 1976.*]

[*Elected Officials—Disqualification for Libelous or Slanderous Campaign Statements*]

SEC. 10. (a) No person who is found liable in a civil action for making libelous or slanderous statements against an opposing candidate during the course of an election campaign for any federal, statewide, Board of Equalization, or legislative office or for any county, city and county, city, district, or any other local elective office shall retain the seat to which he or she is elected, where it is established that the libel or slander was a major contributing cause in the defeat of an opposing candidate.

A libelous or slanderous statement shall be deemed to have been made by a person within the meaning of this section if that person actually made the statement or if the person actually or constructively assented to, authorized, or ratified the statement.

''Federal office,'' as used in this section means the office of United States Senator and Member of the House of Representatives; and to the extent that the provisions of this section do not conflict with any provision of federal law, it is intended that candidates seeking the office of United States Senator or Member of the House of Representatives comply with this section.

(b) In order to determine whether libelous or slanderous statements were a major contributing cause in the defeat of an opposing candidate, the trier of fact shall make a separate, distinct finding on that issue. If the trier of fact finds that libel or slander was a major contributing cause in the defeat of an opposing candidate and that the libelous or slanderous statement was made with knowledge that it was false or with reckless disregard of whether it was false or true, the person holding office shall be disqualified from or shall forfeit that office as provided in subdivision (d). The findings required by this section shall be in writing and shall be incorporated as part of the judgment.

(c) In a case where a person is disqualified from holding office or is required to forfeit an office under subdivisions (a) and (b), that disqualification or forfeiture shall create a vacancy in office, which vacancy shall be filled in the manner provided by law for the filling of a vacancy in that particular office.

(d) Once the judgment of liability is entered by the trial court and the time for filing a notice of appeal has expired, or all possibility of direct attack in the courts of this State has been finally exhausted, the person shall be disqualified from or shall forfeit the office involved in that election and shall have no authority to exercise the powers or perform the duties of the office.

(e) This section shall apply to libelous or slanderous statements made on or after the effective date of this section. [*New section adopted June 5, 1984.*]

[*Legislators' and Judges' Retirement Systems*]

SEC. 11. (a) The Legislators' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any state office for which membership in the Legislators' Retirement System was elective or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that office.

(b) The Judges' Retirement System shall not pay any unmodified retirement allowance or its actuarial equivalent to any person who on or after January 1, 1987, entered for the first time any judicial office subject to the Judges' Retirement System or to any beneficiary or survivor of such a person, which exceeds the higher of (1) the salary receivable by the person currently serving in the judicial office in which the retired person served or (2) the highest salary that was received by the retired person while serving in that judicial office.

(c) The Legislature may define the terms used in this section.

(d) If any part of this measure or the application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application. [*As amended November 6, 1990. Initiative measure.*]

ARTICLE VIII. [*Repealed November 8, 1966.*]

ARTICLE IX

EDUCATION

[*Legislative Policy*]

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

[*Superintendent of Public Instruction—Election—Date of Office—Number of Terms*]

SEC. 2. A Superintendent of Public Instruction shall be elected by the qualified electors of the State at each gubernatorial election. The Superintendent of Public Instruction shall enter upon the duties of the office on

the first Monday after the first day of January next succeeding each gubernatorial election. No Superintendent of Public Instruction may serve more than 2 terms. [*As amended November 6, 1990. Initiative measure.*]

[*Deputy and Associate Superintendents of Public Instruction*]

SEC. 2.1. The State Board of Education, on nomination of the Superintendent of Public Instruction, shall appoint one Deputy Superintendent of Public Instruction and three Associate Superintendents of Public Instruction who shall be exempt from state civil service and whose terms of office shall be four years.

This section shall not be construed as prohibiting the appointment, in accordance with law, of additional Associate Superintendents of Public Instruction subject to state civil service. [*New section adopted November 5, 1946.*]

[*County Superintendents of Schools*]

SEC. 3. A Superintendent of Schools for each county may be elected by the qualified electors thereof at each gubernatorial election or may be appointed by the county board of education, and the manner of the selection shall be determined by a majority vote of the electors of the county voting on the question; provided, that two or more counties may, by an election conducted pursuant to Section 3.2 of this article, unite for the purpose of electing or appointing one joint superintendent for the counties so uniting. [*As amended November 2, 1976.*]

[*County Superintendents of Schools—Qualifications and Salaries*]

SEC. 3.1. (a) Notwithstanding any provision of this Constitution to the contrary, the Legislature shall prescribe the qualifications required of county superintendents of schools, and for these purposes shall classify the several counties in the State.

(b) Notwithstanding any provision of this Constitution to the contrary, the county board of education or joint county board of education, as the case may be, shall fix the salary of the county superintendent of schools or the joint county superintendent of schools, respectively. [*As amended November 2, 1976.*]

[*Joint County Board of Education—Joint County Superintendent of Schools*]

SEC. 3.2. Notwithstanding any provision of this Constitution to the contrary, any two or more chartered counties, or nonchartered counties, or any combination thereof, may, by a majority vote of the electors of each such county voting on the proposition at an election called for that purpose in each such county, establish one joint board of education and one joint county superintendent of schools for the counties so uniting. A joint county board of education and a joint county superintendent of schools

shall be governed by the general statutes and shall not be governed by the provisions of any county charter. [*New section adopted November 2, 1976.*]

[*County Boards of Education—Qualifications and Terms of Office*]

SEC. 3.3. Except as provided in Section 3.2 of this article, it shall be competent to provide in any charter framed for a county under any provision of this Constitution, or by the amendment of any such charter, for the election of the members of the county board of education of such county and for their qualifications and terms of office. [*As amended November 2, 1976.*]

SEC. 4. [*Repealed November 3, 1964.*]

[*Common School System*]

SEC. 5. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

[*Public Schools—Salaries*]

SEC. 6. Each person, other than a substitute employee, employed by a school district as a teacher or in any other position requiring certification qualifications shall be paid a salary which shall be at the rate of an annual salary of not less than twenty-four hundred dollars ($2,400) for a person serving full time, as defined by law.

[*Public School System*]

The Public School System shall include all kindergarten schools, elementary schools, secondary schools, technical schools, and state colleges, established in accordance with law and, in addition, the school districts and the other agencies authorized to maintain them. No school or college or any other part of the Public School System shall be, directly or indirectly, transferred from the Public School System or placed under the jurisdiction of any authority other than one included within the Public School System.

[*Support of Public School System—State Aid*]

The Legislature shall add to the State School Fund such other means from the revenues of the State as shall provide in said fund for apportionment in each fiscal year, an amount not less than one hundred eighty dollars ($180) per pupil in average daily attendance in the kindergarten schools, elementary schools, secondary schools, and technical schools in the Public School System during the next preceding fiscal year.

The entire State School Fund shall be apportioned in each fiscal year in such manner as the Legislature may provide, through the school districts

and other agencies maintaining such schools, for the support of, and aid to, kindergarten schools, elementary schools, secondary schools, and technical schools except that there shall be apportioned to each school district in each fiscal year not less than one hundred twenty dollars ($120) per pupil in average daily attendance in the district during the next preceding fiscal year and except that the amount apportioned to each school district in each fiscal year shall be not less than twenty-four hundred dollars ($2,400).

Solely with respect to any retirement system provided for in the charter of any county or city and county pursuant to the provisions of which the contributions of, and benefits to, certificated employees of a school district who are members of such system are based upon the proportion of the salaries of such certificated employees contributed by said county or city and county, all amounts apportioned to said county or city and county, or to school districts therein, pursuant to the provisions of this section shall be considered as though derived from county or city and county school taxes for the support of county and city and county government and not money provided by the State within the meaning of this section. [*As amended November 5, 1974.*]

[*School Districts—Bonds*]

SEC. 6½. Nothing in this Constitution contained shall forbid the formation of districts for school purposes situate in more than one county or the issuance of bonds by such districts under such general laws as have been or may hereafter be prescribed by the Legislature; and the officers mentioned in such laws shall be authorized to levy and assess such taxes and perform all such other acts as may be prescribed therein for the purpose of paying such bonds and carrying out the other powers conferred upon such districts; *provided,* that all such bonds shall be issued subject to the limitations prescribed in section eighteen† of article eleven hereof. [*New section adopted November 7, 1922.*]

[*Boards of Education*]

SEC. 7. The Legislature shall provide for the appointment or election of the State Board of Education and a board of education in each county or for the election of a joint county board of education for two or more counties. [*As amended November 2, 1976.*]

[*Free Textbooks*]

SEC. 7.5. The State Board of Education shall adopt textbooks for use in grades one through eight throughout the State, to be furnished without cost as provided by statute. [*New section adopted June 2, 1970.*]

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† Former Section 18 of Article XI added to Article XIII as Section 40, June 2, 1970 and repealed November 5, 1974.

[*Sectarian Schools—Public Money—Doctrines*]

SEC. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

[*University of California*]

SEC. 9. (a) The University of California shall constitute a public trust, to be administered by the existing corporation known as "The Regents of the University of California," with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university and such competitive bidding procedures as may be made applicable to the university by statute for the letting of construction contracts, sales of real property, and purchasing of materials, goods, and services. Said corporation shall be in form a board composed of seven ex officio members, which shall be: the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the president and the vice president of the alumni association of the university and the acting president of the university, and 18 appointive members appointed by the Governor and approved by the Senate, a majority of the membership concurring; provided, however that the present appointive members shall hold office until the expiration of their present terms.

(b) The terms of the members appointed prior to November 5, 1974, shall be 16 years; the terms of two appointive members to expire as heretofore on March 1st of every even-numbered calendar year, and two members shall be appointed for terms commencing on March 1, 1976, and on March 1 of each year thereafter; provided that no such appointments shall be made for terms to commence on March 1, 1979, or on March 1 of each fourth year thereafter, to the end that no appointment to the regents for a newly commencing term shall be made during the first year of any gubernatorial term of office. The terms of the members appointed for terms commencing on and after March 1, 1976, shall be 12 years. During the period of transition until the time when the appointive membership is comprised exclusively of persons serving for terms of 12 years, the total number of appointive members may exceed the numbers specified in the preceeding paragraph.

In case of any vacancy, the term of office of the appointee to fill such vacancy, who shall be appointed by the Governor and approved by the Senate, a majority of the membership concurring, shall be for the balance of the term for which such vacancy exists.

(c) The members of the board may, in their discretion, following procedures established by them and after consultation with representatives of faculty and students of the university, including appropriate officers of the academic senate and student governments, appoint to the board either or both of the following persons as members with all rights of participation: a member of the faculty at a campus of the university or of another institution of higher education; a person enrolled as a student at a campus of the university for each regular academic term during his service as a member of the board. Any person so appointed shall serve for not less than one year commencing on July 1.

(d) Regents shall be able persons broadly reflective of the economic, cultural, and social diversity of the State, including ethnic minorities and women. However, it is not intended that formulas or specific ratios be applied in the selection of regents.

(e) In the selection of the Regents, the Governor shall consult an advisory committee composed as follows: The Speaker of the Assembly and two public members appointed by the Speaker, the President Pro Tempore of the Senate and two public members appointed by the Rules Committee of the Senate, two public members appointed by the Governor, the chairman of the regents of the university, an alumnus of the university chosen by the alumni association of the university, a student of the university chosen by the Council of Student Body Presidents, and a member of the faculty of the university chosen by the academic senate of the university. Public members shall serve for four years, except that one each of the initially appointed members selected by the Speaker of the Assembly, the President Pro Tempore of the Senate, and the Governor shall be appointed to serve for two years; student, alumni, and faculty members shall serve for one year and may not be regents of the university at the time of their service on the advisory committee.

(f) The Regents of the University of California shall be vested with the legal title and the management and disposition of the property of the university and of property held for its benefit and shall have the power to take and hold, either by purchase or by donation, or gift, testamentary or otherwise, or in any other manner, without restriction, all real and personal property for the benefit of the university or incidentally to its conduct; provided, however, that sales of university real property shall be subject to such competitive bidding procedures as may be provided by statute. Said corporation shall also have all the powers necessary or convenient for the effective administration of its trust, including the power to sue and to be sued, to use a seal, and to delegate to its committees or to the faculty of the university, or to others, such authority or functions as it may deem wise. The Regents shall receive all funds derived from the sale of lands pursuant to the act of Congress of July 2, 1862, and any subsequent acts amendatory thereof. The university shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents

and in the administration of its affairs, and no person shall be debarred admission to any department of the university on account of race, religion, ethnic heritage, or sex.

(g) Meetings of the Regents of the University of California shall be public, with exceptions and notice requirements as may be provided by statute. [*As amended November 2, 1976.*]

SEC. 10. [*Repealed November 5, 1974.*]

SEC. 11. [*Repealed November 5, 1974.*]

SEC. 12. [*Repealed November 5, 1974.*]

SEC. 13. [*Repealed November 5, 1974.*]

[*School District Incorporation and Organization—Governing Board Powers*]

SEC. 14. The Legislature shall have power, by general law, to provide for the incorporation and organization of school districts, high school districts, and community college districts, of every kind and class, and may classify such districts.

The Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes for which school districts are established. [*As amended November 7, 1972. Operative July 1, 1973.*]

SEC. 15. [*Repealed November 5, 1974.*]

[*Boards of Education—City Charter Provisions*]

SEC. 16. (a) It shall be competent, in all charters framed under the authority given by Section 5 of Article XI, to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

[*Charter Amendments—Approval by Voters*]

(b) Notwithstanding Section 3 of Article XI, when the boundaries of a school district or community college district extend beyond the limits of a city whose charter provides for any or all of the foregoing with respect to the members of its board of education, no charter amendment effecting a change in the manner in which, the times at which, or the terms for which the members of the board of education shall be elected or appointed, for their qualifications, compensation, or removal, or for the number which shall constitute such board, shall be adopted unless it is submitted to and approved by a majority of all the qualified electors of the school district or community college district voting on the question. Any such amendment, and any portion of a proposed charter or a revised charter which would es-

tablish or change any of the foregoing provisions respecting a board of education, shall be submitted to the electors of the school district or community college district as one or more separate questions. The failure of any such separate question to be approved shall have the result of continuing in effect the applicable existing law with respect to that board of education. [*As amended June 6, 1978.*]

ARTICLE X*

WATER

[*State's Right of Eminent Domain*]

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State. [*New section adopted June 8, 1976.*]

[*Conservation and Beneficial Use of Water—Riparian Rights*]

SEC. 2. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. Riparian rights in a stream or water course attach to, but to no more than so much of the flow thereof as may be required or used consistently with this section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; provided, however, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which the owner's land is riparian under reasonable methods of diversion and use, or as depriving any appropriator of water to which the appropriator is lawfully entitled. This section shall be self-executing, and the Legislature may also enact laws in the furtherance of the policy in this section contained. [*New section adopted June 8, 1976.*]

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* New Article X adopted June 8, 1976.

[*Tidelands*]

SEC. 3. All tidelands within two miles of any incorporated city, city and county, or town in this State, and fronting on the water of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations; provided, however, that any such tidelands, reserved to the State solely for street purposes, which the Legislature finds and declares are not used for navigation purposes and are not necessary for such purposes may be sold to any town, city, county, city and county, municipal corporations, private persons, partnerships or corporations subject to such conditions as the Legislature determines are necessary to be imposed in connection with any such sales in order to protect the public interest. [*New section adopted June 8, 1976.*]

[*Access to Navigable Waters*]

SEC. 4. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof. [*New section adopted June 8, 1976.*]

[*State Control of Water Use*]

SEC. 5. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law. [*New section adopted June 8, 1976.*]

[*Compensation for Water Use*]

SEC. 6. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law. [*New section adopted June 8, 1976.*]

[*Acquisition of Real Property—Conformance to California Water Laws*]

SEC. 7. Whenever any agency of government, local, state, or federal, hereafter acquires any interest in real property in this State, the acceptance of the interest shall constitute an agreement by the agency to conform to the laws of California as to the acquisition, control, use, and distribution of water with respect to the land so acquired. [*New section adopted June 8, 1976.*]

ARTICLE X A*

WATER RESOURCES DEVELOPMENT

[*Article X A has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982*]

[*Water Rights, Water Quality, and Fish and Wildlife Resources Guaranteed and Protected*]

SECTION 1. The people of the State hereby provide the following guarantees and protections in this article for water rights, water quality, and fish and wildlife resources. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Statutes for Protection of Fish and Wildlife Resources, Delta, Etc.*]

SEC. 2. No statute amending or repealing, or adding to, the provisions of the statute enacted by Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature which specify (1) the manner in which the State will protect fish and wildlife resources in the Sacramento-San Joaquin Delta, Suisun Marsh, and San Francisco Bay system westerly of the delta; (2) the manner in which the State will protect existing water rights in the Sacramento-San Joaquin Delta; and (3) the manner in which the State will operate the State Water Resources Development System to comply with water quality standards and water quality control plans, shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Appropriations of Water—Components of California Wild and Scenic Rivers System*]

SEC. 3. No water shall be available for appropriation by storage in, or by direct diversion from, any of the components of the California Wild and Scenic Rivers System, as such system exists on January 1, 1981, where

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*New Article X A adopted November 4, 1980.

† Chapter 632, Statutes of 1980.

such appropriation is for export of water into another major hydrologic basin of the State, as defined in the Department of Water Resources Bulletin 160-74, unless such export is expressly authorized prior to such appropriation by: (a) an initiative statute approved by the electors, or (b) the Legislature, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Statutes Amending, Repealing, or Adding to Delta Protection Act*]

SEC. 4. No statute amending or repealing, or adding to, the provisions of Part 4.5 (commencing with Section 12200) of Division 6 of the Water Code (the Delta Protection Act) shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Eminent Domain Proceedings to Acquire Water Rights or Contract Rights for Water or Water Quality Maintenance in Delta Prohibited*]

SEC. 5. No public agency may utilize eminent domain proceedings to acquire water rights, which are held for uses within the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code, or any contract rights for water or water quality maintenance in the Delta for the purpose of exporting such water from the Delta. This provision shall not be construed to prohibit the utilization of eminent domain proceedings for the purpose of acquiring land or any other rights necessary for the construction of water facilities, including, but not limited to, facilities authorized in Chapter 8 (commencing with Section 12930) of Part 6 of Division 6 of the Water Code. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Actions and Proceedings*]

SEC. 6. (a) The venue of any of the following actions or proceedings brought in a superior court shall be Sacramento County:

(1) An action or proceeding to attack, review, set aside, void, or annul any provision of the statute enacted by Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature.

(2) An action or proceeding to attack, review, set aside, void, or annul the determination made by the Director of Water Resources and the Director of Fish and Game pursuant to subdivision (a) of Section 11255 of the Water Code.

(3) An action or proceeding which would have the effect of attacking, reviewing, preventing, or substantially delaying the construction, operation, or maintenance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code.

(4) An action or proceeding to require the State Water Resources Development System to comply with subdivision (b) of Section 11460 of the Water Code.

(5) An action or proceeding to require the Department of Water Resources or its successor agency to comply with the permanent agreement specified in subdivision (a) of Section 11256 of the Water Code.

(6) An action or proceeding to require the Department of Water Resources or its successor agency to comply with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code.

(b) An action or proceeding described in paragraph (1) of subdivision (a) shall be commenced within one year after the effective date of the statute enacted by Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature. Any other action or proceeding described in subdivision (a) shall be commenced within one year after the cause of action arises unless a shorter period is otherwise provided by statute.

(c) The superior court or a court of appeals shall give preference to the actions or proceedings described in this section over all civil actions or proceedings pending in the court. The superior court shall commence hearing any such action or proceeding within six months after the commencement of the action or proceeding, provided that any such hearing may be delayed by joint stipulation of the parties or at the discretion of the court for good cause shown. The provisions of this section shall supersede any provisions of law requiring courts to give preference to other civil actions or proceedings. The provisions of this subdivision may be enforced by mandamus.

(d) The Supreme Court shall, upon the request of any party, transfer to itself, before a decision in the court of appeal, any appeal or petition for extraordinary relief from an action or proceeding described in this section, unless the Supreme Court determines that the action or proceeding is unlikely to substantially affect (1) the construction, operation, or mainte-

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† Chapter 632, Statutes of 1980.

nance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code, (2) compliance with subdivision (b) of Section 11460 of the Water Code, (3) compliance with the permanent agreement specified in Section 11256 of the Water Code, or (4) compliance with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code. The request for transfer shall receive preference on the Supreme Court's calendar. If the action or proceeding is transferred to the Supreme Court, the Supreme Court shall commence to hear the matter within six months of the transfer unless the parties by joint stipulation request additional time or the court, for good cause shown, grants additional time.

(e) The remedy prescribed by the court for an action or proceeding described in paragraph (4), (5), or (6) of subdivision (a) shall include, but need not be limited to, compliance with subdivision (b) of Section 11460 of the Water Code, the permanent agreement specified in Section 11256 of the Water Code, or the provisions of the contracts entered into pursuant to Section 11456 of the Water Code.

(f) The Board of Supervisors of the County of Sacramento may apply to the State Board of Control for actual costs imposed by the requirements of this section upon the county, and the State Board of Control shall pay such actual costs.

(g) Notwithstanding the provisions of this section, nothing in this Article shall be construed as prohibiting the Supreme Court from exercising the transfer authority contained in Article VI, Section 12 of the Constitution. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*State Agencies' Exercise of Authorized Powers*]

SEC. 7. State agencies shall exercise their authorized powers in a manner consistent with the protections provided by this article. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

[*Force or Effect of Article*]

SEC. 8. This article shall have no force or effect unless Senate Bill No. 200 † of the 1979–80 Regular Session of the Legislature is enacted and takes effect. [*New section adopted November 4, 1980. Section has no force or effect because Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature was defeated by referendum vote June 8, 1982.*]

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† Chapter 632, Statutes of 1980.

ARTICLE X B*

MARINE RESOURCES PROTECTION ACT OF 1990

[*Title*]

SECTION 1. This article shall be known and may be cited as the Marine Resources Protection Act of 1990. [*New section adopted November 6, 1990. Initiative measure.*]

[*Definitions*]

SEC. 2. (a) "District" means a fish and game district as defined in the Fish and Game Code by statute on January 1, 1990.

(b) Except as specifically provided in this article, all references to Fish and Game Code sections, articles, chapters, parts, and divisions are defined as those statutes in effect on January 1, 1990.

(c) "Ocean waters" means the waters of the Pacific Ocean regulated by the State.

(d) "Zone" means the Marine Resources Protection zone established pursuant to this article. The zone consists of the following:

(1) In waters less than 70 fathoms or within one mile, whichever is less, around the Channel Islands consisting of the Islands of San Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolaus, Santa Barbara, Santa Catalina, and San Clemente.

(2) The area within three nautical miles offshore of the mainland coast, and the area within three nautical miles off any manmade breakwater, between a line extending due west from Point Arguello and a line extending due west from the Mexican border.

(3) In waters less than 35 fathoms between a line running 180 degrees true from Point Fermin and a line running 270 degrees true from the south jetty of Newport Harbor. [*New section adopted November 6, 1990. Initiative measure.*]

[*Gill and Trammel Nets—Usage*]

SEC. 3. (a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or trammel nets may only be used in the zone pursuant to a nontransferable permit issued by the Department of Fish and Game pursuant to Section 5.

(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone. [*New section adopted November 6, 1990. Initiative measure.*]

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* New Article X B adopted November 6, 1990. Initiative measure.

[*Gill and Trammel Nets—Usage*]

SEC. 4. (a) Notwithstanding any other provision of law, gill nets and trammel nets may not be used to take any species of rockfish.

(b) In ocean waters north of Point Arguello on and after the effective date of this article, the use of gill nets and trammel nets shall be regulated by the provisions of Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680) and Article 6 (commencing with Section 8720) of Chapter 3 of Part 3 of Division 6 of the Fish and Game Code, or any regulation or order issued pursuant to these articles, in effect on January 1, 1990, except that as to Sections 8680, 8681, 8681.7, and 8682, and subdivisions (a) through (f), inclusive of Section 8681.5 of the Fish and Game Code, or any regulation or order issued pursuant to these sections, the provisions in effect on January 1, 1989, shall control where not in conflict with other provisions of this article, and shall be applicable to all ocean waters. Notwithstanding the provisions of this section, the Legislature shall not be precluded from imposing more restrictions on the use and/or possession of gill nets or trammel nets. The Director of the Department of Fish and Game shall not authorize the use of gill nets or trammel nets in any area where the use is not permitted even if the director makes specified findings. [*New section adopted November 6, 1990. Initiative measure.*]

[*Gill and Trammel Nets—Usage*]

SEC. 5. The Department of Fish and Game shall issue a permit to use a gill net or trammel net in the zone for the period specified in subdivision (a) of Section 3 to any applicant who meets both of the following requirements:

(a) Has a commercial fishing license issued pursuant to Sections 7850–7852.3 of the Fish and Game Code.

(b) Has a permit issued pursuant to Section 8681 of the Fish and Game Code and is presently the owner or operator of a vessel equipped with a gill net or trammel net. [*New section adopted November 6, 1990. Initiative measure.*]

[*Permit Fees*]

SEC. 6. The Department of Fish and Game shall charge the following fees for permits issued pursuant to Section 5 pursuant to the following schedule:

Calendar Year	Fee
1991	$250
1992	500
1993	1,000

[*New section adopted November 6, 1990. Initiative measure.*]

[*Permitholder's Compensation for Discontinuing Fishing with Gill and Trammel Nets*]

SEC. 7. (a) Within 90 days after the effective date of this section, every person who intends to seek the compensation provided in subdivision (b) shall notify the Department of Fish and Game, on forms provided by the department, of that intent. Any person who does not submit the form within that 90-day period shall not be compensated pursuant to subdivision (b). The department shall publish a list of all persons submitting the form within 120 days after the effective date of this section.

(b) After July 1, 1993, and before January 1, 1994, any person who holds a permit issued pursuant to Section 5 and operates in the zone may surrender that permit to the department and agree to permanently discontinue fishing with gill or trammel nets in the zone, for which he or she shall receive, beginning on July 1, 1993, a one time compensation which shall be based upon the average annual ex vessel value of the fish other than any species of rockfish landed by a fisherman, which were taken pursuant to a valid general gill net or trammel net permit issued pursuant to Sections 8681 and 8682 of the Fish and Game Code within the zone during the years 1983 to 1987, inclusive. The department shall verify those landings by reviewing logs and landing receipts submitted to it. Any person who is denied compensation by the department as a result of the department's failure to verify landings may appeal that decision to the Fish and Game Commission.

(c) The State Board of Control shall, prior to the disbursement of any funds, verify the eligibility of each person seeking compensation and the amount of the compensation to be provided in order to ensure compliance with this section.

(d) Unless the Legislature enacts any required enabling legislation to implement this section on or before July 1, 1993, no compensation shall be paid under this article. [*New section adopted November 6, 1990. Initiative measure.*]

[*Marine Resources Protection Account—Fees—Interest*]

SEC. 8. (a) There is hereby created the Marine Resources Protection Account in the Fish and Game Preservation Fund. On and after January 1, 1991, the Department of Fish and Game shall collect any and all fees required by this article. All fees received by the department pursuant to this article shall be deposited in the account and shall be expended or encumbered to compensate persons who surrender permits pursuant to Section 7 or to provide for administration of this article. All funds received by the department during any fiscal year pursuant to this article which are not expended during that fiscal year to compensate persons as set forth in Section 7 or to provide for administration of this article shall be carried over into the following fiscal year and shall be used only for those purposes. All

interest accrued from the department's retention of fees received pursuant to this article shall be credited to the account. The accrued interest may only be expended for the purposes authorized by this article. The account shall continue in existence, and the requirement to pay fees under this article shall remain in effect, until the compensation provided in Section 7 has been fully funded or until January 1, 1995, whichever occurs first.

(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the account excluding any interest accrued or any funds carried over from a prior fiscal year may be expended for the administration of this article.

(c) In addition to a valid California sportfishing license issued pursuant to Sections 7149, 7149.1 or 7149.2 of the Fish and Game Code and any applicable sport license stamp issued pursuant to the Fish and Game Code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for sport purposes shall have permanently affixed to that person's sportfishing license a marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3). This subdivision does not apply to any one-day fishing license.

(d) In addition to a valid California commercial passenger fishing boat license required by Section 7920 of the Fish and Game Code, the owner of any boat or vessel who, for profit, permits any person to fish from the boat or vessel in ocean waters south of a line extending due west from Point Arguello, shall obtain and permanently affix to the license a commercial marine resources protection stamp which may be obtained from the department upon payment of a fee of three dollars ($3).

(e) The department may accept contributions or donations from any person who wishes to donate money to be used for the compensation of commercial gill net and trammel net fishermen who surrender permits under this article.

(f) This section shall become inoperative on January 1, 1995. [*New section adopted November 6, 1990. Inoperative January 1, 1995. Initiative measure.*]

[*Marine Resources Protection Account—Grants*]

SEC. 9. Any funds remaining in the Marine Resources Protection Account in the Fish and Game Preservation Fund on or after January 1, 1995, shall, with the approval of the Fish and Game Commission, be used to provide grants to colleges, universities and other bonafide scientific research groups to fund marine resource related scientific research within the ecological reserves established by Section 14 of this act. [*New section adopted November 6, 1990. Initiative measure.*]

[*Report to Legislature*]

SEC. 10. On or before December 31 of each year, the Director of Fish and Game shall prepare and submit a report to the Legislature regarding the implementation of this article including an accounting of all funds. [*New section adopted November 6, 1990. Initiative measure.*]

[*Violations*]

SEC. 11. It is unlawful for any person to take, possess, receive, transport, purchase, sell, barter, or process any fish obtained in violation of this article. [*New section adopted November 6, 1990. Initiative measure.*]

[*Commercial Fishing Daily Landings Monitoring and Evaluating Program*]

SEC. 12. To increase the State's scientific and biological information on the ocean fisheries of this State, the Department of Fish and Game shall establish a program whereby it can monitor and evaluate the daily landings of fish by commercial fishermen who are permitted under this article to take these fish. The cost of implementing this monitoring program shall be borne by the commercial fishing industry. [*New section adopted November 6, 1990. Initiative measure.*]

[*Penalties for Violations—Probation—Fine*]

SEC. 13. (a) The penalty for a first violation of the provisions of Sections 3 and 4 of this article is a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter or process fish for commercial purposes for six months. The penalty for a second or subsequent violation of the provisions of Sections 3 and 4 of this article is a fine of not less than two thousand five hundred dollars ($2,500) and not more than ten thousand dollars ($10,000) and a mandatory suspension of any license, permit or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for one year.

(b) Notwithstanding any other provisions of law, a violation of Section 8 of this article shall be deemed a violation of the provisions of Section 7145 of the Fish and Game Code and the penalty for such violation shall be consistent with the provisions of Section 12002.2 of said code.

(c) If a person convicted of a violation of Section 3, 4, or 8 of this article is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section. [*New section adopted November 6, 1990. Initiative measure.*]

[*New Ecological Reserves*]

SEC. 14. Prior to January 1, 1994, the Fish and Game Commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources. [*New section adopted November 6, 1990. Initiative measure.*]

[*Article not Preempting or Superseding Other Protective Closures*]

SEC. 15. This article does not preempt or supersede any other closures to protect any other wildlife, including sea otters, whales, and shorebirds. [*New section adopted November 6, 1990. Initiative measure.*]

[*Severability*]

SEC. 16. If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable. [*New section adopted November 6, 1990. Initiative measure.*]

ARTICLE XI. [*Repealed June 2, 1970. See Article XI, below.*]

ARTICLE XI*

LOCAL GOVERNMENT

[*Counties—Formation, Boundaries, County Seat, Officers, and Governing Body*]

SEC. 1. (a) The State is divided into counties which are legal subdivisions of the State. The Legislature shall prescribe uniform procedure for county formation, consolidation, and boundary change. Formation or consolidation requires approval by a majority of electors voting on the question in each affected county. A boundary change requires approval by the governing body of each affected county. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

(b) The Legislature shall provide for county powers, an elected county sheriff, an elected district attorney, an elected assessor, and an elected gov-

* New Article XI adopted June 2, 1970.

erning body in each county. Except as provided in subdivision (b) of Section 4 of this article, each governing body shall prescribe by ordinance the compensation of its members, but the ordinance prescribing such compensation shall be subject to referendum. The Legislature or the governing body may provide for other officers whose compensation shall be prescribed by the governing body. The governing body shall provide for the number, compensation, tenure, and appointment of employees. [*As amended June 7, 1988.*]

SEC. 2. [*Repealed June 2, 1970. See Section 2, below.*]

[*Cities—Formation, Powers*]

SEC. 2. (a) The Legislature shall prescribe uniform procedure for city formation and provide for city powers.

(b) Except with approval by a majority of its electors voting on the question, a city may not be annexed to or consolidated into another. [*New section adopted June 2, 1970.*]

[*County or City—Charters*]

SEC. 3. (a) For its own government, a county or city may adopt a charter by majority vote of its electors voting on the question. The charter is effective when filed with the Secretary of State. A charter may be amended, revised, or repealed in the same manner. A charter, amendment, revision, or repeal thereof shall be published in the official state statutes. County charters adopted pursuant to this section shall supersede any existing charter and all laws inconsistent therewith. The provisions of a charter are the law of the State and have the force and effect of legislative enactments.

(b) The governing body or charter commission of a county or city may propose a charter or revision. Amendment or repeal may be proposed by initiative or by the governing body.

(c) An election to determine whether to draft or revise a charter and elect a charter commission may be required by initiative or by the governing body.

(d) If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail. [*As amended November 5, 1974.*]

[*County Charters—Provisions*]

SEC. 4. County charters shall provide for:

(a) A governing body of 5 or more members, elected (1) by district or, (2) at large, or (3) at large, with a requirement that they reside in a district. Charter counties are subject to statutes that relate to apportioning population of governing body districts.

(b) The compensation, terms, and removal of members of the governing body. If a county charter provides for the Legislature to prescribe the salary of the governing body, such compensation shall be prescribed by the governing body by ordinance.

(c) An elected sheriff, an elected district attorney, an elected assessor, other officers, their election or appointment, compensation, terms and removal.

(d) The performance of functions required by statute.

(e) The powers and duties of governing bodies and all other county officers, and for consolidation and segregation of county officers, and for the manner of filling all vacancies occurring therein.

(f) The fixing and regulation by governing bodies, by ordinance, of the appointment and number of assistants, deputies, clerks, attachés, and other persons to be employed, and for the prescribing and regulating by such bodies of the powers, duties, qualifications, and compensation of such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal.

(g) Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature as herein provided, the general laws adopted by the Legislature in pursuance of Section 1(b) of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided.

(h) Charter counties shall have all the powers that are provided by this Constitution or by statute for counties. [*As amended June 7, 1988.*]

SEC. 5. [*Repealed June 2, 1970. See Section 5, below.*]

[*City Charters—Provisions*]

SEC. 5. (a) It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith.

(b) It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for: (1) the constitution, regulation, and government of the city police force (2) subgovernment in all or part of a city (3) conduct of city elections and (4) plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compen-

sation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees. [*New section adopted June 2, 1970.*]

SEC. 5.1. [*Repealed June 2, 1970.*]

SEC. 6. [*Repealed June 2, 1970. See Section 6, below.*]

[*Charter City and County*]

SEC. 6. (a) A county and all cities within it may consolidate as a charter city and county as provided by statute.

(b) A charter city and county is a charter city and a charter county. Its charter city powers supersede conflicting charter county powers. [*New section adopted June 2, 1970.*]

SEC. 7. [*Repealed June 2, 1970. See Section 7, below.*]

[*Local Ordinances and Regulations*]

SEC. 7. A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. [*New section adopted June 2, 1970.*]

SEC. 7½. [*Repealed June 2, 1970.*]

SEC. 7½b. [*Repealed June 2, 1970.*]

SEC. 8. [*Repealed June 2, 1970. See Section 8, below.*]

[*Counties—Performance of Municipal Functions*]

SEC. 8. (a) The Legislature may provide that counties perform municipal functions at the request of cities within them.

(b) If provided by their respective charters, a county may agree with a city within it to assume and discharge specified municipal functions. [*New section adopted June 2, 1970.*]

SEC. 8½. [*Repealed June 2, 1970.*]

[*Local Utilities*]

SEC. 9. (a) A municipal corporation may establish, purchase, and operate public works to furnish its inhabitants with light, water, power, heat, transportation, or means of communication. It may furnish those services outside its boundaries, except within another municipal corporation which furnishes the same service and does not consent.

(b) Persons or corporations may establish and operate works for supplying those services upon conditions and under regulations that the city may prescribe under its organic law. [*New section adopted June 2, 1970.*]

[*Local Government—Extra Compensation; City, County or District Employees—Residency*]

SEC. 10. (a) A local government body may not grant extra compensation or extra allowance to a public officer, public employee, or contractor after service has been rendered or a contract has been entered into and performed in whole or in part, or pay a claim under an agreement made without authority of law.

(b) A city or county, including any chartered city or chartered county, or public district, may not require that its employees be residents of such city, county, or district; except that such employees may be required to reside within a reasonable and specific distance of their place of employment or other designated location. [*As amended June 8, 1976.*]

SEC. 10.5. [*Repealed June 8, 1976.*]

[*Private Control of County or Municipal Functions—Deposit and Investment of Public Moneys*]

SEC. 11. (a) The Legislature may not delegate to a private person or body power to make, control, appropriate, supervise, or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions.

(b) The Legislature may, however, provide for the deposit of public moneys in any bank in this State or in any savings and loan association in this State or any credit union in this State or in any federally insured industrial loan company in this State and for payment of interest, principal, and redemption premiums of public bonds and other evidence of public indebtedness by banks within or without this State. It may also provide for investment of public moneys in securities and the registration of bonds and other evidences of indebtedness by private persons or bodies, within or without this State, acting as trustees or fiscal agents. [*As amended November 8, 1988.*]

SEC. 12. [*As amended June 27, 1933, added to Article XIII as Section 37, June 2, 1970. See Section 12, below.*]

[*Claims Against Counties or Cities, Etc.*]

SEC. 12. The Legislature may prescribe procedure for presentation, consideration, and enforcement of claims against counties, cities, their officers, agents, or employees. [*New section adopted June 2, 1970.*]

SEC. 13. [*Repealed June 2, 1970. See Section 13, below.*]

[*Distribution of Powers—Construction of Article*]

SEC. 13. The provisions of Sections 1(b) (except for the second sentence), 3(a), 4, and 5 of this Article relating to matters affecting the distribution of powers between the Legislature and cities and counties, in-

cluding matters affecting supersession, shall be construed as a restatement of all related provisions of the Constitution in effect immediately prior to the effective date of this amendment, and as making no substantive change.

The terms general law, general laws, and laws, as used in this Article, shall be construed as a continuation and restatement of those terms as used in the Constitution in effect immediately prior to the effective date of this amendment, and not as effecting a change in meaning. [*New section adopted June 2, 1970.*]

SEC. 13½. [*As amended November 3, 1914, added to Article XIII as Section 37.5, June 2, 1970.*]

[*Local Government—Taxation*]

SEC. 14. A local government formed after the effective date of this section, the boundaries of which include all or part of two or more counties, shall not levy a property tax unless such tax has been approved by a majority vote of the qualified voters of that local government voting on the issue of the tax. [*New section adopted November 2, 1976.*]

[*Vehicle License Fee Allocations*]

SEC. 15. (a) All revenues from taxes imposed pursuant to the Vehicle License Fee Law, or its successor, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, shall be allocated to counties and cities according to statute.

(b) This section shall apply to those taxes imposed pursuant to that law on and after July 1 following the approval of this section by the voters. [*New section adopted June 3, 1986.*]

SEC. 16. [*Added to Article XIII as Section 38, June 2, 1970.*]

SEC. 16½. [*As amended November 8, 1932, added to Article XIII as Section 39, June 2, 1970.*]

SEC. 17. [*Repealed June 2, 1970.*]

SEC. 18. [*As amended November 8, 1949, added to Article XIII as Section 40, June 2, 1970.*]

SEC. 18¼. [*Repealed June 2, 1970.*]

SEC. 19. [*Repealed June 2, 1970.*]

SEC. 20. [*Repealed June 2, 1970.*]

ARTICLE XII. [*Repealed November 5, 1974. See Article XII, below.*]

ARTICLE XII*

PUBLIC UTILITIES

[*Public Utilities Commission—Composition*]

SECTION 1. The Public Utilities Commission consists of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for staggered 6-year terms. A vacancy is filled for the remainder of the term. The Legislature may remove a member for incompetence, neglect of duty, or corruption, two thirds of the membership of each house concurring. [*New section adopted November 5, 1974.*]

[*Public Utilities Commission—Powers and Duties*]

SEC. 2. Subject to statute and due process, the commission may establish its own procedures. Any commissioner as designated by the commission may hold a hearing or investigation or issue an order subject to commission approval. [*New section adopted November 5, 1974.*]

[*Public Utilities—Legislative Control*]

SEC. 3. Private corporations and persons that own, operate, control, or manage a line, plant, or system for the transportation of people or property, the transmission of telephone and telegraph messages, or the production, generation, transmission, or furnishing of heat, light, water, power, storage, or wharfage directly or indirectly to or for the public, and common carriers, are public utilities subject to control by the Legislature. The Legislature may prescribe that additional classes of private corporations or other persons are public utilities. [*New section adopted November 5, 1974.*]

[*Rates—Discrimination in Transportation Charges, Etc.*]

SEC. 4. The commission may fix rates and establish rules for the transportation of passengers and property by transportation companies, prohibit discrimination, and award reparation for the exaction of unreasonable, excessive, or discriminatory charges. A transportation company may not raise a rate or incidental charge except after a showing to and a decision by the commission that the increase is justified, and this decision shall not be subject to judicial review except as to whether confiscation of property will result. [*New section adopted November 5, 1974.*]

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* New Article XII adopted November 5, 1974.

[*Public Utilities Commission—Compensation in Eminent Domain Proceedings*]

SEC. 5. The Legislature has plenary power, unlimited by the other provisions of this constitution but consistent with this article, to confer additional authority and jurisdiction upon the commission, to establish the manner and scope of review of commission action in a court of record, and to enable it to fix just compensation for utility property taken by eminent domain. [*New section adopted November 5, 1974.*]

[*Public Utilities Commission—Powers and Duties*]

SEC. 6. The commission may fix rates, establish rules, examine records, issue subpenas, administer oaths, take testimony, punish for contempt, and prescribe a uniform system of accounts for all public utilities subject to its jurisdiction. [*New section adopted November 5, 1974.*]

[*Free Passes, Public Officials—Conflict of Interest, Public Utilities Commissioner*]

SEC. 7. A transportation company may not grant free passes or discounts to anyone holding an office in this State; and the acceptance of a pass or discount by a public officer, other than a Public Utilities Commissioner, shall work a forfeiture of that office. A Public Utilities Commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission. [*New section adopted November 5, 1974.*]

[*Public Utilities—Regulation*]

SEC. 8. A city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission. This section does not affect power over public utilities relating to the making and enforcement of police, sanitary, and other regulations concerning municipal affairs pursuant to a city charter existing on October 10, 1911, unless that power has been revoked by the city's electors, or the right of any city to grant franchises for public utilities or other businesses on terms, conditions, and in the manner prescribed by law. [*New section adopted November 5, 1974.*]

[*Restatement*]

SEC. 9. The provisions of this article restate all related provisions of the Constitution in effect immediately prior to the effective date of this amendment and make no substantive change. [*New section adopted November 5, 1974.*]

SEC. 10. [*Repealed November 5, 1974.*]

SEC. 17. [*Repealed November 5, 1974.*]

SEC. 18. [*Repealed November 5, 1974.*]

SEC. 19. [*Repealed November 5, 1974.*]

SEC. 20. [*Repealed November 5, 1974.*]

SEC. 21. [*Repealed November 5, 1974.*]

SEC. 22. [*Repealed November 5, 1974.*]

SEC. 23. [*Repealed November 5, 1974.*]

SEC. 23a. [*Repealed November 5, 1974.*]

ARTICLE XIII. [*Repealed November 5, 1974. See Article XIII, below.*]

ARTICLE XIII*

TAXATION

SECTION 1. [*Repealed November 5, 1974. See Section 1, below.*]

[*Uniformity Clause*]

SEC. 1. Unless otherwise provided by this Constitution or the laws of the United States:

(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

(b) All property so assessed shall be taxed in proportion to its full value. [*New section adopted November 5, 1974.*]

SEC. 1a. [*Repealed November 5, 1974.*]

SEC. 1b. [*Repealed November 5, 1974.*]

SEC. 1c. [*Repealed November 5, 1974.*]

SEC. 1d. [*Repealed November 5, 1974.*]

SEC. 1¼. [*Repealed November 5, 1974.*]

SEC. 1¼a. [*Repealed November 5, 1974.*]

SEC. 1¼b. [*Repealed November 5, 1974.*]

SEC. 1½. [*Repealed November 5, 1974.*]

SEC. 1½a. [*Repealed November 5, 1974.*]

SEC. 1.60. [*Repealed November 5, 1974.*]

SEC. 1.61. [*Repealed November 5, 1974.*]

SEC. 1.62. [*Repealed November 5, 1974.*]

SEC. 1.63. [*Repealed November 5, 1974.*]

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* New Article XIII adopted November 5, 1974.

SEC. 1.64. [*Repealed November 5, 1974.*]

SEC. 1.65. [*Repealed November 5, 1974.*]

SEC. 1.66. [*Repealed November 5, 1974.*]

SEC. 1.67. [*Repealed November 5, 1974.*]

SEC. 1.68. [*Repealed November 5, 1974.*]

SEC. 1.69. [*Repealed November 5, 1974.*]

SEC. 1¾. [*Repealed November 5, 1974.*]

SEC. 2. [*Repealed November 5, 1974. See Section 2, below.*]

[*Personal Property Classification*]

SEC. 2. The Legislature may provide for property taxation of all forms of tangible personal property, shares of capital stock, evidences of indebtedness, and any legal or equitable interest therein not exempt under any other provision of this article. The Legislature, two-thirds of the membership of each house concurring, may classify such personal property for differential taxation or for exemption. The tax on any interest in notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, or mortgages shall not exceed four-tenths of one percent of full value, and the tax per dollar of full value shall not be higher on personal property than on real property in the same taxing jurisdiction. [*New section adopted November 5, 1974.*]

SEC. 2.5. [*Repealed November 5, 1974.*]

SEC. 2.6. [*Repealed November 5, 1974.*]

SEC. 2.8. [*Repealed November 5, 1974.*]

[*Property Tax Exemptions*]

SEC. 3. The following are exempt from property taxation:

[*State Owned Property*]

(a) Property owned by the State.

[*Local Government Property*]

(b) Property owned by a local government, except as otherwise provided in Section 11(a).

[*Government Bonds*]

(c) Bonds issued by the State or a local government in the State.

[*Public Property*]

(d) Property used for libraries and museums that are free and open to the public and property used exclusively for public schools, community colleges, state colleges, and state universities.

[*Educational Property*]

(e) Buildings, land, equipment, and securities used exclusively for educational purposes by a nonprofit institution of higher education.

[*Church Property*]

(f) Buildings, land on which they are situated, and equipment used exclusively for religious worship.

[*Cemetery Property*]

(g) Property used or held exclusively for the permanent deposit of human dead or for the care and maintenance of the property or the dead, except when used or held for profit. This property is also exempt from special assessment.

[*Growing Crops*]

(h) Growing crops.

[*Fruit and Nut Trees*]

(i) Fruit and nut trees until 4 years after the season in which they were planted in orchard form and grape vines until 3 years after the season in which they were planted in vineyard form.

[*Timber Exemption*]

(j) Immature forest trees planted on lands not previously bearing merchantable timber or planted or of natural growth on lands from which the merchantable original growth timber stand to the extent of 70 percent of all trees over 16 inches in diameter has been removed. Forest trees or timber shall be considered mature at such time after 40 years from the time of planting or removal of the original timber when so declared by a majority vote of a board consisting of a representative from the State Board of Forestry, a representative from the State Board of Equalization, and the assessor of the county in which the trees are located.

The Legislature may supersede the foregoing provisions with an alternative system or systems of taxing or exempting forest trees or timber, including a taxation system not based on property valuation. Any alternative system or systems shall provide for exemption of unharvested immature trees, shall encourage the continued use of timberlands for the production of trees for timber products, and shall provide for restricting the use of timberland to the production of timber products and compatible uses with provisions for taxation of timberland based on the restrictions. Nothing in this paragraph shall be construed to exclude timberland from the provisions of Section 8 of this article.

[*Homeowners' Exemption*]

(k) $7,000 of the full value of a dwelling, as defined by the Legislature, when occupied by an owner as his principal residence, unless the dwelling is receiving another real property exemption. The Legislature may in-

crease this exemption and may deny it if the owner received state or local aid to pay taxes either in whole or in part, and either directly or indirectly, on the dwelling.

No increase in this exemption above the amount of $7,000 shall be effective for any fiscal year unless the Legislature increases the rate of state taxes in an amount sufficient to provide the subventions required by Section 25.

If the Legislature increases the homeowners' property tax exemption, it shall provide increases in benefits to qualified renters, as defined by law, comparable to the average increase in benefits to homeowners, as calculated by the Legislature.

[*Vessels*]

(*l*) Vessels of more than 50 tons burden in this State and engaged in the transportation of freight or passengers.

[*Household Furnishings—Personal Effects*]

(m) Household furnishings and personal effects not held or used in connection with a trade, profession, or business.

[*Debt Secured by Land*]

(n) Any debt secured by land.

[*Veterans' Exemptions*]

(o) Property in the amount of $1,000 of a claimant who—

(1) is serving in or has served in and has been discharged under honorable conditions from service in the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Revenue Marine (Revenue Cutter) Service; and—

(2) served either

(i) in time of war, or

(ii) in time of peace in a campaign or expedition for which a medal has been issued by Congress, or

(iii) in time of peace and because of a service-connected disability was released from active duty; and—

(3) resides in the State on the current lien date.

An unmarried person who owns property valued at $5,000 or more, or a married person, who, together with the spouse, owns property valued at $10,000 or more, is ineligible for this exemption.

If the claimant is married and does not own property eligible for the full amount of the exemption, property of the spouse shall be eligible for the unused balance of the exemption.

[*Veterans' Exemptions*]

(p) Property in the amount of $1,000 of a claimant who—

(1) is the unmarried spouse of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and

(2) does not own property in excess of $10,000, and

(3) is a resident of the State on the current lien date.

[*Veterans' Exemptions*]

(q) Property in the amount of $1,000 of a claimant who—

(1) is the parent of a deceased veteran who met the service requirement stated in paragraphs (1) and (2) of subsection 3(o), and

(2) receives a pension because of the veteran's service, and

(3) is a resident of the State on the current lien date.

Either parent of a deceased veteran may claim this exemption.

An unmarried person who owns property valued at $5,000 or more, or a married person, who, together with the spouse, owns property valued at $10,000 or more, is ineligible for this exemption.

[*Veterans' Exemptions*]

(r) No individual residing in the State on the effective date of this amendment who would have been eligible for the exemption provided by the previous section 1¼ of this article had it not been repealed shall lose eligibility for the exemption as a result of this amendment. [*As amended November 8, 1988.*]

[*Veterans' Exemptions—Change in Assessment Ratio—Adjustment*]

SEC. 3.5. In any year in which the assessment ratio is changed, the Legislature shall adjust the valuation of assessable property described in subdivisions (o), (p) and (q) of Section 3 of this article to maintain the same proportionate values of such property. [*New section adopted November 6, 1979.*]

[*Property Tax Exemption*]

SEC. 4. The Legislature may exempt from property taxation in whole or in part:

[*Home of Veteran or Surviving Spouse*]

(a) The home of a person or a person's spouse, including an unmarried surviving spouse, if the person, because of injury incurred in military service, is blind in both eyes, has lost the use of 2 or more limbs, or is totally disabled, or if the person has, as a result of a service-connected injury or disease, died while on active duty in military service, unless the home is receiving another real property exemption.

[*Religious, Hospital and Charitable Property*]

(b) Property used exclusively for religious, hospital, or charitable purposes and owned or held in trust by corporations or other entities (1) that are organized and operating for those purposes, (2) that are nonprofit, and (3) no part of whose net earnings inures to the benefit of any private shareholder or individual.

[*Specific College Exemptions*]

(c) Property owned by the California School of Mechanical Arts, California Academy of Sciences, or Cogswell Polytechnical College, or held in trust for the Huntington Library and Art Gallery, or their successors.

[*Church Parking Lots*]

(d) Real property not used for commercial purposes that is reasonably and necessarily required for parking vehicles of persons worshipping on land exempt by Section 3(f). [*As amended November 3, 1992.*]

[*Exemption of Buildings Under Construction*]

SEC. 5. Exemptions granted or authorized by Sections 3(e), 3(f), and 4(b) apply to buildings under construction, land required for their convenient use, and equipment in them if the intended use would qualify the property for exemption. [*New section adopted November 5, 1974.*]

SEC. 6. [*Repealed November 5, 1974. See Section 6, below.*]

[*Exemption Waivers*]

SEC. 6. The failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exemption or classification which reduces a property tax shall be deemed a waiver of the exemption or classification for that year. [*New section adopted November 5, 1974.*]

SEC. 7. [*Repealed November 5, 1974. See Section 7, below.*]

[*Real Property Taxes—Exemption by County Boards of Supervisors*]

SEC. 7. The Legislature, two-thirds of the membership of each house concurring, may authorize county boards of supervisors to exempt real property having a full value so low that, if not exempt, the total taxes and applicable subventions on the property would amount to less than the cost of assessing and collecting them. [*New section adopted November 5, 1974.*]

[*Open Space Land and Historical Property—Exemption*]

SEC. 8. To promote the conservation, preservation and continued existence of open space lands, the Legislature may define open space land and shall provide that when this land is enforceably restricted, in a manner specified by the Legislature, to recreation, enjoyment of scenic beauty, use

or conservation of natural resources, or production of food or fiber, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.

To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses. [*As amended June 8, 1976.*]

[*Postponement of Property Taxes*]

SEC. 8.5. The Legislature may provide by law for the manner in which a person of low or moderate income who is 62 years of age or older may postpone ad valorem property taxes on the dwelling owned and occupied by him or her as his or her principal place of residence. The Legislature may also provide by law for the manner in which a disabled person may postpone payment of ad valorem property taxes on the dwelling owned and occupied by him or her as his or her principal place of residence. The Legislature shall have plenary power to define all terms in this section.

The Legislature shall provide by law for subventions to counties, cities and counties, cities and districts in an amount equal to the amount of revenue lost by each by reason of the postponement of taxes and for the reimbursement to the State of subventions from the payment of postponed taxes. Provision shall be made for the inclusion of reimbursement for the payment of interest on, and any costs to the State incurred in connection with, the subventions. [*As amended November 6, 1984.*]

SEC. 9. [*Repealed November 5, 1974. See Section 9, below.*]

[*Valuation of Certain Homes*]

SEC. 9. The Legislature may provide for the assessment for taxation only on the basis of use of a single-family dwelling, as defined by the Legislature, and so much of the land as is required for its convenient use and occupation, when the dwelling is occupied by an owner and located on land zoned exclusively for single-family dwellings or for agricultural purposes. [*New section adopted November 5, 1974.*]

SEC. 9a. [*Repealed November 5, 1974.*]

SEC. 9.5. [*Repealed November 5, 1974.*]

SEC. 10. [*Repealed November 5, 1974. See Section 10, below.*]

[*Golf Course Values*]

SEC. 10. Real property in a parcel of 10 or more acres which, on the lien date and for 2 or more years immediately preceding, has been used exclusively for nonprofit golf course purposes shall be assessed for taxa-

tion on the basis of such use, plus any value attributable to mines, quarries, hydrocarbon substances, or other minerals in the property or the right to extract hydrocarbons or other minerals from the property. [*New section adopted November 5, 1974.*]

SEC. 10½. [*Repealed November 5, 1974.*]

SEC. 11. [*Repealed November 5, 1974. See Section 11, below.*]

[*Taxation of Local Government Real Property*]

SEC. 11. (a) Lands owned by a local government that are outside its boundaries, including rights to use or divert water from surface or underground sources and any other interests in lands, are taxable if (1) they are located in Inyo or Mono County and (a) they were assessed for taxation to the local government in Inyo County as of the 1966 lien date, or in Mono County as of the 1967 lien date, whether or not the assessment was valid when made, or (b) they were acquired by the local government subsequent to that lien date and were assessed to a prior owner as of that lien date and each lien date thereafter, or (2) they are located outside Inyo or Mono County and were taxable when acquired by the local government. Improvements owned by a local government that are outside its boundaries are taxable if they were taxable when acquired or were constructed by the local government to replace improvements which were taxable when acquired.

(b) Taxable land belonging to a local government and located in Inyo County shall be assessed in any year subsequent to 1968 at the place where it was assessed as of the 1966 lien date and in an amount derived by multiplying its 1966 assessed value by the ratio of the statewide per capita assessed value of land as of the last lien date prior to the current lien date to $766, using civilian population only. Taxable land belonging to a local government and located in Mono County shall be assessed in any year subsequent to 1968 at the place where it was assessed as of the 1967 lien date and in an amount determined by the preceding formula except that the 1967 lien date, the 1967 assessed value, and the figure $856 shall be used in the formula. Taxable land belonging to a local government and located outside of Inyo and Mono counties shall be assessed at the place where located and in an amount that does not exceed the lower of (1) its fair market value times the prevailing percentage of fair market value at which other lands are assessed and (2) a figure derived in the manner specified in this Section for land located in Mono County.

If land acquired by a local government after the lien date of the base year specified in this Section was assessed in the base year as part of a larger parcel, the assessed value of the part in the base year shall be that fraction of the assessed value of the larger parcel that the area of the part is of the area of the larger parcel.

If a local government divests itself of ownership of land without water rights and this land was assessed in Inyo County as of the 1966 lien date or in Mono County as of the 1967 lien date, the divestment shall not diminish the quantity of water rights assessable and taxable at the place where assessed as of that lien date.

(c) In the event the Legislature changes the prevailing percentage of fair market value at which land is assessed for taxation, there shall be used in the computations required by Section 11(b) of this Article, for the first year for which the new percentage is applicable, in lieu of the statewide per capita assessed value of land as of the last lien date prior to the current lien date, the statewide per capita assessed value of land on the prior lien date times the ratio of the new prevailing percentage of fair market value to the previous prevailing percentage.

(d) If, after March 1954, a taxable improvement is replaced while owned by and in possession of a local government, the replacement improvement shall be assessed, as long as it is owned by a local government, as other improvements are except that the assessed value shall not exceed the product of (1) the percentage at which privately owned improvements are assessed times (2) the highest full value ever used for taxation of the improvement that has been replaced. For purposes of this calculation, the full value for any year prior to 1967 shall be conclusively presumed to be 4 times the assessed value in that year.

(e) No tax, charge, assessment, or levy of any character, other than those taxes authorized by Sections 11(a) to 11(d), inclusive, of this Article, shall be imposed upon one local government by another local government that is based or calculated upon the consumption or use of water outside the boundaries of the government imposing it.

(f) Any taxable interest of any character, other than a lease for agricultural purposes and an interest of a local government, in any land owned by a local government that is subject to taxation pursuant to Section 11(a) of this Article shall be taxed in the same manner as other taxable interests. The aggregate value of all the interests subject to taxation pursuant to Section 11(a), however, shall not exceed the value of all interests in the land less the taxable value of the interest of any local government ascertained as provided in Sections 11(a) to 11(e), inclusive, of this Article.

(g) Any assessment made pursuant to Sections 11(a) to 11(d), inclusive, of this Article shall be subject to review, equalization, and adjustment by the State Board of Equalization, but an adjustment shall conform to the provisions of these Sections. [*New section adopted November 5, 1974.*]

[*Unsecured Property Tax Rate*]

SEC. 12. (a) Except as provided in subdivision (b), taxes on personal property, possessory interests in land, and taxable improvements located on land exempt from taxation which are not a lien upon land sufficient in value to secure their payment shall be levied at the rates for the preceding

tax year upon property of the same kind where the taxes were a lien upon land sufficient in value to secure their payment.

(b) In any year in which the assessment ratio is changed, the Legislature shall adjust the rate described in subdivision (a) to maintain equality between property on the secured and unsecured rolls. [*As amended November 2, 1976.*]

SEC. 12¾. [*Repealed November 5, 1974.*]

SEC. 13. [*Repealed November 5, 1974. See Section 13, below.*]

[*Separate Land and Improvements Assessment*]

SEC. 13. Land and improvements shall be separately assessed. [*New section adopted November 5, 1974.*]

SEC. 14. [*Repealed November 5, 1974. See Section 14, below.*]

[*Tax Situs*]

SEC. 14. All property taxed by local government shall be assessed in the county, city, and district in which it is situated. [*New section adopted November 5, 1974.*]

SEC. 14⅘. [*Repealed November 5, 1974.*]

SEC. 15. [*Repealed November 5, 1974. See Section 15, below.*]

[*Disaster Relief*]

SEC. 15. The Legislature may authorize local government to provide for the assessment or reassessment of taxable property physically damaged or destroyed after the lien date to which the assessment or reassessment relates. [*New section adopted November 5, 1974.*]

SEC. 16. [*Repealed November 5, 1974. See Section 16, below.*]

[*County Board of Equalization—Assessment Appeals Board*]

SEC. 16. The county board of supervisors, or one or more assessment appeals boards created by the county board of supervisors, shall constitute the county board of equalization for a county. Two or more county boards of supervisors may jointly create one or more assessment appeals boards which shall constitute the county board of equalization for each of the participating counties.

Except as provided in subdivision (g) of Section 11, the county board of equalization, under such rules of notice as the county board may prescribe, shall equalize the values of all property on the local assessment roll by adjusting individual assessments.

County boards of supervisors shall fix the compensation for members of assessment appeals boards, furnish clerical and other assistance for those boards, adopt rules of notice and procedures for those boards as may be

required to facilitate their work and to insure uniformity in the processing and decision of equalization petitions, and may provide for their discontinuance.

The Legislature shall provide for: (a) the number and qualifications of members of assessment appeals boards, the manner of selecting, appointing, and removing them, and the terms for which they serve, and (b) the procedure by which two or more county boards of supervisors may jointly create one or more assessment appeals boards. [*New section adopted November 5, 1974.*]

[*Board of Equalization*]

SEC. 17. The Board of Equalization consists of 5 voting members: the Controller and 4 members elected for 4-year terms at gubernatorial elections. The State shall be divided into four Board of Equalization districts with the voters of each district electing one member. No member may serve more than 2 terms. [*As amended November 6, 1990. Initiative measure.*]

SEC. 18. [*Repealed November 5, 1974. See Section 18, below.*]

[*Intercounty Equalization*]

SEC. 18. The Board shall measure county assessment levels annually and shall bring those levels into conformity by adjusting entire secured local assessment rolls. In the event a property tax is levied by the State, however, the effects of unequalized local assessment levels, to the extent any remain after such adjustments, shall be corrected for purposes of distributing this tax by equalizing the assessment levels of locally and state-assessed properties and varying the rate of the state tax inversely with the counties' respective assessment levels. [*New section adopted November 5, 1974.*]

SEC. 19. [*Repealed November 5, 1974. See Section 19, below.*]

[*State Assessment*]

SEC. 19. The Board shall annually assess (1) pipelines, flumes, canals, ditches, and aqueducts lying within 2 or more counties and (2) property, except franchises, owned or used by regulated railway, telegraph, or telephone companies, car companies operating on railways in the State, and companies transmitting or selling gas or electricity. This property shall be subject to taxation to the same extent and in the same manner as other property.

No other tax or license charge may be imposed on these companies which differs from that imposed on mercantile, manufacturing, and other business corporations. This restriction does not release a utility company from payments agreed on or required by law for a special privilege or franchise granted by a government body.

The Legislature may authorize Board assessment of property owned or used by other public utilities.

The Board may delegate to a local assessor the duty to assess a property used but not owned by a state assessee on which the taxes are to be paid by a local assessee. [*New section adopted November 5, 1974.*]

SEC. 20. [*Repealed November 5, 1974. See Section 20, below.*]

[*Maximum Tax Rates—Bonding Limits*]

SEC. 20. The Legislature may provide maximum property tax rates and bonding limits for local governments. [*New section adopted November 5, 1974.*]

SEC. 21. [*Repealed November 5, 1974. See Section 21, below.*]

[*School District Tax*]

SEC. 21. Within such limits as may be provided under Section 20 of this Article, the Legislature shall provide for an annual levy by county governing bodies of school district taxes sufficient to produce annual revenues for each district that the district's board determines are required for its schools and district functions. [*New section adopted November 5, 1974.*]

SEC. 21.5. [*Repealed November 5, 1974.*]

SEC. 22. [*Repealed November 5, 1974. See Section 22, below.*]

[*State Property Tax Limitations*]

SEC. 22. Not more than 25 percent of the total appropriations from all funds of the State shall be raised by means of taxes on real and personal property according to the value thereof. [*New section adopted November 5, 1974.*]

SEC. 23. [*Repealed November 5, 1974. See Section 23, below.*]

[*State Boundary Change*]

SEC. 23. If state boundaries change, the Legislature shall determine how property affected shall be taxed. [*New section adopted November 5, 1974.*]

SEC. 24. [*Repealed November 5, 1974. See Section 24, below.*]

[*State Taxes for Local Purposes*]

SEC. 24. The Legislature may not impose taxes for local purposes but may authorize local governments to impose them.

[*State Funds for Local Purposes*]

Money appropriated from state funds to a local government for its local purposes may be used as provided by law.

[*Subventions*]

Money subvened to a local government under Section 25 may be used for state or local purposes. [*New section adopted November 5, 1974.*]

SEC. 25. [*Repealed November 5, 1974. See Section 25, below.*]

[*Homeowners' Exemption, Reimbursement of Local Government*]

SEC. 25. The Legislature shall provide, in the same fiscal year, reimbursements to each local government for revenue lost because of Section 3(k). [*New section adopted November 5, 1974.*]

SEC. 25.5. [*Repealed November 5, 1974.*]

[*Income Tax*]

SEC. 26. (a) Taxes on or measured by income may be imposed on persons, corporations, or other entities as prescribed by law.

(b) Interest on bonds issued by the State or a local government in the State is exempt from taxes on income.

(c) Income of a nonprofit educational institution of collegiate grade within the State of California is exempt from taxes on or measured by income if both of the following conditions are met:

(1) The income is not unrelated business income as defined by the Legislature.

(2) The income is used exclusively for educational purposes.

(d) A nonprofit organization that is exempted from taxation by Chapter 4 (commencing with Section 23701) of Part 11 of Division 2 of the Revenue and Taxation Code or Subchapter F (commencing with Section 501) of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, or the successor of either, is exempt from any business license tax or fee measured by income or gross receipts that is levied by a county or city, whether charter or general law, a city and county, a school district, a special district, or any other local agency. [*As amended June 7, 1994.*]

[*Bank and Corporation Taxes*]

SEC. 27. The Legislature, a majority of the membership of each house concurring, may tax corporations, including state and national banks, and their franchises by any method not prohibited by this Constitution or the Constitution or laws of the United States. Unless otherwise provided by the Legislature, the tax on state and national banks shall be according to or measured by their net income and shall be in lieu of all other taxes and license fees upon banks or their shares, except taxes upon real property and vehicle registration and license fees. [*As amended June 8, 1976.*]

[*Taxation of Insurance Companies*]

SEC. 28. (a) "Insurer," as used in this section, includes insurance companies or associations and reciprocal or interinsurance exchanges to-

gether with their corporate or other attorneys in fact considered as a single unit, and the State Compensation Insurance Fund. As used in this paragraph, ''companies'' includes persons, partnerships, joint stock associations, companies and corporations.

(b) An annual tax is hereby imposed on each insurer doing business in this State on the base, at the rates, and subject to the deductions from the tax hereinafter specified.

(c) In the case of an insurer not transacting title insurance in this State, the ''basis of the annual tax'' is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this State, other than premiums received for reinsurance and for ocean marine insurance.

In the case of an insurer transacting title insurance in this State, the ''basis of the annual tax'' is, in respect to each year, all income upon business done in this State, except:

(1) Interest and dividends.

(2) Rents from real property.

(3) Profits from the sale or other disposition of investments.

(4) Income from investments.

''Investments'' as used in this subdivision includes property acquired by such insurer in the settlement or adjustment of claims against it but excludes investments in title plants and title records. Income derived directly or indirectly from the use of title plants and title records is included in the basis of the annual tax.

In the case of an insurer transacting title insurance in this State which has a trust department and does a trust business under the banking laws of this State, there shall be excluded from the basis of the annual tax imposed by this section, the income of, and from the assets of, such trust department and such trust business, if such income is taxed by this State or included in the measure of any tax imposed by this State.

(d) The rate of the tax to be applied to the basis of the annual tax in respect to each year is 2.35 percent.

(f) The tax imposed on insurers by this section is in lieu of all other taxes and licenses, state, county, and municipal, upon such insurers and their property, except:

(1) Taxes upon their real estate.

(2) That an insurer transacting title insurance in this State which has a trust department or does a trust business under the banking laws of this State is subject to taxation with respect to such trust department or trust business to the same extent and in the same manner as trust companies and the trust departments of banks doing business in this State.

(3) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, pen-

alties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon California insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this State; so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions, of whatever kind shall be imposed upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in California. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on California insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this paragraph (3) of subdivision (f).

The provisions of this paragraph (3) of subdivision (f) shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments heretofore imposed by another state or foreign country in connection with particular kinds of insurance, other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration in determining the propriety and extent of retaliatory action under this paragraph (3) of subdivision (f).

For the purposes of this paragraph (3) of subdivision (f) the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state in which is located its principal place of business in the United States.

In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.

The provisions of this paragraph (3) of subdivision (f) shall also be applicable to reciprocals or interinsurance exchanges and fraternal benefit societies.

(4) The tax on ocean marine insurance.

(5) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the State upon vehicles, motor vehicles or the operation thereof.

(6) That each corporate or other attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the State, other than taxes on income derived from its principal business as attorney in fact.

A corporate or other attorney in fact of each exchange shall annually compute the amount of tax that would be payable by it under prevailing law except for the provisions of this section, and any management fee due from each exchange to its corporate or other attorney in fact shall be reduced pro tanto by a sum equivalent to the amount so computed.

(g) Every insurer transacting the business of ocean marine insurance in this State shall annually pay to the State a tax measured by that proportion of the underwriting profit of such insurer from such insurance written in the United States, which the gross premiums of the insurer from such insurance written in this State bear to the gross premiums of the insurer from such insurance written within the United States, at the rate of 5 per centum, which tax shall be in lieu of all other taxes and licenses, state, county and municipal, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance written by it. The Legislature shall define the terms ''ocean marine insurance'' and ''underwriting profit,'' and shall provide for the assessment, levy, collection and enforcement of the ocean marine tax.

(h) The taxes provided for by this section shall be assessed by the State Board of Equalization.

(i) The Legislature, a majority of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers.

(j) This section is not intended to and does not change the law as it has previously existed with respect to the meaning of the words ''gross premiums, less return premiums, received'' as used in this article. [*As amended June 8, 1976.*]

SEC. 29. [*Repealed November 5, 1974. See Section 29, below.*]

[*Local Government Tax Sharing*]

SEC. 29. The Legislature may authorize counties, cities and counties, and cities to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them which is collected for them by the State. Before any such contract becomes operative, it shall be authorized by a majority of those voting on the question in each jurisdiction at a general or direct primary election. [*New section adopted November 5, 1974.*]

[*Tax Liens—Presumption of Payment of Taxes*]

SEC. 30. Every tax shall be conclusively presumed to have been paid after 30 years from the time it became a lien unless the property subject to the lien has been sold in the manner provided by the Legislature for the payment of the tax. [*New section adopted November 5, 1974.*]

[*Power to Tax*]

SEC. 31. The power to tax may not be surrendered or suspended by grant or contract. [*New section adopted November 5, 1974.*]

[*Proceedings Relating to Collection*]

SEC. 32. No legal or equitable process shall issue in any proceeding in any court against this State or any officer thereof to prevent or enjoin the collection of any tax. After payment of a tax claimed to be illegal, an action may be maintained to recover the tax paid, with interest, in such manner as may be provided by the Legislature. [*New section adopted November 5, 1974.*]

[*Legislature to Enact Laws*]

SEC. 33. The Legislature shall pass all laws necessary to carry out the provisions of this article. [*New section adopted November 5, 1974.*]

[*Food Products—Taxation*]

SEC. 34. Neither the State of California nor any of its political subdivisions shall levy or collect a sales or use tax on the sale of, or the storage, use or other consumption in this State of food products for human consumption except as provided by statute as of the effective date of this section. [*New section adopted November 3, 1992. Operative January 1, 1993. Initiative measure.*]

[*Local Public Safety Services*]

SEC. 35. (a) The people of the State of California find and declare all of the following:

(1) Public safety services are critically important to the security and well-being of the State's citizens and to the growth and revitalization of the State's economic base.

(2) The protection of the public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services.

(3) In order to assist local government in maintaining a sufficient level of public safety services, the proceeds of the tax enacted pursuant to this section shall be designated exclusively for public safety.

(b) In addition to any sales and use taxes imposed by the Legislature, the following sales and use taxes are hereby imposed:

(1) For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of ½ percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 1994.

(2) An excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any

retailer on and after January 1, 1994, for storage, use, or other consumption in this State at the rate of ½ percent of the sales price of the property.

(c) The Sales and Use Tax Law, including any amendments made thereto on or after the effective date of this section, shall be applicable to the taxes imposed by subdivision (b).

(d) (1) All revenues, less refunds, derived from the taxes imposed pursuant to subdivision (b) shall be transferred to the Local Public Safety Fund for allocation by the Legislature, as prescribed by statute, to counties in which either of the following occurs:

(A) The board of supervisors, by a majority vote of its membership, requests an allocation from the Local Public Safety Fund in a manner prescribed by statute.

(B) A majority of the county's voters voting thereon approve the addition of this section.

(2) Moneys in the Local Public Safety Fund shall be allocated for use exclusively for public safety services of local agencies.

(e) Revenues derived from the taxes imposed pursuant to subdivision (b) shall not be considered proceeds of taxes for purposes of Article XIII B or State General Fund proceeds of taxes within the meaning of Article XVI.

(f) Except for the provisions of Section 34, this section shall supersede any other provisions of this Constitution that are in conflict with the provisions of this section, including, but not limited to, Section 9 of Article II. [*New section adopted November 2, 1993.*]

SEC. 37. [*Repealed November 5, 1974.*]

SEC. 37.5. [*Repealed November 5, 1974.*]

SEC. 38. [*Repealed November 5, 1974.*]

SEC. 39. [*Repealed November 5, 1974.*]

SEC. 40. [*Repealed November 5, 1974.*]

SEC. 41. [*Repealed November 5, 1974.*]

SEC. 42. [*Repealed November 5, 1974.*]

SEC. 44. [*Repealed November 5, 1974.*]

ARTICLE XIII A*

[TAX LIMITATION]

[*Maximum Ad Valorem Tax on Real Property—Apportionment of Tax Revenues*]

SECTION 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such

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* New Article XIII A adopted June 6, 1978. Operative for tax year beginning July 1, 1979. Initiative measure.

property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

[*Exceptions to Limitation*]

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on (1) any indebtedness approved by the voters prior to July 1, 1978, or (2) any bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition. [*As amended June 3, 1986.*]

[*Valuation of Real Property—Appraised Value After 1975 Assessment—Replacement Dwelling*]

SEC. 2. (a) The full cash value means the county assessor's valuation of real property as shown on the 1975–76 tax bill under ''full cash value'' or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975–76 full cash value may be reassessed to reflect that valuation. For purposes of this section, ''newly constructed'' does not include real property which is reconstructed after a disaster, as declared by the Governor, where the fair market value of the real property, as reconstructed, is comparable to its fair market value prior to the disaster. Also, the term ''newly constructed'' shall not include the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with any local ordinance relating to seismic safety during the first 15 years following that reconstruction or improvement.

However, the Legislature may provide that under appropriate circumstances and pursuant to definitions and procedures established by the Legislature, any person over the age of 55 years who resides in property which is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII and any implementing legislation may transfer the base year value of the property entitled to exemption, with the adjustments authorized by subdivision (b), to any replacement dwelling of equal or lesser value located within the same county and purchased or newly constructed by that person as his or her principal residence within two years of the sale of the original property. For purposes of this section, ''any person over the age of 55 years'' includes a married couple one member of which is over the age of 55 years. For purposes of this section, ''replacement dwelling'' means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, and any land on which it may be situated. For purposes of this section, a two-dwelling unit shall be considered as two separate single-family dwellings. This

paragraph shall apply to any replacement dwelling which was purchased or newly constructed on or after November 5, 1986.

In addition, the Legislature may authorize each county board of supervisors, after consultation with the local affected agencies within the county's boundaries, to adopt an ordinance making the provisions of this subdivision relating to transfer of base year value also applicable to situations in which the replacement dwellings are located in that county and the original properties are located in another county within this State. For purposes of this paragraph, ''local affected agency'' means any city, special district, school district, or community college district which receives an annual property tax revenue allocation. This paragraph shall apply to any replacement dwelling which was purchased or newly constructed on or after the date the county adopted the provisions of this subdivision relating to transfer of base year value, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

The Legislature may extend the provisions of this subdivision relating to the transfer of base year values from original properties to replacement dwellings of homeowners over the age of 55 years to severely disabled homeowners, but only with respect to those replacement dwellings purchased or newly constructed on or after the effective date of this paragraph.

[*Full Cash Value Reflecting Inflationary Rate*]

(b) The full cash value base may reflect from year to year the inflationary rate not to exceed 2 percent for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction, or may be reduced to reflect substantial damage, destruction or other factors causing a decline in value.

[*''Newly Constructed''*]

(c) For purposes of subdivision (a), the Legislature may provide that the term ''newly constructed'' shall not include any of the following:

(1) The construction or addition of any active solar energy system.

(2) The construction or installation of any fire sprinkler system, other fire extinguishing system, fire detection system, or fire-related egress improvement, as defined by the Legislature, which is constructed or installed after the effective date of this paragraph.

(3) The construction, installation, or modification on or after the effective date of this paragraph of any portion or structural component of a single or multiple family dwelling which is eligible for the homeowner's exemption if the construction, installation, or modification is for the purpose of making the dwelling more accessible to a severely disabled person.

(4) The construction or installation of seismic retrofitting improvements or improvements utilizing earthquake hazard mitigation technolo-

gies, which are constructed or installed in existing buildings after the effective date of this paragraph. The Legislature shall define eligible improvements. This exclusion does not apply to seismic safety reconstruction or improvements which qualify for exclusion pursuant to the last sentence of the first paragraph of subdivision (a).

(5) The construction, installation, removal, or modification on or after the effective date of this paragraph of any portion or structural component of an existing building or structure if the construction, installation, removal, or modification is for the purpose of making the building more accessible to, or more usable by, a disabled person.

[*"Change in Ownership"*]

(d) For purposes of this section, the term "change in ownership" shall not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a public entity, or governmental action which has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to state regulations defined by the Legislature governing the relocation of persons displaced by governmental actions. The provisions of this subdivision shall be applied to any property acquired after March 1, 1975, but shall affect only those assessments of that property which occur after the provisions of this subdivision take effect.

[*Disasters—Replacement Property*]

(e) (1) Notwithstanding any other provision of this section, the Legislature shall provide that the base year value of property which is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property.

(2) Except as provided in paragraph (3), this subdivision shall apply to any comparable replacement property acquired or newly constructed on or after July 1, 1985, and to the determination of base year values for the 1985–86 fiscal year and fiscal years thereafter.

(3) In addition to the transfer of base year value of property within the same county that is permitted by paragraph (1), the Legislature may authorize each county board of supervisors to adopt, after consultation with affected local agencies within the county, an ordinance allowing the transfer of the base year value of property that is located within another county in the State and is substantially damaged or destroyed by a disaster, as declared by the Governor, to comparable replacement property of equal or lesser value that is located within the adopting county and is acquired or newly constructed within three years of the substantial damage or destruction of the original property as a replacement for that property. The scope

and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to this paragraph shall not exceed the scope and amount of the benefit provided to a property owner by the transfer of base year value of property pursuant to subdivision (a). For purposes of this paragraph, ''affected local agency'' means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues. This paragraph shall apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster, as declared by the Governor, occuring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter.

[*Disasters—Replacement Property*]

(f) For the purposes of subdivision (e):

(1) Property is substantially damaged or destroyed if it sustains physical damage amounting to more than 50 percent of its value immediately before the disaster. Damage includes a diminution in the value of property as a result of restricted access caused by the disaster.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property which it replaces, and if the fair market value of the acquired property is comparable to the fair market value of the replaced property prior to the disaster.

[*Real Property Transfers between Spouses*]

(g) For purposes of subdivision (a), the terms ''purchased'' and ''change in ownership'' shall not include the purchase or transfer of real property between spouses since March 1, 1975, including, but not limited to, all of the following:

(1) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor.

(2) Transfers to a spouse which take effect upon the death of a spouse.

(3) Transfers to a spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.

(4) The creation, transfer, or termination, solely between spouses, of any coowner's interest.

(5) The distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation.

[*Real Property Transfers between Family Members*]

(h) (1) For purposes of subdivision (a), the terms "purchased" and "change in ownership" shall not include the purchase or transfer of the principal residence of the transferor in the case of a purchase or transfer between parents and their children, as defined by the Legislature, and the purchase or transfer of the first $1,000,000 of the full cash value of all other real property between parents and their children, as defined by the Legislature. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

(2) (A) Subject to subparagraph (B), commencing with purchases or transfers that occur on or after the date upon which the measure adding this paragraph becomes effective, the exclusion established by paragraph (1) also applies to a purchase or transfer of real property between grandparents and their grandchild or grandchildren, as defined by the Legislature, that otherwise qualifies under paragraph (1), if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of the purchase or transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (1), and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence, shall be included in applying, for purposes of subparagraph (A), the one million dollar ($1,000,000) full cash value limit specified in paragraph (1).

[*Effectiveness of Amendments*]

(i) Unless specifically provided otherwise, amendments to this section adopted prior to November 1, 1988, shall be effective for changes in ownership which occur, and new construction which is completed, after the effective date of the amendment. Unless specifically provided otherwise, amendments to this section adopted after November 1, 1988, shall be effective for changes in ownership which occur, and new construction which is completed, on or after the effective date of the amendment. [*As amended March 26, 1996.*]

[*Changes in State Taxes—Vote Requirement*]

SECTION 3. From and after the effective date of this article, any changes in state taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transac-

tion taxes on the sales of real property may be imposed. [*New section adopted June 6, 1978. Initiative measure.*]

[*Imposition of Special Taxes*]

SECTION 4. Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district. [*New section adopted June 6, 1978. Operative for tax year beginning July 1, 1979. Initiative measure.*]

[*Effective Date of Article*]

SECTION 5. This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article. [*New section adopted June 6, 1978. Operative for tax year beginning July 1, 1979. Initiative measure.*]

[*Severability*]

SECTION 6. If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect. [*New section adopted June 6, 1978. Operative for tax year beginning July 1, 1979. Initiative measure.*]

ARTICLE XIII B*

GOVERNMENT SPENDING LIMITATION

[*Total Annual Appropriations*]

SEC. 1. The total annual appropriations subject to limitation of the State and of each local government shall not exceed the appropriations limit of the entity of government for the prior year adjusted for the change in the cost of living and the change in population, except as otherwise provided in this article. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Appropriations Limit Annual Calculation—Review*]

SEC. 1.5. The annual calculation of the appropriations limit under this article for each entity of local government shall be reviewed as part of an annual financial audit. [*New section adopted June 5, 1990. Operative July 1, 1990.*]

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* New Article XIII B adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.

[*Revenues in Excess of Limitation*]

SEC. 2. (a) (1) Fifty percent of all revenues received by the State in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the State in compliance with this article during that fiscal year and the fiscal year immediately following it shall be transferred and allocated, from a fund established for that purpose, pursuant to Section 8.5 of Article XVI.

(2) Fifty percent of all revenues received by the State in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the State in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years.

(b) All revenues received by an entity of government, other than the State, in a fiscal year and in the fiscal year immediately following it in excess of the amount which may be appropriated by the entity in compliance with this article during that fiscal year and the fiscal year immediately following it shall be returned by a revision of tax rates or fee schedules within the next two subsequent fiscal years. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Appropriations Limit—Adjustments*]

SEC. 3. The appropriations limit for any fiscal year pursuant to Sec. 1 shall be adjusted as follows:

(a) In the event that the financial responsibility of providing services is transferred, in whole or in part, whether by annexation, incorporation or otherwise, from one entity of government to another, then for the year in which such transfer becomes effective the appropriations limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount.

(b) In the event that the financial responsibility of providing services is transferred, in whole or in part, from an entity of government to a private entity, or the financial source for the provision of services is transferred, in whole or in part, from other revenues of an entity of government, to regulatory licenses, user charges or user fees, then for the year of such transfer the appropriations limit of such entity of government shall be decreased accordingly.

(c) (1) In the event an emergency is declared by the legislative body of an entity of government, the appropriations limit of the affected entity of government may be exceeded provided that the appropriations limits in the following three years are reduced accordingly to prevent an aggregate increase in appropriations resulting from the emergency.

(2) In the event an emergency is declared by the Governor, appropriations approved by a two-thirds vote of the legislative body of an affected

entity of government to an emergency account for expenditures relating to that emergency shall not constitute appropriations subject to limitation. As used in this paragraph, "emergency" means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons and property within the State, or parts thereof, caused by such conditions as attack or probable or imminent attack by an enemy of the United States, fire, flood, drought, storm, civil disorder, earthquake, or volcanic eruption. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Appropriations Limit—Establishment or Change*]

SEC. 4. The appropriations limit imposed on any new or existing entity of government by this Article may be established or changed by the electors of such entity, subject to and in conformity with constitutional and statutory voting requirements. The duration of any such change shall be as determined by said electors, but shall in no event exceed four years from the most recent vote of said electors creating or continuing such change. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Contingency, Emergency, Unemployment, Etc., Funds—Contributions—Withdrawals—Transfers*]

SEC. 5. Each entity of government may establish such contingency, emergency, unemployment, reserve, retirement, sinking fund, trust, or similar funds as it shall deem reasonable and proper. Contributions to any such fund, to the extent that such contributions are derived from the proceeds of taxes, shall for purposes of this Article constitute appropriations subject to limitation in the year of contribution. Neither withdrawals from any such fund, nor expenditures of (or authorizations to expend) such withdrawals, nor transfers between or among such funds, shall for purposes of this Article constitute appropriations subject to limitation. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Prudent State Reserve*]

SECTION 5.5. *Prudent State Reserve.* The Legislature shall establish a prudent state reserve fund in such amount as it shall deem reasonable and necessary. Contributions to, and withdrawals from, the fund shall be subject to the provisions of Section 5 of this Article. [*New section adopted November 8, 1988. Initiative measure.*]

[*Mandates of New Programs or Higher Levels of Service—State Subvention—Exceptions*]

SEC. 6. Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse such local government

for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

(a) Legislative mandates requested by the local agency affected;

(b) Legislation defining a new crime or changing an existing definition of a crime; or

(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Bonded Indebtedness*]

SEC. 7. Nothing in this Article shall be construed to impair the ability of the State or of any local government to meet its obligations with respect to existing or future bonded indebtedness. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Definitions*]

SEC. 8. As used in this article and except as otherwise expressly provided herein:

(a) ‘‘Appropriations subject to limitation’’ of the State means any authorization to expend during a fiscal year the proceeds of taxes levied by or for the State, exclusive of state subventions for the use and operation of local government (other than subventions made pursuant to Section 6) and further exclusive of refunds of taxes, benefit payments from retirement, unemployment insurance, and disability insurance funds.

(b) ‘‘Appropriations subject to limitation’’ of an entity of local government means any authorization to expend during a fiscal year the proceeds of taxes levied by or for that entity and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes.

(c) ‘‘Proceeds of taxes’’ shall include, but not be restricted to, all tax revenues and the proceeds to an entity of government, from (1) regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service, and (2) the investment of tax revenues. With respect to any local government, ‘‘proceeds of taxes’’ shall include subventions received from the State, other than pursuant to Section 6, and, with respect to the State, proceeds of taxes shall exclude such subventions.

(d) ‘‘Local government’’ means any city, county, city and county, school district, special district, authority, or other political subdivision of or within the State.

(e) (1) "Change in the cost of living" for the State, a school district, or a community college district means the percentage change in California per capita personal income from the preceding year.

(2) "Change in the cost of living" for an entity of local government, other than a school district or a community college district, shall be either (A) the percentage change in California per capita personal income from the preceding year, or (B) the percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local nonresidential new construction. Each entity of local government shall select its change in the cost of living pursuant to this paragraph annually by a recorded vote of the entity's governing body.

(f) "Change in population" of any entity of government, other than the State, a school district, or a community college district, shall be determined by a method prescribed by the Legislature.

"Change in population" of a school district or a community college district shall be the percentage change in the average daily attendance of the school district or community college district from the preceding fiscal year, as determined by a method prescribed by the Legislature.

"Change in population" of the State shall be determined by adding (1) the percentage change in the State's population multiplied by the percentage of the State's budget in the prior fiscal year that is expended for other than educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges, and (2) the percentage change in the total statewide average daily attendance in kindergarten and grades one to 12, inclusive, and the community colleges, multiplied by the percentage of the State's budget in the prior fiscal year that is expended for educational purposes for kindergarten and grades one to 12, inclusive, and the community colleges.

Any determination of population pursuant to this subdivision, other than that measured by average daily attendance, shall be revised, as necessary, to reflect the periodic census conducted by the United States Department of Commerce, or successor department.

(g) "Debt service" means appropriations required to pay the cost of interest and redemption charges, including the funding of any reserve or sinking fund required in connection therewith, on indebtedness existing or legally authorized as of January 1, 1979, or on bonded indebtedness thereafter approved according to law by a vote of the electors of the issuing entity voting in an election for that purpose.

(h) The "appropriations limit" of each entity of government for each fiscal year is that amount which total annual appropriations subject to limitation may not exceed under Sections 1 and 3. However, the "appropriations limit" of each entity of government for fiscal year 1978–79 is the total of the appropriations subject to limitation of the entity for that fiscal

year. For fiscal year 1978–79, state subventions to local governments, exclusive of federal grants, are deemed to have been derived from the proceeds of state taxes.

(i) Except as otherwise provided in Section 5, ‘‘appropriations subject to limitation’’ do not include local agency loan funds or indebtedness funds, investment (or authorizations to invest) funds of the State, or of an entity of local government in accounts at banks or savings and loan associations or in liquid securities. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Exceptions to Appropriations Subject to Limitation*]

SEC. 9. ‘‘Appropriations subject to limitation’’ for each entity of government do not include:

(a) Appropriations for debt service.

(b) Appropriations required to comply with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the provision of existing services more costly.

(c) Appropriations of any special district which existed on January 1, 1978, and which did not as of the 1977–78 fiscal year levy an ad valorem tax on property in excess of 12½ cents per $100 of assessed value; or the appropriations of any special district then existing or thereafter created by a vote of the people, which is totally funded by other than the proceeds of taxes.

(d) Appropriations for all qualified capital outlay projects, as defined by the Legislature.

(e) Appropriations of revenue which are derived from any of the following:

(1) That portion of the taxes imposed on motor vehicle fuels for use in motor vehicles upon public streets and highways at a rate of more than nine cents ($0.09) per gallon.

(2) Sales and use taxes collected on that increment of the tax specified in paragraph (1).

(3) That portion of the weight fee imposed on commercial vehicles which exceeds the weight fee imposed on those vehicles on January 1, 1990. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Effective Date of Article*]

SEC. 10. This Article shall be effective commencing with the first day of the fiscal year following its adoption. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Appropriations Limit on or after July 1, 1990*]

SEC. 10.5. For fiscal years beginning on or after July 1, 1990, the appropriations limit of each entity of government shall be the appropriations limit for the 1986–87 fiscal year adjusted for the changes made from that fiscal year pursuant to this article, as amended by the measure adding this section, adjusted for the changes required by Section 3. [*New section adopted June 5, 1990. Operative July 1, 1990.*]

[*Category Added or Removed from Appropriations Subject to Limitation—Severability*]

SEC. 11. If any appropriation category shall be added to or removed from appropriations subject to limitation, pursuant to final judgment of any court of competent jurisdiction and any appeal therefrom, the appropriations limit shall be adjusted accordingly. If any section, part, clause or phrase in this Article is for any reason held invalid or unconstitutional, the remaining portions of this Article shall not be affected but shall remain in full force and effect. [*New section adopted November 6, 1979. Operative commencing first day of fiscal year following adoption. Initiative measure.*]

[*Exceptions to Appropriations Subject to Limitation*]

SEC. 12. ''Appropriations subject to limitation'' of each entity of government shall not include appropriations of revenue from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Cigarette and Tobacco Products Surtax Fund created by the Tobacco Tax and Health Protection Act of 1988. [*New section adopted November 8, 1988. Initiative measure.*]

ARTICLE XIII C*

[VOTER APPROVAL FOR LOCAL TAX LEVIES]

SECTION 1. Definitions. As used in this article:

(a) ''General tax'' means any tax imposed for general governmental purposes.

(b) ''Local government'' means any county, city, city and county, including a charter city or county, any special district, or any other local or regional governmental entity.

* New Article XIII C adopted November 5, 1996. Initiative measure.

(c) ''Special district'' means an agency of the State, formed pursuant to general law or a special act, for the local performance of governmental or proprietary functions with limited geographic boundaries including, but not limited to, school districts and redevelopment agencies.

(d) ''Special tax'' means any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 2. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution:

(a) All taxes imposed by any local government shall be deemed to be either general taxes or special taxes. Special purpose districts or agencies, including school districts, shall have no power to levy general taxes.

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.

(c) Any general tax imposed, extended, or increased, without voter approval, by any local government on or after January 1, 1995, and prior to the effective date of this article, shall continue to be imposed only if approved by a majority vote of the voters voting in an election on the issue of the imposition, which election shall be held within two years of the effective date of this article and in compliance with subdivision (b).

(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by a two-thirds vote. A special tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 3. Initiative Power for Local Taxes, Assessments, Fees and Charges. Notwithstanding any other provision of this Constitution, including, but not limited to, Sections 8 and 9 of Article II, the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge. The power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments and neither the Legislature nor any local government charter shall impose a signature requirement higher than that applicable to statewide statutory initiatives. [*New section adopted November 5, 1996. Initiative measure.*]

ARTICLE XIII D*

[ASSESSMENT AND PROPERTY-RELATED FEE REFORM]

SECTION 1. Application. Notwithstanding any other provision of law, the provisions of this article shall apply to all assessments, fees and charges, whether imposed pursuant to state statute or local government charter authority. Nothing in this article or Article XIII C shall be construed to:

(a) Provide any new authority to any agency to impose a tax, assessment, fee, or charge.

(b) Affect existing laws relating to the imposition of fees or charges as a condition of property development.

(c) Affect existing laws relating to the imposition of timber yield taxes. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 2. Definitions. As used in this article:

(a) ''Agency'' means any local government as defined in subdivision (b) of Section 1 of Article XIII C.

(b) ''Assessment'' means any levy or charge upon real property by an agency for a special benefit conferred upon the real property. ''Assessment'' includes, but is not limited to, ''special assessment,'' ''benefit assessment,'' ''maintenance assessment'' and ''special assessment tax.''

(c) ''Capital cost'' means the cost of acquisition, installation, construction, reconstruction, or replacement of a permanent public improvement by an agency.

(d) ''District'' means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service.

(e) ''Fee'' or ''charge'' means any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property-related service.

(f) ''Maintenance and operation expenses'' means the cost of rent, repair, replacement, rehabilitation, fuel, power, electrical current, care, and supervision necessary to properly operate and maintain a permanent public improvement.

(g) ''Property ownership'' shall be deemed to include tenancies of real property where tenants are directly liable to pay the assessment, fee, or charge in question.

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* New Article XIII D adopted November 5, 1996. Initiative measure.

(h) ''Property-related service'' means a public service having a direct relationship to property ownership.

(i) ''Special benefit'' means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute ''special benefit.'' [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 3. Property Taxes, Assessments, Fees and Charges Limited. (a) No tax, assessment, fee, or charge shall be assessed by any agency upon any parcel of property or upon any person as an incident of property ownership except:

(1) The ad valorem property tax imposed pursuant to Article XIII and Article XIII A.

(2) Any special tax receiving a two-thirds vote pursuant to Section 4 of Article XIII A.

(3) Assessments as provided by this article.

(4) Fees or charges for property-related services as provided by this article.

(b) For purposes of this article, fees for the provision of electrical or gas service shall not be deemed charges or fees imposed as an incident of property ownership. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 4. Procedures and Requirements for All Assessments. (a) An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property-related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel. Only special benefits are assessable, and an agency shall separate the general benefits from the special benefits conferred on a parcel. Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit.

(b) All assessments shall be supported by a detailed engineer's report prepared by a registered professional engineer certified by the State of California.

(c) The amount of the proposed assessment for each identified parcel shall be calculated and the record owner of each parcel shall be given written notice by mail of the proposed assessment, the total amount thereof chargeable to the entire district, the amount chargeable to the owner's particular parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, together with the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures applicable to the completion, return, and tabulation of the ballots required pursuant to subdivision (d), including a disclosure statement that the existence of a majority protest, as defined in subdivision (e), will result in the assessment not being imposed.

(d) Each notice mailed to owners of identified parcels within the district pursuant to subdivision (c) shall contain a ballot which includes the agency's address for receipt of the ballot once completed by any owner receiving the notice whereby the owner may indicate his or her name, reasonable identification of the parcel, and his or her support or opposition to the proposed assessment.

(e) The agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the proposed assessment to record owners of each identified parcel. At the public hearing, the agency shall consider all protests against the proposed assessment and tabulate the ballots. The agency shall not impose an assessment if there is a majority protest. A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property.

(f) In any legal action contesting the validity of any assessment, the burden shall be on the agency to demonstrate that the property or properties in question receive a special benefit over and above the benefits conferred on the public at large and that the amount of any contested assessment is proportional to, and no greater than, the benefits conferred on the property or properties in question.

(g) Because only special benefits are assessable, electors residing within the district who do not own property within the district shall not be deemed under this Constitution to have been deprived of the right to vote for any assessment. If a court determines that the Constitution of the United States or other federal law requires otherwise, the assessment shall not be imposed unless approved by a two-thirds vote of the electorate in the district in addition to being approved by the property owners as required by subdivision (e). [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 5. Effective Date. Pursuant to subdivision (a) of Section 10 of Article II, the provisions of this article shall become effective the day after the election unless otherwise provided. Beginning July 1, 1997, all existing, new, or increased assessments shall comply with this article. Notwithstanding the foregoing, the following assessments existing on the effective date of this article shall be exempt from the procedures and approval process set forth in Section 4:

(a) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems or vector control. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(b) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed. Subsequent increases in such assessments shall be subject to the procedures and approval process set forth in Section 4.

(c) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

(d) Any assessment which previously received majority voter approval from the voters voting in an election on the issue of the assessment. Subsequent increases in those assessments shall be subject to the procedures and approval process set forth in Section 4. [*New section adopted November 5, 1996. Initiative measure.*]

SEC. 6. Property-Related Fees and Charges. (a) Procedures for New or Increased Fees and Charges. An agency shall follow the procedures pursuant to this section in imposing or increasing any fee or charge as defined pursuant to this article, including, but not limited to, the following:

(1) The parcels upon which a fee or charge is proposed for imposition shall be identified. The amount of the fee or charge proposed to be imposed upon each parcel shall be calculated. The agency shall provide written notice by mail of the proposed fee or charge to the record owner of each identified parcel upon which the fee or charge is proposed for imposition, the amount of the fee or charge proposed to be imposed upon each, the basis upon which the amount of the proposed fee or charge was calculated, the reason for the fee or charge, together with the date, time, and location of a public hearing on the proposed fee or charge.

(2) The agency shall conduct a public hearing upon the proposed fee or charge not less than 45 days after mailing the notice of the proposed fee or charge to the record owners of each identified parcel upon which the fee

or charge is proposed for imposition. At the public hearing, the agency shall consider all protests against the proposed fee or charge. If written protests against the proposed fee or charge are presented by a majority of owners of the identified parcels, the agency shall not impose the fee or charge.

(b) Requirements for Existing, New or Increased Fees and Charges. A fee or charge shall not be extended, imposed, or increased by any agency unless it meets all of the following requirements:

(1) Revenues derived from the fee or charge shall not exceed the funds required to provide the property-related service.

(2) Revenues derived from the fee or charge shall not be used for any purpose other than that for which the fee or charge was imposed.

(3) The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel.

(4) No fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Fees or charges based on potential or future use of a service are not permitted. Standby charges, whether characterized as charges or assessments, shall be classified as assessments and shall not be imposed without compliance with Section 4.

(5) No fee or charge may be imposed for general governmental services including, but not limited to, police, fire, ambulance or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.
Reliance by an agency on any parcel map, including, but not limited to, an assessor's parcel map, may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership for purposes of this article. In any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance with this article.

(c) Voter Approval for New or Increased Fees and Charges. Except for fees or charges for sewer, water, and refuse collection services, no property-related fee or charge shall be imposed or increased unless and until that fee or charge is submitted and approved by a majority vote of the property owners of the property subject to the fee or charge or, at the option of the agency, by a two-thirds vote of the electorate residing in the affected area. The election shall be conducted not less than 45 days after the public hearing. An agency may adopt procedures similar to those for increases in assessments in the conduct of elections under this subdivision.

(d) Beginning July 1, 1997, all fees or charges shall comply with this section. [*New section adopted November 5, 1996. Initiative measure.*]

ARTICLE XIV. [*Repealed June 8, 1976. See Article XIV, below.*]

ARTICLE XIV*

LABOR RELATIONS

SECTION 1. [*Repealed June 8, 1976. See Section 1, below.*]

[*Minimum Wages and General Welfare of Employees*]

SECTION 1. The Legislature may provide for minimum wages and for the general welfare of employees and for those purposes may confer on a commission legislative, executive, and judicial powers. [*New section adopted June 8, 1976.*]

SEC. 2. [*Repealed June 8, 1976. See Section 2, below.*]

[*Eight-hour Workday*]

SEC. 2. Worktime of mechanics or workers on public works may not exceed eight hours a day except in wartime or extraordinary emergencies that endanger life or property. The Legislature shall provide for enforcement of this section. [*New section adopted June 8, 1976.*]

SEC. 3. [*Repealed June 8, 1976. See Section 3, below.*]

[*Mechanics' Liens*]

SEC. 3. Mechanics, persons furnishing materials, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens. [*New section adopted June 8, 1976.*]

SEC. 4. [*Repealed June 8, 1976. See Section 4, below.*]

[*Workers' Compensation*]

SEC. 4. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workers' compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers' compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workers and those dependent upon them for support to the extent

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* New Article XIV adopted June 8, 1976.

of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a state compensation insurance fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the state government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workers' compensation, as herein defined.

The Legislature shall have power to provide for the payment of an award to the State in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the state compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed. [*New section adopted June 8, 1976.*]

SEC. 5. [*Repealed November 6, 1990. See Section 5, below.*]

[*Inmate Labor*]

SECTION 5. (a) The Director of Corrections or any county Sheriff or other local government official charged with jail operations, may enter into contracts with public entities, nonprofit or for profit organizations, en-

tities, or businesses for the purpose of conducting programs which use inmate labor. Such programs shall be operated and implemented pursuant to statutes enacted by or in accordance with the provisions of the Prison Inmate Labor Initiative of 1990, and by rules and regulations prescribed by the Director of Corrections and, for county jail programs, by local ordinances.

(b) No contract shall be executed with an employer that will initiate employment by inmates in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990. Total daily hours worked by inmates employed in the same job classification as non-inmate employees of the same employer who are on strike, as defined in Section 1132.6 of the Labor Code, as it reads on January 1, 1990, or who are subject to lockout, as defined in Section 1132.8 of the Labor Code, as it reads on January 1, 1990, shall not exceed, for the duration of the strike, the average daily hours worked for the preceding six months, or if the program has been in operation for less than six months, the average for the period of operation.

(c) Nothing in this section shall be interpreted as creating a right of inmates to work. [*New section adopted November 6, 1990. Initiative measure.*]

ARTICLE XV. [*Repealed June 8, 1976. See Article XV, below.*]

ARTICLE XV*

USURY

[*Rate of Interest*]

SECTION 1. The rate of interest upon the loan or forbearance of any money, goods, or things in action, or on accounts after demand, shall be 7 percent per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest:

(1) For any loan or forbearance of any money, goods, or things in action, if the money, goods, or things in action are for use primarily for personal, family, or household purposes, at a rate not exceeding 10 percent per annum; provided, however, that any loan or forbearance of any money, goods or things in action the proceeds of which are used primarily for the

* New Article XV adopted June 8, 1976.

purchase, construction or improvement of real property shall not be deemed to be a use primarily for personal, family or household purposes; or

(2) For any loan or forbearance of any money, goods, or things in action for any use other than specified in paragraph (1), at a rate not exceeding the higher of (a) 10 percent per annum or (b) 5 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to make the loan or forbearance, or (ii) the date of making the loan or forbearance established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate of advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature).

[*Charges*]

No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than the interest authorized by this section upon any loan or forbearance of any money, goods or things in action.

[*Exemptions*]

However, none of the above restrictions shall apply to any obligations of, loans made by, or forbearances of, any building and loan association as defined in and which is operated under that certain act known as the ‘‘Building and Loan Association Act,’’ approved May 5, 1931, as amended, or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled ‘‘An act defining industrial loan companies, providing for their incorporation, powers and supervision,’’ approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled ‘‘An act defining credit unions, providing for their incorporation, powers, management and supervision,’’ approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any loans made or arranged by any person licensed as a real estate broker by the State of California and secured in whole or in part by liens on real property, or any bank as defined in and operating under that certain act known as the ‘‘Bank Act,’’ approved March 1, 1909, as amended, or any bank created and operating under and pursuant to any laws of this State or of the United States of America or any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code in loaning or advancing money in connection with any activity mentioned in said title or any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural,

dairy, live stock, poultry and bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business or any corporation securing money or credit from any federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," as amended in loaning or advancing credit so secured, or any other class of persons authorized by statute, or to any successor in interest to any loan or forbearance exempted under this article, nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonuses, commissions, discounts or other compensation which all or any of the said exempted classes of persons may charge or receive from a borrower in connection with any loan or forbearance of any money, goods or things in action.

[*Judgments Rendered in Court—Rate of Interest*]

The rate of interest upon a judgment rendered in any court of this State shall be set by the Legislature at not more than 10 percent per annum. Such rate may be variable and based upon interest rates charged by federal agencies or economic indicators, or both.

In the absence of the setting of such rate by the Legislature, the rate of interest on any judgment rendered in any court of the State shall be 7 percent per annum.

[*Scope of Section*]

The provisions of this section shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith. [*As amended November 6, 1979.*]

SEC. 2. [*Repealed June 8, 1976.*]

SEC. 3. [*Repealed June 8, 1976.*]

ARTICLE XVI

PUBLIC FINANCE

[*Heading as amended November 5, 1974.*]

[*State Indebtedness—Limitation—Two-thirds Vote to Submit Bond Law—Submission of Law to Electors*]

SECTION 1. The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars ($300,000), except in case of war to repel invasion or suppress in-

surrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within 50 years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one-fourth of the time of maturity of such debt or liability; but no such law shall take effect unless it has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created. Full publicity as to matters to be voted upon by the people is afforded by the setting out of the complete text of the proposed laws, together with the arguments for and against them, in the ballot pamphlet mailed to each elector preceding the election at which they are submitted, and the only requirement for publication of such law shall be that it be set out at length in ballot pamphlets which the Secretary of State shall cause to be printed. The Legislature may, at any time after the approval of such law by the people, reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction, or it may repeal the law if no debt shall have been contracted in pursuance thereof.

Notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with the State Allocation Board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending or coming before such board for the allocation and apportionment of funds to school districts for school construction purposes or purposes related thereto.

Notwithstanding any other provision of this constitution, or of any bond act to the contrary, if any general obligation bonds of the State heretofore or hereafter authorized by vote of the people have been offered for sale and not sold, the Legislature may raise the maximum rate of interest payable on all general obligation bonds authorized but not sold, whether or not such bonds have been offered for sale, by a statute passed by a two-thirds vote of all members elected to each house thereof.

The provisions of Senate Bill No. 763† of the 1969 Regular Session, which authorize an increase of the state general obligation bond maximum interest rate from 5 percent to an amount not in excess of 7 percent and eliminate the maximum rate of interest payable on notes given in anticipation of the sale of such bonds, are hereby ratified. [*As amended June 2, 1970.*]

[*General Obligation Bond Proceeds Fund*]

SEC. 1.5. The Legislature may create and establish a "General Obligation Bond Proceeds Fund" in the State Treasury, and may provide for the proceeds of the sale of general obligation bonds of the State heretofore or hereafter issued, including any sums paid as accrued interest thereon, under any or all acts authorizing the issuance of such bonds, to be paid into or transferred to, as the case may be, the "General Obligation Bond Proceeds Fund." Accounts shall be maintained in the "General Obligation Bond Proceeds Fund" of all moneys deposited in the State Treasury to the credit of that fund and the proceeds of each bond issue shall be maintained as a separate and distinct account and shall be paid out only in accordance with the law authorizing the issuance of the particular bonds from which the proceeds were derived. The Legislature may abolish, subject to the conditions of this section, any fund in the State Treasury heretofore or hereafter created by any act for the purpose of having deposited therein the proceeds from the issuance of bonds if such proceeds are transferred to or paid into the "General Obligation Bond Proceeds Fund" pursuant to the authority granted in this section; provided, however, that nothing in this section shall prevent the Legislature from re-establishing any bond proceeds fund so abolished and transferring back to its credit all proceeds in the "General Obligation Bond Proceeds Fund" which constitute the proceeds of the particular bond fund being re-established. [*New section adopted November 6, 1962.*]

SEC. 2. [*Repealed November 6, 1962. See Section 2, below.*]

[*Bond Issues—Submission by Constitutional Amendment Prohibited—Repeal of Certain Constitutional Provisions*]

SEC. 2. (a) No amendment to this Constitution which provides for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors, nor shall any such amendment to the Constitution hereafter submitted to or approved by the electors become effective for any purpose.

† Chapter 740.

Each measure providing for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors in the form of a bond act or statute.

(b) The provisions of this Constitution enumerated in subdivision (c) of this section are repealed and such provisions are continued as statutes which have been approved, adopted, legalized, ratified, validated, and made fully and completely effective, by means of the adoption by the electorate of a ratifying constitutional amendment, except that the Legislature, in addition to whatever powers it possessed under such provisions, may amend or repeal such provisions when the bonds issued thereunder have been fully retired and when no rights thereunder will be damaged.

(c) The enumerated provisions of this Constitution are: Article XVI, Sections 2, 3, 4, 4½, 5, 6, 8, 8½, 15, 16, 16.5, 17, 18, 19, 19.5, 20 and 21. [*New section adopted November 6, 1962.*]

[*Appropriations*]

SEC. 3. No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State, except that notwithstanding anything contained in this or any other section of the Constitution:

[*Federal Funds*]

(1) Whenever federal funds are made available for the construction of hospital facilities by public agencies and nonprofit corporations organized to construct and maintain such facilities, nothing in this Constitution shall prevent the Legislature from making state money available for that purpose, or from authorizing the use of such money for the construction of hospital facilities by nonprofit corporations organized to construct and maintain such facilities.

[*Institution for Support of Orphans or Aged Indigents*]

(2) The Legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions.

[*Needy Blind*]

(3) The Legislature shall have the power to grant aid to needy blind persons not inmates of any institution supported in whole or in part by the

State or by any of its political subdivisions, and no person concerned with the administration of aid to needy blind persons shall dictate how any applicant or recipient shall expend such aid granted him, and all money paid to a recipient of such aid shall be intended to help him meet his individual needs and is not for the benefit of any other person, and such aid when granted shall not be construed as income to any person other than the blind recipient of such aid, and the State Department of Social Welfare shall take all necessary action to enforce the provisions relating to aid to needy blind persons as heretofore stated.

[*Physically Handicapped Persons*]

(4) The Legislature shall have power to grant aid to needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State.

[*Management of Institutions*]

(5) The State shall have at any time the right to inquire into the management of such institutions.

[*Orphans, Aged Indigents, Needy Blind—County Support*]

(6) Whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances, or needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, or needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control.

[*Receipts and Expenditures of Public Moneys*]

An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature. [*New section adopted November 5, 1974.*]

[*Loan Guarantees re Nonprofit Corporations and Public Agencies*]

SEC. 4. The Legislature shall have the power to insure or guarantee loans made by private or public lenders to nonprofit corporations and public agencies, the proceeds of which are to be used for the construction, expansion, enlargement, improvement, renovation or repair of any public or

nonprofit hospital, hospital facility, or extended care facility, facility for the treatment of mental illness, or all of them, including any outpatient facility and any other facility useful and convenient in the operation of the hospital and any original equipment for any such hospital or facility, or both.

No provision of this Constitution, including but not limited to, Section 1 of Article XVI and Section 14 of Article XI, shall be construed as a limitation upon the authority granted to the Legislature by this section. [*New section adopted November 5, 1974.*]

SEC. 4½. [*Repealed November 6, 1962.*]

[*Religious Institutions—Grants Prohibited*]

SEC. 5. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI. [*New section adopted November 5, 1974.*]

[*Gifts or Loans of Public Moneys or Pledging of Credit Prohibited—Stock of Corporations*]

SEC. 6. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated

in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and

[*Insurance Pooling Arrangements*]

Provided, further, that this section shall not prohibit any county, city and county, city, township, or other political corporation or subdivision of the State from joining with other such agencies in providing for the payment of workers' compensation, unemployment compensation, tort liability, or public liability losses incurred by such agencies, by entry into an insurance pooling arrangement under a joint exercise of powers agreement, or by membership in such publicly-owned nonprofit corporation or other public agency as may be authorized by the Legislature; and

[*Aid to Veterans*]

Provided, further, that nothing contained in this Constitution shall prohibit the use of state money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation; and

[*Disaster Assistance*]

Provided, further, that nothing contained in this Constitution shall prohibit the State, or any county, city and county, city, township, or other political corporation or subdivision of the State from providing aid or assistance to persons, if found to be in the public interest, for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President. In such case, the public entity shall be indemnified by the recipient from the award of any claim against the public entity arising from the rendering of such aid or assistance. Such aid or assistance must be eligible for federal reimbursement for the cost thereof.

[*Temporary Transfers of Funds to Political Subdivisions*]

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer's office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the anticipated revenues accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue. [*As amended November 2, 1982.*]

[*Controller's Warrants*]

SEC. 7. Money may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant. [*New section adopted November 5, 1974.*]

[*School Funding Priority*]

SEC. 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.

(b) Commencing with the 1990–91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of the following amounts:

(1) The amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986–87.

(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B. This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one half of one percent.

(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.

(B) In addition, an amount equal to one-half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.

(C) This paragraph (3) shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capital General Fund revenues plus one half of one percent.

(c) In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or 3 of subdivision (b) in the subsequent fiscal year.

(d) In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision (h), they shall be entitled to a maintenance factor, equal to the difference between (1) the amount of General Fund moneys which would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph had been operative or the amount of General Fund moneys which would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated to school districts and community college districts in that fiscal year.

(e) The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in enrollment, and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be al-

located in a fiscal year shall be equal to the product of General Fund revenues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.

(f) For purposes of this section, ‘‘changes in enrollment’’ shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.

(h) Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV. [*As amended June 5, 1990. Operative July 1, 1990.*]

SEC. 8½. [*Repealed November 6, 1962.*]

[*Allocations to State School Fund*]

SECTION 8.5. (a) In addition to the amount required to be applied for the support of school districts and community college districts pursuant to Section 8, the Controller shall during each fiscal year transfer and allocate all revenues available pursuant to paragraph 1 of subdivision (a) of Section 2 of Article XIII B to that portion of the State School Fund restricted for elementary and high school purposes, and to that portion of the State School Fund restricted for community college purposes, respectively, in proportion to the enrollment in school districts and community college districts respectively.

(1) With respect to funds allocated to that portion of the State School Fund restricted for elementary and high school purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Superintendent of Public Instruction mutually determine that current annual expenditures per student equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditures per student for elementary and high schools, and that average class size equals or is less than the average class size of the 10 states with the lowest class size for elementary and high schools.

(2) With respect to funds allocated to that portion of the State School Fund restricted for community college purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Di-

rector of Finance and the Chancellor of the California Community Colleges mutually determine that current annual expenditures per student for community colleges in this State equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditure per student for community colleges.

(b) Notwithstanding the provisions of Article XIII B, funds allocated pursuant to this section shall not constitute appropriations subject to limitation.

(c) From any funds transferred to the State School Fund pursuant to subdivision (a), the Controller shall each year allocate to each school district and community college district an equal amount per enrollment in school districts from the amount in that portion of the State School Fund restricted for elementary and high school purposes and an equal amount per enrollment in community college districts from that portion of the State School Fund restricted for community college purposes.

(d) All revenues allocated pursuant to subdivision (a) shall be expended solely for the purposes of instructional improvement and accountability as required by law.

(e) Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school. [*As amended June 5, 1990. Operative July 1, 1990.*]

[*Fish and Game*]

SEC. 9. Money collected under any state law relating to the protection or propagation of fish and game shall be used for activities relating thereto. [*New section adopted November 5, 1974.*]

[*Aged Aid—Federal-State Co-operation*]

SEC. 10. Whenever the United States government or any officer or agency thereof shall provide pensions or other aid for the aged, co-operation by the State therewith and therein is hereby authorized in such manner and to such extent as may be provided by law.

The money expended by any county, city and county, municipality, district or other political subdivision of this State made available under the provisions of this section shall not be considered as a part of the base for determining the maximum expenditure for any given year permissible under Section 20† of Article XI of this Constitution independent of the vote of the electors or authorization by the State Board of Equalization. [*As amended November 6, 1962.*]

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† Section 20, Article XI, repealed June 2, 1970.

[*Relief Administration*]

SEC. 11. The Legislature has plenary power to provide for the administration of any constitutional provisions or laws heretofore or hereafter enacted concerning the administration of relief, and to that end may modify, transfer, or enlarge the powers vested in any state agency or officer concerned with the administration of relief or laws appertaining thereto. The Legislature, or the people by initiative, shall have power to amend, alter, or repeal any law relating to the relief of hardship and destitution, whether such hardship and destitution results from unemployment or from other causes, or to provide for the administration of the relief of hardship and destitution, whether resulting from unemployment or from other causes, either directly by the State or through the counties of the State, and to grant such aid to the counties therefor, or make such provision for reimbursement of the counties by the State, as the Legislature deems proper. [*As amended November 6, 1962.*]

SEC. 12. [*Repealed November 6, 1962.*]

[*Legislative Power to Release Encumbrances Taken as Security for Aid to Aged*]

SEC. 13. Notwithstanding any other provision of this Constitution, the Legislature shall have power to release, rescind, cancel, or otherwise nullify in whole or in part any encumbrance on property, personal obligation, or other form of security heretofore or hereafter exacted or imposed by the Legislature to secure the repayment to, or reimbursement of, the State, and the counties or other agencies of the state government, of aid lawfully granted to and received by aged persons. [*As amended November 6, 1962.*]

[*Bonds—Environmental Pollution Control Facilities*]

SEC. 14. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of environmental pollution control facilities, including the acquisition of all technological facilities necessary or convenient for pollution control, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by either house, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Section 25 of Article XIII and Sections 1 and 2 of Article XVI, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing herein contained shall authorize any public agency to operate any industrial or commercial enterprise. [*New section adopted November 7, 1972.*]

[*Energy Alternative Sources Facilities—Acquisition, Construction, Etc.—Revenue Bond Issuance*]

SEC. 14.5. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of facilities utilizing cogeneration technology, solar power, biomass, or any other alternative source the Legislature may deem appropriate, including the acquisition of all technological facilities necessary or convenient for the use of alternative sources, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by both houses, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Sections 1, 2, and 6, of this article, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing contained herein shall authorize any public agency to operate any industrial or commercial enterprise. [*New section adopted June 3, 1980.*]

[*Parking Meter Revenues*]

SEC. 15. A public body authorized to issue securities to provide public parking facilities and any other public body whose territorial area includes such facilities are authorized to make revenues from street parking meters available as additional security. [*New section adopted November 5, 1974.*]

[*Taxation of Redevelopment Projects*]

SEC. 16. All property in a redevelopment project established under the Community Redevelopment Law as now existing or hereafter amended, except publicly owned property not subject to taxation by reason of that ownership, shall be taxed in proportion to its value as provided in Section 1 of this article, and those taxes (the word ‘‘taxes’’ as used herein includes, but is not limited to, all levies on an ad valorem basis upon land or real property) shall be levied and collected as other taxes are levied and collected by the respective taxing agencies.

The Legislature may provide that any redevelopment plan may contain a provision that the taxes, if any, so levied upon the taxable property in a redevelopment project each year by or for the benefit of the State of California, any city, county, city and county, district, or other public corporation (hereinafter sometimes called ‘‘taxing agencies’’) after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable property in the re-

development project as shown upon the assessment roll used in connection with the taxation of that property by the taxing agency, last equalized prior to the effective date of the ordinance, shall be allocated to, and when collected shall be paid into, the funds of the respective taxing agencies as taxes by or for those taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of the ordinance but to which that territory has been annexed or otherwise included after the ordinance's effective date, the assessment roll of the county last equalized on the effective date of that ordinance shall be used in determining the assessed valuation of the taxable property in the project on that effective date); and

(b) Except as provided in subdivision (c), that portion of the levied taxes each year in excess of that amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in the project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, then all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes identified in subdivision (b) which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency. This paragraph shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989.

The Legislature may also provide that in any redevelopment plan or in the proceedings for the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed, or otherwise) by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes identified in subdivision (b), exclusive of that portion identified in subdivision (c), may be irrevocably pledged for the payment of the principal of and interest on those loans, advances, or indebtedness.

It is intended by this section to empower any redevelopment agency, city, county, or city and county under any law authorized by this section to exercise the provisions hereof separately or in combination with powers granted by the same or any other law relative to redevelopment agencies. This section shall not affect any other law or laws relating to the same or a similar subject but is intended to authorize an alternative method of procedure governing the subject to which it refers.

The Legislature shall enact those laws as may be necessary to enforce the provisions of this section. [*As amended November 8, 1988.*]

SEC. 16.5. [*Repealed November 6, 1962.*]

[*State's Credit—Investment of Public Pension or Retirement Funds*]

SEC. 17. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the State and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when the stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and the holding of the stock shall entitle the holder thereof to all of the rights, powers and privileges, and shall subject the holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which the stock is so held.

Notwithstanding any other provisions of law or this Constitution to the contrary, the retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:

(a) The retirement board of a public pension or retirement system shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

(b) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty.

(c) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(d) The members of the retirement board of a public pension or retirement system shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.

(e) The retirement board of a public pension or retirement system, consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system.

(f) With regard to the retirement board of a public pension or retirement system which includes in its composition elected employee members, the number, terms, and method of selection or removal of members of the retirement board which were required by law or otherwise in effect on July 1, 1991, shall not be changed, amended, or modified by the Legislature unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.

(g) The Legislature may by statute continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board pursuant to this section.

(h) As used in this section, the term ‘‘retirement board’’ shall mean the board of administration, board of trustees, board of directors, or other governing body or board of a public employees' pension or retirement system; provided, however, that the term ‘‘retirement board’’ shall not be interpreted to mean or include a governing body or board created after July 1, 1991 which does not administer pension or retirement benefits, or the elected legislative body of a jurisdiction which employs participants in a public employees' pension or retirement system. [*As amended November 3, 1992. Initiative measure.*]

[*Municipal Debt Exceeding Income*]

SEC. 18. No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the qualified electors thereof, voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebt-

edness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the qualified electors of the public entity voting on the proposition at such election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the same; provided, however, anything to the contrary herein notwithstanding, when two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two-thirds or a majority of the qualified electors, as the case may be, voting on any one of such propositions, vote in favor thereof, such proposition shall be deemed adopted. [*New section adopted November 5, 1974.*]

[*Public Improvement Proceedings by Chartered City or County*]

SEC. 19. All proceedings undertaken by any chartered city, or by any chartered county or by any chartered city and county for the construction of any public improvement, or the acquisition of any property for public use, or both, where the cost thereof is to be paid in whole or in part by special assessment or other special assessment taxes upon property, whether the special assessment will be specific or a special assessment tax upon property wholly or partially according to the assessed value of such property, shall be undertaken only in accordance with the provisions of law governing: (a) limitations of costs of such proceedings or assessments for such proceedings, or both, in relation to the value of any property assessed therefor; (b) determination of a basis for the valuation of any such property; (c) payment of the cost in excess of such limitations; (d) avoidance of such limitations; (e) postponement or abandonment, or both, of such proceedings in whole or in part upon majority protest, and particularly in accordance with such provisions as contained in Sections 10, 11 and 13a of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 or any amendments, codification, reenactment or restatement thereof.

Notwithstanding any provisions for debt limitation or majority protest as in this section provided, if, after the giving of such reasonable notice by publication and posting and the holding of such public hearing as the legislative body of any such chartered county, chartered city or chartered city and county shall have prescribed, such legislative body by no less than a four-fifths vote of all members thereof, finds and determines that the pub-

lic convenience and necessity require such improvements or acquisitions, such debt limitation and majority protest provisions shall not apply.

Nothing contained in this section shall require the legislative body of any such city, county, or city and county to prepare or to cause to be prepared, hear, notice for hearing or report the hearing of any report as to any such proposed construction or acquisition or both. [*New section adopted November 5, 1974.*]

SEC. 19.5. [*Repealed November 6, 1962.*]

SEC. 20. [*Repealed November 6, 1962.*]

SEC. 21. [*Repealed November 6, 1962.*]

ARTICLE XVII. [*Repealed June 8, 1976.*]

ARTICLE XVIII. [*Repealed November 3, 1970. See Article XVIII, below.*]

ARTICLE XVIII*

AMENDING AND REVISING THE CONSTITUTION

SECTION 1. [*Repealed November 3, 1970. See Section 1, below.*]

[*By Legislature*]

SEC. 1. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may propose an amendment or revision of the Constitution and in the same manner may amend or withdraw its proposal. Each amendment shall be so prepared and submitted that it can be voted on separately. [*New section adopted November 3, 1970.*]

SEC. 2. [*Repealed November 3, 1970. See Section 2, below.*]

[*Constitutional Convention*]

SEC. 2. The Legislature by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, may submit at a general election the question whether to call a convention to revise the Constitution. If the majority vote yes on that question, within 6 months the Legislature shall provide for the convention. Delegates to a constitutional convention shall be voters elected from districts as nearly equal in population as may be practicable. [*New section adopted November 3, 1970.*]

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* New Article XVIII adopted November 3, 1970.

[*Initiatives*]

SEC. 3. The electors may amend the Constitution by initiative. [*New section adopted November 3, 1970.*]

[*Effective Date: Conflict*]

SEC. 4. A proposed amendment or revision shall be submitted to the electors and if approved by a majority of votes thereon takes effect the day after the election unless the measure provides otherwise. If provisions of 2 or more measures approved at the same election conflict, those of the measure receiving the highest affirmative vote shall prevail. [*New section adopted November 3, 1970.*]

ARTICLE XIX*

MOTOR VEHICLE REVENUES

SECTION 1. [*Repealed June 4, 1974. See Section 1, below.*]

[*Use of Fuel Taxes*]

SECTION 1. Revenues from taxes imposed by the State on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The research, planning, construction, improvement, maintenance, and operation of public streets and highways (and their related public facilities for nonmotorized traffic), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, and the adminstrative costs necessarily incurred in the foregoing purposes.

(b) The research, planning, construction, and improvement of exclusive public mass transit guideways (and their related fixed facilities), including the mitigation of their environmental effects, the payment for property taken or damaged for such purposes, the administrative costs necessarily incurred in the foregoing purposes, and the maintenance of the structures and the immediate right-of-way for the public mass transit guideways, but excluding the maintenance and operating costs for mass transit power systems and mass transit passenger facilities, vehicles, equipment, and services. [*New section adopted June 4, 1974.*]

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* Former Article XXVI, as renumbered June 8, 1976.

SEC. 2. [*Repealed June 4, 1974. See Section 2, below.*]

[*Use of Motor Vehicle Fees and Taxes*]

SEC. 2. Revenues from fees and taxes imposed by the State upon vehicles or their use or operation, over and above the costs of collection and any refunds authorized by law, shall be used for the following purposes:

(a) The state administration and enforcement of laws regulating the use, operation, or registration of vehicles used upon the public streets and highways of this State, including the enforcement of traffic and vehicle laws by state agencies and the mitigation of the environmental effects of motor vehicle operation due to air and sound emissions.

(b) The purposes specified in Section 1 of this article. [*New section adopted June 4, 1974.*]

SEC. 3. [*Repealed June 4, 1974. See Section 3, below.*]

[*Appropriations by the Legislature—Regulation of Expenditures, Etc.*]

SEC. 3. The Legislature shall provide for the allocation of the revenues to be used for the purposes specified in Section 1 of this article in a manner which ensures the continuance of existing statutory allocation formulas for cities, counties, and areas of the State, until it determines that another basis for an equitable, geographical, and jurisdictional distribution exists; provided that, until such determination is made, any use of such revenues for purposes specified in subdivision (b) of Section 1 of this article by or in a city, county, or area of the State shall be included within the existing statutory allocations to, or for expenditure in, that city, county, or area. Any future statutory revisions shall provide for the allocation of these revenues, together with other similar revenues, in a manner which gives equal consideration to the transportation needs of all areas of the State and all segments of the population consistent with the orderly achievement of the adopted local, regional, and statewide goals for ground transportation in local general plans, regional transportation plans, and the California Transportation Plan. [*New section adopted June 4, 1974.*]

SEC. 4. [*Repealed June 4, 1974. See Section 4, below.*]

[*Authorization and Approval for Expenditures*]

SEC. 4. Revenues allocated pursuant to Section 3 may not be expended for the purposes specified in subdivision (b) of Section 1, except for research and planning, until such use is approved by a majority of the votes cast on the proposition authorizing such use of such revenues in an election held throughout the county or counties, or a specified area of a county or counties, within which the revenues are to be expended. The Legislature may authorize the revenues approved for allocation or expenditure under this section to be pledged or used for the payment of principal

and interest on voter-approved bonds issued for the purposes specified in subdivision (b) of Section 1. [*New section adopted June 4, 1974.*]

[*Expenditures for Payment of Bonds*]

SEC. 5. The Legislature may authorize up to 25 percent of the revenues available for expenditure by any city or county, or by the State, for the purposes specified in subdivision (a) of Section 1 of this article to be pledged or used for the payment of principal and interest on voter-approved bonds issued for such purposes. [*New section adopted June 4, 1974.*]

[*Loans to State General Fund*]

SEC. 6. This article shall not prevent the designated tax revenues from being temporarily loaned to the State General Fund upon condition that amounts loaned be repaid to the funds from which they were borrowed. [*New section adopted June 4, 1974.*]

[*Scope of Article*]

SEC. 7. This article shall not affect or apply to fees or taxes imposed pursuant to the Sales and Use Tax Law or the Vehicle License Fee Law, and all amendments and additions now or hereafter made to such statutes. [*New section adopted June 4, 1974.*]

[*Use of Excess Lands for Parks and Recreation*]

SEC. 8. Notwithstanding Sections 1 and 2 of this article, any real property acquired by the expenditure of the designated tax revenues by an entity other than the State for the purposes authorized in those sections, but no longer required for such purposes, may be used for local public park and recreational purposes. [*New section adopted June 8, 1976.*]

[*Transfer of Surplus State Property Located in Coastal Zone*]

SEC. 9. Notwithstanding any other provision of this Constitution, the Legislature, by statute, with respect to surplus state property acquired by the expenditure of tax revenues designated in Sections 1 and 2 and located in the coastal zone, may authorize the transfer of such property, for a consideration at least equal to the acquisition cost paid by the state to acquire the property, to the Department of Parks and Recreation for state park purposes, or to the Department of Fish and Game for the protection and preservation of fish and wildlife habitat, or to the Wildlife Conservation Board for purposes of the Wildlife Conservation Law of 1947, or to the State Coastal Conservancy for the preservation of agricultural lands.

As used in this section, ''coastal zone'' means ''coastal zone'' as defined by Section 30103 of the Public Resources Code as such zone is described on January 1, 1977. [*New section adopted November 7, 1978.*]

ARTICLE XX

MISCELLANEOUS SUBJECTS

[*Sacramento County Consolidation With City or Cities*]

SEC. 1. Notwithstanding the provisions of Section 6 of Article XI, the County of Sacramento and all or any of the cities within the County of Sacramento may be consolidated as a charter city and county as provided by statute, with the approval of a majority of the electors of the county voting on the question of such consolidation and upon such other vote as the Legislature may prescribe in such statute. The charter City and County of Sacramento shall be a charter city and a charter county. Its charter city powers supersede conflicting charter county powers. [*New section adopted June 4, 1974.*]

[*Protection of Homesteads*]

SEC. 1.5. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families. [*New section adopted June 8, 1976.*]

[*Leland Stanford Junior University—Henry E. Huntington Library and Art Gallery*]

SEC. 2. Except for tax exemptions provided in Article XIII, the rights, powers, privileges, and confirmations conferred by Sections 10† and 15† of Article IX in effect on January 1, 1973, relating to Stanford University and the Huntington Library and Art Gallery, are continued in effect. [*Former Section 6, as renumbered June 8, 1976.*]

[*Oath of Office*]

SEC. 3. Members of the Legislature, and all public officers and employees, executive, legislative, and judicial, except such inferior officers and employees as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

"I, ________________, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now ad-

† Sections 10 and 15 of Article IX repealed November 5, 1974.

vocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows:

____

(If no affiliations, write in the words "No Exceptions")

and that during such time as I hold the office of______________________

(name of office)

I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means."

And no other oath, declaration, or test, shall be required as a qualification for any public office or employment.

"Public officer and employee" includes every officer and employee of the State, including the University of California, every county, city, city and county, district, and authority, including any department, division, bureau, board, commission, agency, or instrumentality of any of the foregoing. [*As amended November 4, 1952.*]

SEC. 3.5. [*Repealed November 3, 1970.*]

[*Franchises*]

SEC. 4. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee, or grantee, contracted or incurred in the operation, use, or enjoyment of such franchise, or any of its privileges. [*Former Section 7, as renumbered June 8, 1976.*]

SEC. 5. [*Repealed June 8, 1976. See Section 5, below.*]

[*Laws Concerning Corporations*]

SEC. 5. All laws now in force in this State concerning corporations and all laws that may be hereafter passed pursuant to this section may be altered from time to time or repealed. [*Former Section 24, as renumbered June 8, 1976.*]

SEC. 6. [*Renumbered Section 2 June 8, 1976. See Section 6, below.*]

[*Reduction in Legislator's Term of Office—Retirement Benefits, Etc.*]

SEC. 6. Any legislator whose term of office is reduced by operation of the amendment to subdivision (a) of Section 2 of Article IV adopted by the people in 1972 shall, notwithstanding any other provision of this Con-

stitution, be entitled to retirement benefits and compensation as if the term of office had not been so reduced. [*Former Section 25, as renumbered June 8, 1976.*]

[*Constitutional Officers—Number of Terms*]

SEC. 7. The limitations on the number of terms prescribed by Section 2 of Article IV, Sections 2 and 11 of Article V, Section 2 of Article IX, and Section 17 of Article XIII apply only to terms to which persons are elected or appointed on or after November 6, 1990, except that an incumbent Senator whose office is not on the ballot for the general election on that date may serve only one additional term. Those limitations shall not apply to any unexpired term to which a person is elected or appointed if the remainder of the term is less than half of the full term. [*New section adopted November 6, 1990. Initiative measure.*]

SEC. 8. [*Renumbered Section 21 of Article I and amended November 5, 1974.*]

SEC. 9. [*Repealed November 3, 1970.*]

SEC. 10. [*Repealed June 8, 1976.*]

SEC. 11. [*Repealed June 8, 1976.*]

SEC. 12. [*Repealed November 3, 1970.*]

SEC. 13. [*Repealed November 3, 1970.*]

SEC. 14. [*Repealed November 3, 1970.*]

SEC. 15. [*Repealed June 8, 1976.*]

SEC. 16. [*Repealed November 7, 1972.*]

SEC. 17. [*Repealed June 8, 1976.*]

SEC. 17½. [*Repealed June 8, 1976.*]

SEC. 18. [*Renumbered Section 8 of Article I and amended November 5, 1974.*]

SEC. 19. [*Repealed June 8, 1976.*]

SEC. 20. [*Repealed June 8, 1976.*]

SEC. 21. [*Repealed June 8, 1976.*]

[*Liquor Control*]

SEC. 22. The State of California, subject to the internal revenue laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the states shall have the exclusive right and power to regulate the importation into and exportation from the State, of alcoholic beverages. In the

exercise of these rights and powers, the Legislature shall not constitute the State or any agency thereof a manufacturer or seller of alcoholic beverages.

[*Licensed Premises—Types of Licenses*]

All alcoholic beverages may be bought, sold, served, consumed and otherwise disposed of in premises which shall be licensed as provided by the Legislature. In providing for the licensing of premises, the Legislature may provide for the issuance of, among other licenses, licenses for the following types of premises where the alcoholic beverages specified in the licenses may be sold and served for consumption upon the premises:

(a) For bona fide public eating places, as defined by the Legislature.

(b) For public premises in which food shall not be sold or served as in a bona fide public eating place, but upon which premises the Legislature may permit the sale or service of food products incidental to the sale and service of alcoholic beverages. No person under the age of 21 years shall be permitted to enter and remain in any such premises without lawful business therein.

(c) For public premises for the sale and service of beers alone.

(d) Under such conditions as the Legislature may impose, for railroad dining or club cars, passenger ships, common carriers by air, and bona fide clubs after such clubs have been lawfully operated for not less than one year.

[*Service or Sale to Minors*]

The sale, furnishing, giving, or causing to be sold, furnished, or giving away of any alcoholic beverage to any person under the age of 21 years is hereby prohibited, and no person shall sell, furnish, give, or cause to be sold, furnished, or given away any alcoholic beverage to any person under the age of 21 years, and no person under the age of 21 years shall purchase any alcoholic beverage.

[*Director of Alcoholic Beverage Control*]

The Director of Alcoholic Beverage Control shall be the head of the Department of Alcoholic Beverage Control, shall be appointed by the Governor subject to confirmation by a majority vote of all of the members elected to the Senate, and shall serve at the pleasure of the Governor. The director may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove the director from office for dereliction of duty or corruption or incompetency. The director may appoint three persons who shall be exempt from civil service, in addition to the person he is authorized to appoint by Section 4 of Article XXIV.

[*Department of Alcoholic Beverage Control—Powers—Duties*]

The Department of Alcoholic Beverage Control shall have the exclusive power, except as herein provided and in accordance with laws enacted by the Legislature, to license the manufacture, importation and sale of alcoholic beverages in this State, and to collect license fees or occupation taxes on account thereof. The department shall have the power, in its discretion, to deny, suspend or revoke any specific alcoholic beverages license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals, or that a person seeking or holding a license has violated any law prohibiting conduct involving moral turpitude. It shall be unlawful for any person other than a licensee of said department to manufacture, import or sell alcoholic beverages in this State.

[*Alcoholic Beverage Control Appeals Board*]

The Alcoholic Beverage Control Appeals Board shall consist of three members appointed by the Governor, subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his initial appointment, shall be a resident of a different county from the one in which either of the other members resides. The members of the board may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty or corruption or incompetency.

[*Appeals—Reviews—Reversals*]

When any person aggrieved thereby appeals from a decision of the department ordering any penalty assessment, issuing, denying, transferring, suspending or revoking any license for the manufacture, importation, or sale of alcoholic beverages, the board shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the board shall not receive evidence in addition to that considered by the department. Review by the board of a decision of the department shall be limited to the questions whether the department has proceeded without or in excess of its jurisdiction, whether the department has proceeded in the manner required by law, whether the decision is supported by the findings, and whether the findings are supported by substantial evidence in the light of the whole record. In appeals where the board finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the department it may enter an order remanding the matter to the department for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the department. When the order reverses the decision of the department, the board may direct the reconsideration of the matter in the light of its order and may direct the department to take such further action as is specially

enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the department. Orders of the board shall be subject to judicial review upon petition of the director or any party aggrieved by such order.

[*Removal of Director or Board Members*]

A concurrent resolution for the removal of either the director or any member of the board may be introduced in the Legislature only if five Members of the Senate, or 10 Members of the Assembly, join as authors.

[*Licenses—Regulation—Fees*]

Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and otherwise disposing of alcoholic beverages in bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and otherwise disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the Alcoholic Beverage Control Act, insofar as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operated for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of alcoholic beverages, shall be the amounts prescribed as of the operative date hereof, subject to the power of the Legislature to change such fees.

The State Board of Equalization shall assess and collect such excise taxes as are or may be imposed by the Legislature on account of the manufacture, importation and sale of alcoholic beverages in this State.

The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of alcoholic beverages contained in the original packages, where such alcoholic beverages are not to be consumed on the premises where sold; and may provide for the issuance of all types of licenses necessary to carry on the activities referred to in the first paragraph of this section, including, but not limited to, licenses necessary for the manufacture, production, processing, importation, exportation, transportation, wholesaling, distribution, and sale of any and all kinds of alcoholic beverages.

The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.

All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed.

The provisions of this section shall be self-executing, but nothing herein shall prohibit the Legislature from enacting laws implementing and not inconsistent with such provisions.

This amendment shall become operative on January 1, 1957. [*As amended November 6, 1956. Operative January 1, 1957.*]

[*State Colleges—Speaker, Member of Governing Body*]

SEC. 23. Notwithstanding any other provision of this Constitution, the Speaker of the Assembly shall be an ex officio member, having equal rights and duties with the nonlegislative members, of any state agency created by the Legislature in the field of public higher education which is charged with the management, administration, and control of the State College System of California. [*New section adopted November 3, 1970.*]

SEC. 24. [*Renumbered Section 5 June 8, 1976.*]

SEC. 25. [*Renumbered Section 6 June 8, 1976.*]

ARTICLE XXI*

REAPPORTIONMENT OF SENATE, ASSEMBLY, CONGRESSIONAL, AND BOARD OF EQUALIZATION DISTRICTS

[*Reapportionment Following National Census*]

SECTION 1. In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the Legislature shall adjust the boundary lines of the Senatorial, Assembly, Congressional, and Board of Equalization districts in conformance with the following standards:

[*Standards*]

(a) Each member of the Senate, Assembly, Congress, and the Board of Equalization shall be elected from a single-member district.

(b) The population of all districts of a particular type shall be reasonably equal.

(c) Every district shall be contiguous.

(d) Districts of each type shall be numbered consecutively commencing at the northern boundary of the State and ending at the southern boundary.

(e) The geographical integrity of any city, county, or city and county, or of any geographical region shall be respected to the extent possible without violating the requirements of any other subdivision of this section. [*New section adopted June 3, 1980.*]

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* New Article XXI adopted June 3, 1980.

ARTICLE XXII. [*Repealed June 6, 1972.*]

ARTICLE XXIII. [*Repealed June 8, 1976.*]

ARTICLE XXIV. [*Repealed June 8, 1976.*]

ARTICLE XXV. [*Repealed November 8, 1949. Initiative measure.*]

ARTICLE XXVI. [*Renumbered Article XIX June 8, 1976.*]

ARTICLE XXVII. [*Repealed November 3, 1970.*]

ARTICLE XXVIII. [*Repealed November 5, 1974.*]

ARTICLE XXXIV*

PUBLIC HOUSING PROJECT LAW

[*Approval of Low Rent Housing Projects by Electors*]

SECTION 1. No low rent housing project shall hereafter be developed, constructed, or acquired in any manner by any state public body until, a majority of the qualified electors of the city, town or county, as the case may be, in which it is proposed to develop, construct, or acquire the same, voting upon such issue, approve such project by voting in favor thereof at an election to be held for that purpose, or at any general or special election.

[*"Low Rent Housing Project"*]

For the purposes of this article the term ''low rent housing project'' shall mean any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise. For the purposes of this Article only there shall be excluded from the term ''low rent housing project'' any such project where there shall be in existence on the effective date hereof, a contract for financial assistance between any state public body and the Federal Government in respect to such project.

[*"Persons of Low Income"*]

For the purposes of this Article only ''persons of low income'' shall mean persons or families who lack the amount of income which is nec-

* New article adopted November 7, 1950. Initiative measure.

essary (as determined by the state public body developing, constructing, or acquiring the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

[*"State Public Body"*]

For the purposes of this Article the term ''state public body'' shall mean this State, or any city, city and county, county, district, authority, agency, or any other subdivision or public body of this State.

[*"Federal Government"*]

For the purposes of this Article the term ''Federal Government'' shall mean the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America. [*New section adopted November 7, 1950. Initiative measure.*]

[*Self-executing Provisions*]

SECTION 2. The provisions of this Article shall be self-executing but legislation not in conflict herewith may be enacted to facilitate its operation. [*New section adopted November 7, 1950. Initiative measure.*]

[*Constitutionality of Article*]

SECTION 3. If any portion, section or clause of this Article, or the application thereof to any person or circumstance, shall for any reason be declared unconstitutional or held invalid, the remainder of this Article, or the application of such portion, section or clause to other persons or circumstances, shall not be affected thereby. [*New section adopted November 7, 1950. Initiative measure.*]

[*Scope of Article*]

SECTION 4. The provisions of this Article shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith. [*New section adopted November 7, 1950. Initiative measure.*]

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LIST OF OFFICERS

1997

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Bill Jones	Secretary of State	Fresno
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Matt Fong	Treasurer	Los Angeles
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Washington, D.C. 20510
2250 E. Imperial Hwy., #545, El Segundo 90245
1700 Montgomery Street, #240, San Francisco 94111

REPRESENTATIVES IN CONGRESS

Name	Party	District	Counties	Main District Office*
Becerra, Xavier	D	30	Los Angeles	2433 Colorado Blvd. Los Angeles 90041
Berman, Howard L.	D	26	Los Angeles	14600 Roscoe Blvd., #508, Panorama City 91402
Bilbray, Brian	R	49	San Diego	1011 Camino Del Rio South, #330 San Diego 92108
Bono, Sonny	R	44	Riverside	1555 S. Palm Canyon Dr., #G101 Riverside 92264
Brown, George E.	D	42	San Bernardino	657 N. La Cadena Dr. Colton 92324
Calvert, Ken	R	43	Riverside	P.O. Box 5-1992 Riverside 92517
Campbell, Tom	R	15	Santa Clara, Santa Cruz	910 Campisi Way, Suite 1C Campbell 95008
Capps, Walter	D	22	San Luis Obispo, Santa Barbara	1411 Marsh St., #205 San Luis Obispo 93401
Condit, Gary	D	18	Fresno, Madera, Merced, San Joaquin, Stanislaus	920 13th St. Modesto 95354
Cox, Christopher C.	R	47	Orange	4000 MacArthur Blvd., #430 Newport Beach 92660
Cunningham, Randy	R	51	San Diego	13832 Mercado Dr. Del Mar 92014
Dellums, Ronald V.	D	9	Alameda	201 13th St., #105 Oakland 94612
Dixon, Julian	D	32	Los Angeles	5100 W. Goldleaf Cir., #208 Los Angeles 90056
Dooley, Calvin M.	D	20	Fresno, Kern, Kings, Tulare	711 N. Court St. Visalia 93279
Doolittle, John T.	R	4	Alpine, Amador, Calaveras, El Dorado, Mono, Placer, Sacramento, Tuolumne	2130 Professional Dr., #190 Roseville 95661
Dreier, David	R	28	Los Angeles	112 N. Second Ave. Covina 91723
Eshoo, Anna G.	D	14	San Mateo, Santa Clara	40 Isabella Ave. Atherton 94072
Farr, Sam	D	17	Monterey, San Benito, Santa Cruz	380 Alvarado Street Monterey 93940
Fazio, Vic	D	3	Butte, Colusa, Glenn, Sacramento, Solano, Sutter, Tehama, Yolo	2525 Natomas Park Dr., #330 Sacramento 95833
Filner, Bob	D	50	San Diego	P.O. Box 127868 San Diego 92112
Gallegly, Elton	R	23	Santa Barbara, Ventura	P.O. Box 3789 Simi Valley 93093
Harman, Jane	D	36	Los Angeles	One Westwind St. Marina del Rey 90292
Herger, Wally	R	2	Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Trinity, Yuba	55 Declaration Dr., #104 Chico 95926
Horn, Steve	R	38	Los Angeles	3944 Pine Ave. Long Beach 90802

REPRESENTATIVES IN CONGRESS—Continued

Name	Party	District	Counties	Main District Office*
Hunter, Duncan	R	52	Imperial, San Diego	4 The Inlet Coronado 92118
Kim, Jay C.	R	41	Los Angeles, Orange, San Bernardino	P.O. Box 4353 Diamond Bar 91765
Lantos, Tom	D	12	San Francisco, San Mateo	1230 Southdown Rd. Hillsborough 94010
Lewis, Jerry	R	40	Inyo, San Bernardino	1294 W. Sunset Dr. Redlands 92373
Lofgren, Zoe	D	16	Santa Clara	635 N. First St., San Jose 95100
Martinez, Matthew G.	D	31	Los Angeles	400 North Montebello Blvd., #100 Montebello 90640
Matsui, Robert T.	D	5	Sacramento	650 Capitol Mall, #8058 Sacramento 95814
McKeon, Howard P.	R	25	Los Angeles	18960 Soledad Cyn. Rd. Santa Clarita 91351
Millender-McDonald, Juanita	D	37	Los Angeles	322 W. Compton Blvd., #100 Compton 90220
Miller, George	D	7	Contra Costa, Solano	367 Civic Dr., #14 Pleasant Hill 94523
Packard, Ron	R	48	Orange, Riverside, San Diego	221 E. Vista Way, #205 Vista 92084
Pelosi, Nancy	D	8	San Francisco	2640 Broadway San Francisco 94115
Pombo, Richard	R	11	Sacramento, San Joaquin	2825 N. Naglee Rd. Tracy 95367
Radanovich, George	R	19	Fresno, Madera, Mariposa, Tulare	2377 W. Shaw, #105 Fresno 93711
Riggs, Frank	R	1	Del Norte, Humboldt, Lake, Mendocino, Napa, Solano, Sonora	1700 Second St., #378 Napa 94559
Rogan, James E.	R	27	Los Angeles	199 S. Los Robles Ave., #560 Pasadena 91101
Rohrabacher, Dana	R	45	Orange	16162 Beach Blvd., #304 Huntington Beach 92674
Roybal-Allard, Lucille	D	33	Los Angeles	225 E. Temple St., #1860 Los Angeles 90012
Royce, Edward	R	39	Los Angeles, Orange	305 N. Harbor Blvd., #300 Fullerton 92632
Sanchez, Loretta	D	46	Orange	12397 Lewis St., #10 Garden Grove 92640
Sherman, Brad	D	24	Los Angeles, Ventura	21031 Ventura Blvd., #1010 Woodland Hills 91364
Stark, Fortney P.	D	13	Alameda, Santa Clara	22320 Foothill Blvd., #500 Hayward 94541
Tauscher, Ellen O.	D	10	Alameda, Contra Costa	1801 N. California, #103 Walnut Creek 94596
Thomas, William M.	R	21	Kern, Tulare	P.O. Box 93301 Bakersfield 93301
Torres, Esteban E.	D	34	Los Angeles	8819 Whittier Blvd. Pico Rivera 90660
Waters, Maxine	D	35	Los Angeles	4509 S. Broadway Los Angeles 90037
Waxman, Henry A.	D	29	Los Angeles	8436 W. 3rd St., #600 Los Angeles 90048
Woolsey, Lynn	D	6	Marin, Sonoma	1301 Redwood Way, #205 Petaluma 94954

* During Sessions of Congress, mail for Members of the Senate may be addressed: Senate Office Building, Washington, D.C. 20510, and Members of the House of Representatives: House Office Building, Washington, D.C. 20515.

THE STATE LEGISLATURE

MEMBERS OF THE SENATE

Name	Occupation	Party	Dist.	Counties	District Address
Alpert, Dede	Full-time Legislator	D	39	San Diego	1557 Columbia St., San Diego 92101. Ph: (619) 645-3090
Ayala, Ruben S.	Insurance	D	32	Los Angeles, San Bernardino	9620 Center Ave., Suite 100, Rancho Cucamonga 91730 Ph: (909) 466-6882
Brulte, James L.	Full-time Legislator	R	31	Riverside, San Bernardino	10681 Foothill Blvd., Suite 325, Rancho Cucamonga 91730. Ph: (909) 466-9096
Burton, John L.	Attorney	D	3	Marin, San Francisco, Sonoma	601 Van Ness Ave., Suite 2030, San Francisco 94102 Ph: (415) 447-1240; 3501 Civic Center, Room 425, San Rafael 94903. Ph: (415) 479-6612
Calderon, Charles M.	Attorney	D	30	Los Angeles	400 N. Montebello Blvd., #101, Montebello 90640 Ph: (213) 724-6175
Costa, Jim	Full-time Legislator	D	16	Fresno, Kern, Kings, Madera, Tulare	2550 Mariposa Mall, Suite 2016, Fresno 93721. Ph: (209) 264-3078; 901 Tower Way, Suite 202, Bakersfield 93309. Ph: (805) 323-0442
Craven, William A.	Full-time Legislator	R	38	Orange, San Diego	2121 Palomar Airport Rd., Suite 100, Carlsbad 92009 Ph: (760) 438-3814
Dills, Ralph C.	Full-time Legislator	D	28	Los Angeles	16921 S. Western Ave., Suite 101, Gardena 90247. Ph: (310) 324-4969
Greene, Leroy F.	Civil Engineer	D	6	Sacramento	P.O. Box 254646, Sacramento 95825
Hayden, Tom	Teacher/Writer	D	23	Los Angeles	10951 W. Pico Blvd., #202, Los Angeles 90064
Haynes, Ray	Businessman/ Attorney	R	36	Riverside, San Diego	6840 Indiana Ave., Suite 275, Riverside 92506. Ph: (909) 782-4111
Hughes, Teresa	Education-Professor	D	25	Los Angeles	1 Manchester Blvd., Suite 600, Inglewood 90301
Hurtt, Rob	Businessman	R	34	Orange	11642 Knott St., Suite 8, Garden Grove 92841. Ph: (714) 898-8353
Johannessen, Maurice	Businessman	R	4	Butte, Colusa, Glenn, Sacramento, Shasta, Siskiyou, Solano, Sutter, Tehama, Trinity, Yolo	410 Hemsted Dr., Suite 200, Redding 96002. Ph: (916) 224-4706
Johnson, Ross	Full-time Legislator	R	35	Orange	18552 MacArthur Blvd., Suite 395, Irvine 92614 Ph: (949) 833-0180
Johnston, Patrick	Full-time Legislator	D	5	Sacramento, San Joaquin	1020 N St., Suite 504, Sacramento 95814; 31 East Channel St., Room 440, Stockton 95202
Karnette, Betty	Businesswoman/ Teacher	D	27	Los Angeles	3711 Long Beach Blvd., Suite 801, Long Beach 90807. Ph: (562) 997-0794
Kelley, David G.	Citrus Rancher	R	37	Imperial, Riverside, San Diego	11440 W. Bernardo Court, Suite 104, San Diego 92127. Ph: (619) 675-8211; 73-710 Fred Waring Drive, Suite 108, Palm Desert 92260. Ph: (760) 346-2099

MEMBERS OF THE SENATE—Continued

Name	Occupation	Party	Dist.	Counties	District Address
Knight, Wm. “Pete”	Full-time Legislator........	R	17	Inyo, Kern, Los Angeles, San Bernardino............	1008 W. Avenue M-14, Suite G, Palmdale 93551. Ph: (805) 274-0188; 25709 Rye Canyon Road, Suite 105, Santa Clarita 91355 Ph: (805) 294-8184; 15278 Main Street, Suite D, Hesperia 92345. Ph: (760) 244-2402; 128 East California Avenue, Suite A, P.O. Box 1844, Ridgecrest 93556. Ph: (760) 371-1640
Kopp, Quentin L.	Attorney at Law	I	8	San Francisco, San Mateo	2171 Junipero Serra Blvd., Suite 530, Daly City 94014. Ph: (415) 301-1721
Lee, Barbara	Full-time Legislator........	D	9	Alameda, Contra Costa.....................	1970 Broadway, Suite 1030, Oakland 94612
Leslie, Tim	Realtor...............	R	1	Alpine, Amador, Butte, Calaveras, El Dorado, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sierra, Yuba	1200 Melody Lane, Suite 110, Roseville 95678. Ph: (916) 969-8232, (916) 783-8232; 330 Fair Lane, Placerville 95667. Ph: (530) 621-3891
Lewis, John R.	Businessman	R	33	Orange.....................	1940 W. Orangewood Ave., Suite 106, Orange 92668. Ph: (714) 939-0604. Fax: (714) 939-0730
Lockyer, Bill	Full-time Legislator........	D	10	Alameda, Santa Clara.....................	22634 Second St., Suite 104, Hayward 94541
Maddy, Ken	Attorney	R	14	Fresno, Kern, Tulare	2503 West Shaw Ave., Suite 101, Fresno 93711; 841 Mohawk St., Ste. 190, Bakersfield 93309
McPherson, Bruce ..	Businessman	R	15	Monterey, San Benito, Santa Clara, Santa Cruz .	701 Ocean St., Room 318A, Santa Cruz 95060; 7 John Street, Salinas 93901
Monteith, Dick	Agriculture/ Businessman...	R	12	Fresno, Madera, Mariposa, Merced, San Joaquin, Stanislaus, Tuolumne	1620 N. Carpenter Road, Suite A-4, Modesto 95358 Ph: (209) 577-6592; 777 W. 22nd St., Suite B, Merced 95340. Ph: (209) 722-4988; 1901 Howard Road, Suite B, Madera, 93637. Ph: (209) 674-2898
Mountjoy, Richard ..	Contractor	R	29	Los Angeles.............	500 N. First Ave., Suite 3, Arcadia 91006. Ph: (818) 446-3134
O’Connell, Jack	Teacher..............	D	18	San Luis Obispo, Santa Barbara, Ventura	228 W. Carrillo, Suite F, Santa Barbara 93101. Ph: (805) 966-2296; 89 S. Calif., Suite E, Ventura 93001. Ph: (805) 641-1500; 1260 Chorro St., Suite A, San Luis Obispo 93401 Ph: (805) 547-1800
Peace, Steve	Financial Officer	D	40	San Diego................	7877 Parkway Dr., Suite 1B, La Mesa 91942. Ph: (619) 463-0243
Polanco, Richard.....	Full-time Legislator........	D	22	Los Angeles.............	300 S. Spring St., Suite 8710, Los Angeles 90013. Ph: (213) 620-2529

MEMBERS OF THE SENATE—Continued

Name	Occupation	Party	Dist.	Counties	District Address
Rainey, Richard K. .	Full-time Legislator........	R	7	Alameda, Contra Costa....................	1948 Mt. Diablo Blvd., Walnut Creek 94596. Ph: (510) 280-0276. Fax: (510) 280-0299
Rosenthal, Herschel	Full-time Legislator........	D	20	Los Angeles............	6150 Van Nuys Blvd., Suite 400, Van Nuys 91401. Ph: (818) 901-5588
Schiff, Adam B.	Full-time Legislator........	D	21	Los Angeles............	35 South Raymond Avenue, Suite 205, Pasadena 91105 Ph: (626) 683-0282
Sher, Byron	Law Professor ...	D	11	San Mateo, Santa Clara	260 Main Street, Suite 201, Redwood City 94063 Ph: (415) 364-2080; 5589 Winfield Blvd., Suite 102, San Jose 95123. Ph: (408) 226-2992
Solis, Hilda L.	Full-time Legislator........	D	24	Los Angeles............	4401 Santa Anita Avenue, 2nd Floor, El Monte 91731 Ph: (818) 448-1271
Thompson, Mike	Full-time Representative	D	2	Del Norte, Humboldt, Lake, Mendocino, Napa, Solano, Sonoma ...	1040 Main St., Suite 101, Napa 94559. Ph: (707) 224-1990; 50 D St., Suite 120A, Santa Rosa 95404 Ph: (707) 576-2771; 317 3rd St., Suite 6, Eureka 95501. Ph: (707) 445-6508; P.O. Box 2208, Fort Bragg 95437. Ph: (707) 962-0933
Vasconcellos, John ..	Attorney	D	13	Santa Clara	100 Paseo de San Antonio, Suite 209, San Jose 95113. Ph: (408) 286-8318
Watson, Diane	Educator-School Psychologist ...	D	26	Los Angeles............	4401 Crenshaw Blvd., Suite 300, Los Angeles 90043 Ph: (213) 295-6656
Wright, Cathie	Full-time Legislator........	R	19	Los Angeles, Ventura	2345 Erringer Rd., Suite 212, Simi Valley 93065

OFFICERS AND ATTACHÉS OF THE SENATE

Title	Name	Capitol Office
President of Senate.....................................	Gray Davis	1114 State Capitol
President pro Tempore	Bill Lockyer	205 State Capitol
Secretary of Senate	Gregory Schmidt	3044 State Capitol
Sergeant at Arms	Tony Beard	3030 State Capitol
Chaplain	Rev. Deacon Walter J. Little III..................	3044 State Capitol
Chief Assistant Secretary	John W. Rovane IV	3044 State Capitol
Minute Clerk	Walter J. Little III..	3044 State Capitol
History Clerk..	David H. Kneale..	3044 State Capitol
Assistant Secretary.....................................	Steve Hummelt..	3044 State Capitol
File Clerk	Carl Bomar	3044 State Capitol
Engrossing and Enrolling Clerk..................	Marie Harlan	B30 State Capitol

MEMBERS OF THE ASSEMBLY

Name	Occupation	Party	Dist.	Capitol Office	Counties	District Office Mailing Address
Ackerman, Dick	Business Lawyer	R	72	4167	Orange	305 N. Harbor Blvd., Suite 303, Fullerton 92832
Aguiar, Fred	Legislator/ Businessman	R	61	5135	Los Angeles, San Bernardino	304 West F Street, Ontario 91762
Alby, Barbara	Businesswoman	R	5	3098	Sacramento	4811 Chippendale Drive, Suite 501, Sacramento 95841
Alquist, Elaine	Businesswoman/ Educator	D	22	5144	Santa Clara	275 Saratoga Avenue, Suite 205, Santa Clara 95050
Aroner, Dion	State Social Services Specialist	D	14	2163	Alameda, Contra Costa	918 Parker Street, Berkeley 94710
Ashburn, Roy	Legislator	R	32	6031	Kern, Tulare	1200 Truxtun Avenue, #120, Bakersfield 93301
Baca, Joe	Businessman/ Legislator	D	62	3120	San Bernardino	201 North E Street, Suite 102, San Bernardino 92401
Baldwin, Steve	Property Management	R	77	2002	San Diego	8419 La Mesa Boulevard, Suite B, La Mesa 91941
Battin, Jim	Businessman	R	80	2175	Imperial, Riverside	73-710 Fred Waring Drive, Suite 112, Palm Desert 92260
Baugh, Scott	Corporate Counsel	R	67	4177	Orange	16052 Beach Blvd., Suite 160, Huntington Beach 92647
Bordonaro, Jr., Tom J.	Farmer/ Businessman	R	33	2176	San Luis Obispo, Santa Barbara	1065 Higuera Street, Suite 200, San Luis Obispo 93401
Bowen, Debra	Public Law Attorney	D	53	4112	Los Angeles	18411 Crenshaw Boulevard, Suite 280, Torrance 90504
Bowler, Larry	Retired Sheriff's Lieutenant	R	10	2111	Sacramento, San Joaquin	10370 Old Placerville Road, Suite 106, Sacramento 95827
Brewer, Marilyn C.	Manufacturing Businesswoman	R	70	2016	Orange	18952 MacArthur Boulevard, Suite 220, Irvine 92612
Brown, Valerie	Educator/ Businesswoman	D	7	3013	Napa, Solano, Sonoma	50 D Street, Suite 301, Santa Rosa 95404
Bustamante, Cruz M.	Full-time Legislator	D	31	5016	Fresno, Tulare	2550 Mariposa Mall, Room 5006, Fresno 93721
Caldera, Louis	Attorney	D	46	2148	Los Angeles	304 South Broadway, Suite 210, Los Angeles 90013
Campbell, Bill	Businessman/ Legislator	R	71	5126	Orange	1940 N. Tustin, #102, Orange 92865
Cardenas, Tony	Businessman/ Engineer	D	39	3126	Los Angeles	9140 Van Nuys Blvd., Suite 109, Panorama City 91402
Cardoza, Dennis	Businessman	D	26	2141	Merced, San Joaquin, Stanislaus	384 East Olive, Suite 2, Turlock 95380
Cunneen, Jim	Legislator/ Small Businessman	R	24	2174	Santa Clara, Santa Cruz	901 Campisi Way, Suite 300, Campbell 95008
Davis, Susan	Full-time Legislator	D	76	2013	San Diego	1010 University Avenue, Suite C-207, San Diego 92103
Ducheny, Denise Moreno	Attorney	D	79	6026	San Diego	2414 Hoover Avenue, Suite A, National City 91950
Escutia, Martha M.	Attorney	D	50	3146	Los Angeles	2650 Zoe Avenue, Suite 2A, Huntington Park 90255

MEMBERS OF THE ASSEMBLY—Continued

Name	Occupation	Party	Dist.	Capitol Office	Counties	District Office Mailing Address
Figueroa, Liz	Businesswoman	D	20	448	Alameda, Santa Clara	43271 Mission Boulevard, Fremont 94539
Firestone, Brooks	Farmer	R	35	2158	Santa Barbara, Ventura	101 West Anapamu Street, Suite A, Santa Barbara 93101
Floyd, Richard	Legislator	D	55	4016	Los Angeles	One Civic Plaza, Suite 320, Carson 90745
Frusetta, Peter	Rancher	R	28	5175	Monterey, San Benito, Santa Clara, Santa Cruz	321 First Street, Suite A, Hollister 95023
Gallegos, Martin	Doctor of Chiropractic	D	57	6005	Los Angeles	13177 Ramona Boulevard, Suite G, Irwindale 91706
Goldsmith, Jan	Full-time Legislator	R	75	4162	San Diego	12307 Oak Knoll Road, Suite A, Poway 92064
Granlund, Brett	Businessman	R	65	4164	Riverside, San Bernardino	34932 Yucaipa Boulevard, Yucaipa 92399
Havice, Sally	Legislator	D	56	5150	Los Angeles	17100 Pioneer Boulevard, Suite 290, Artesia 90701
Hertzberg, Robert M.	Attorney/Small Businessman	D	40	320	Los Angeles	6150 Van Nuys Blvd., Suite #305, Van Nuys 91401
Honda, Mike	Legislator	D	23	5155	Santa Clara	100 Paseo de San Antonio, #300, San Jose 95113
House, George	Farmer	R	25	3141	Fresno, Madera, Mariposa, Stanislaus, Tuolumne	3600 Sisk Road, Suite 5-D3, Modesto 95356
Kaloogian, Howard	Tax/Trust Attorney	R	74	4130	San Diego	701 Palomar Airport Road, Suite 160, Carlsbad 92009
Keeley, Fred	Legislator	D	27	4139	Monterey, Santa Cruz	701 Ocean Street, Suite 318 B, Santa Cruz 95060
Knox, Wally	Attorney	D	42	6025	Los Angeles	5757 Wilshire Boulevard, Suite 645, Los Angeles 90036
Kuehl, Sheila James	Full-time Legislator	D	41	3160	Los Angeles	16130 Ventura Boulevard, Suite 230, Encino 91436
Kuykendall, Steven T.	Legislator/ Businessman	R	54	5158	Los Angeles	444 West Ocean Boulevard, Suite 707, Long Beach 90802
Leach, Lynne C.	Small Business Owner	R	15	4015	Alameda, Contra Costa	800 South Broadway, Suite 304, Walnut Creek 94596
Lempert, Ted	Full-time Legislator	D	21	2188	San Mateo, Santa Clara	4149 El Camino Way, Suite B, Palo Alto 94306
Leonard, Bill	Legislator/ Businessman	R	63	2130	San Bernardino	10535 Foothill Boulevard, Suite 276, Rancho Cucamonga 91730
Machado, Mike	Farmer/ Businessman	D	17	5136	San Joaquin	31 East Channel Street, Suite 306, Stockton 95202
Margett, Bob	Businessman	R	59	4144	Los Angeles	55 East Huntington Drive, Suite 120, Arcadia 91006
Martinez, Diane	Full-time Legislator	D	49	2117	Los Angeles	205 S. Chapel Avenue, Suite B, Alhambra 91801

MEMBERS OF THE ASSEMBLY—Continued

Name	Occupation	Party	Dist.	Capitol Office	Counties	District Office Mailing Address
Mazzoni, Kerry ...	Legislator/ Businesswoman	D	6	3123	Marin, Sonoma........	3501 Civic Center Drive, Suite 335, San Rafael 94903
McClintock, Tom	Budget Reduction Analyst	R	38	4153	Los Angeles, Ventura	10727 White Oak Avenue, Suite 124, Granada Hills 91344
Migden, Carole ...	Full-time Legislator..........	D	13	2114	San Francisco..........	1388 Sutter Street, Suite 710, San Francisco 94104
Miller, Gary G. ...	Developer...........	R	60	4009	Los Angeles.............	17870 Castleton Street, Suite 205, City of Industry 91748
Morrissey, Jim	Small Businessman.....	R	69	3147	Orange....................	930 West 17th Street, Suite C, Santa Ana 92706
Morrow, Bill	Attorney	R	73	5164	Orange, San Diego ..	27126-A Paseo Espada, Suite 1625, San Juan Capistrano 92675
Murray, Kevin	Full-time Legislator..........	D	47	4126	Los Angeles.............	600 Corporate Pointe, Suite 1020, Culver City 90230
Napolitano, Grace F.	Full-time Legislator..........	D	58	4005	Los Angeles.............	10100 Pioneer Boulevard, Suite 107, Santa Fe Springs 90607
Olberg, Keith	Businessman	R	34	4117	Inyo, Kern, San Bernardino.....	14011 Park Avenue, Suite 470, Victorville 92392
Oller, Thomas 'Rico'..............	Business Owner ..	R	4	4116	Alpine, Amador, Calaveras, El Dorado, Mono, Placer...................	2999 Douglas Boulevard, Suite 120, Roseville 95661
Ortiz, Deborah	Full-time Legislator..........	D	9	2148	Sacramento.............	1215 15th Street, Suite 120, Sacramento 95814
Pacheco, Rod	Sr. Deputy District Attorney............	R	64	3104	Riverside	6840 Indiana Avenue, Suite 150, Riverside 92506
Papan, Louis J.	Entrepreneur/ Legislator..........	D	19	3173	San Mateo	660 El Camino Real, Suite 214, Millbrae 94030
Perata, Don	Teacher................	D	16	3152	Alameda	299 Third Street, Suite 100, Oakland 94607
Poochigian, Charles	Attorney	R	29	4102	Inyo, Kern, San Bernardino............	4974 East Clinton Way, Suite 100, Fresno 93727
Prenter, Robert	Legislator	R	30	4017	Fresno, Kern, Kings, Madera	800 N. Irwin Street, Hanford 93230
Pringle, Curt	Small Businessman.....	R	68	2179	Orange....................	12865 Main Street, Suite 100, Garden Grove 92840
Richter, Bernie	Full-time Legislator..........	R	3	2137	Butte, Lassen, Modoc, Nevada, Plumas, Sierra, Yuba	460 W. East Avenue, Suite 120, Chico 95926
Runner, George ...	Businessman/ Educator/ Legislator..........	R	36	6027	Los Angeles.............	709 W. Lancaster Boulevard, Lancaster 93534
Scott, Jack	Legislator/ Professor...........	D	44	2196	Los Angeles.............	215 N. Marengo Avenue, Suite 279, Pasadena 91101
Shelley, Kevin	Legislator	D	12	3091	San Francisco, San Mateo	711 Van Ness Avenue, Suite 310, San Francisco 94102

MEMBERS OF THE ASSEMBLY—Continued

Name	Occupation	Party	Dist.	Capitol Office	Counties	District Office Mailing Address
Strom-Martin, Virginia	Legislator	D	1	4098	Del Norte, Humboldt, Lake, Mendocino, Sonoma................	510 O Street, Suite G, Eureka 95501
Sweeney, Michael	Teacher	D	18	4146	Alameda	22320 Foothill Blvd., Suite 130, Hayward 94541
Takasugi, Nao	Businessman/ Legislator..........	R	37	5160	Ventura	221 East Daily Drive, Suite 7, Camarillo 93010
Thompson, Bruce	International Businessman.....	R	66	2160	Riverside, San Diego	27555 Ynez Road, Suite 205, Temecula 92591
Thomson, Helen .	Legislator/Nurse..	D	8	4140	Sacramento, Solano, Yolo	555 Mason Street, Suite 275, Vacaville 95688
Torlakson, Tom ...	Educator	D	11	2003	Contra Costa...........	815 Estudillo Street, Martinez 94553
Villaraigosa, Antonio R.	Union Representative ..	D	45	219	Los Angeles............	1910 Sunset Boulevard, Suite 500, Los Angeles 90026
Vincent, Edward .	Legislator	D	51	5119	Los Angeles............	1 Manchester Blvd., Suite 601, P.O. Box 6500, Inglewood 90306
Washington, Carl	Legislator	D	52	2136	Los Angeles............	145 E. Compton Boulevard, Compton 90220
Wayne, Howard ..	Prosecutor	D	78	2170	San Diego...............	1350 Front Street, Suite 6013, San Diego 92101
Wildman, Scott ...	Legislator	D	43	4158	Los Angeles............	300 W. Glenoaks Boulevard, Suite 202, Glendale 91202
Woods, Tom	Businessman	R	2	6011	Butte, Colusa, Glenn, Shasta, Siskiyou, Sutter, Tehama, Trinity, Yolo	100 East Cypress Avenue, Suite 100, Redding 96002
Wright, Roderick	Legislator	D	48	6012	Los Angeles............	700 State Drive, Suite 103, Los Angeles 90037

OFFICERS OF THE ASSEMBLY

Name	Title	Mailing Address
Bustamante, Cruz M.	Speaker..........................	2550 Mariposa, Suite 5006, Fresno 93721
Kuehl, Sheila James	Speaker pro Tempore	16130 Ventura Boulevard, Suite 230, Encino 91436
Villaraigosa, Antonio R.	Majority Floor Leader....	1910 Sunset Boulevard, Suite 500, Los Angeles 90026
Pringle, Curt L.	Minority Floor Leader....	12865 Main Street, Suite 100, Garden Grove 92640
Wilson, E. Dotson	Chief Clerk....................	State Capitol, Room 3196, Sacramento 95814
Pane, Ronald E..............	Sergeant-at-Arms	State Capitol, Room 3171, Sacramento 95814

STATE JUDICIAL DEPARTMENT

SUPREME COURT JUSTICES AND OFFICERS

Terms of Court

Sessions of Court are held at San Francisco, Los Angeles and Sacramento

JUSTICES

Hon. Ronald M. George .... Chief Justice
Hon. Stanley Mosk .... Associate Justice
Hon. Kathryn M. Werdegar .... Associate Justice
Hon. Joyce L. Kennard .... Associate Justice
Hon. Ming W. Chin .... Associate Justice
Hon. Marvin R. Baxter .... Associate Justice
Hon. Janice Rogers Brown .... Associate Justice
Robert F. Wandruff .... Clerk/Administrator

COURTS OF APPEAL

FIRST APPELLATE DISTRICT

Division One

Hon. Gary E. Strankman .... Presiding Justice
Hon. Douglas R. Swager .... Associate Justice
Hon. Robert Dossee .... Associate Justice
Hon. William D. Stein .... Associate Justice

Division Two

Hon. J. Anthony Kline .... Presiding Justice
Hon. James Lambden .... Associate Justice
Hon. Paul R. Haerle .... Associate Justice
Hon. Ignazio J. Ruvolo .... Associate Justice

Division Three

Hon. Michael Phelan .... Presiding Justice
Hon. Joanne C. Parrilli .... Associate Justice
Hon. Herbert Walker .... Associate Justice
Hon. Carol A. Corrigan .... Associate Justice

Division Four

Hon. William R. McGuiness .... Presiding Justice
Hon. Marcel B. Poche .... Associate Justice
Hon. Timothy Reardon .... Associate Justice
Hon. Daniel M. Hanlon .... Associate Justice

Division Five

Hon. J. Clinton Peterson .... Presiding Justice
Hon. Barbara J.R. Jones .... Associate Justice
Hon. Zerne P. Haning .... Associate Justice
Ron D. Barrow .... Clerk

303 Second Street, Suite 600, Marathon Plaza—South Tower, San Francisco 94107

SECOND APPELLATE DISTRICT

Division One

Hon. Vaino Spencer .... Presiding Justice
Hon. Miriam A. Vogel .... Associate Justice
Hon. William A. Masterson .... Associate Justice
Hon. Reuben A. Ortega .... Associate Justice

300 So. Spring St., Los Angeles 90013

Division Two

Hon. Roger Boren .... Presiding Justice
Hon. Michael G. Nott .... Associate Justice
Hon. John Zebrowski .... Associate Justice
Hon. Morio L. Fukuto .... Associate Justice

300 So. Spring St., Los Angeles 90013

DIVISION THREE

Hon. Joan D. Klein....................Presiding Justice
Hon. Richard D. Aldrich....................Associate Justice
Hon. H. Walter Croskey....................Associate Justice
Hon. Patti Kitching....................Associate Justice

300 So. Spring St., Los Angeles 90013

DIVISION FOUR

Hon. Charles Vogel....................Presiding Justice
Hon. Norman L. Epstein....................Associate Justice
Hon. J. Gary Hastings....................Associate Justice
Hon. Elizabeth A. Baron....................Associate Justice

300 So. Spring St., Los Angeles 90013

DIVISION FIVE

Hon. Paul R. Turner....................Presiding Justice
Hon. Orville A. Armstrong....................Associate Justice
Hon. Margaret Grignon....................Associate Justice
Hon. Ramona Godoy Perez....................Associate Justice

300 So. Spring St., Los Angeles 90013

DIVISION SIX

Hon. Steven Stone....................Presiding Justice
Hon. Arthur Gilbert....................Associate Justice
Hon. Kenneth R. Yegan....................Associate Justice
Hon. Paul H. Coffee....................Associate Justice

200 East Santa Clara St., Ventura 93001

DIVISION SEVEN

Hon. Mildred L. Lillie....................Presiding Justice
Hon. Earl Johnson....................Associate Justice
Hon. Fred Woods....................Associate Justice
Hon. Richard C. Neal....................Associate Justice
Joseph Lane....................Clerk

300 So. Spring St., Los Angeles 90013

THIRD APPELLATE DISTRICT

Hon. Robert K. Puglia....................Presiding Justice
Hon. Coleman A. Blease....................Associate Justice
Hon. Connie M. Callahan....................Associate Justice
Hon. Richard M. Sims III....................Associate Justice
Hon. Rodney Davis....................Associate Justice
Hon. Arthur G. Scotland....................Associate Justice
Hon. George W. Nicholson....................Associate Justice
Hon. Vance W. Raye....................Associate Justice
Hon. Fred K. Morrison....................Associate Justice
Vacancy....................Associate Justice
Robert L. Liston....................Clerk

914 Capitol Mall, Room 100, Sacramento 95814

FOURTH APPELLATE DISTRICT

DIVISION ONE

Hon. Daniel J. Kremer....................Presiding Justice
Hon. Judith L. Haller....................Associate Justice
Hon. Don R. Work....................Associate Justice
Hon. Alex C. McDonald....................Associate Justice
Hon. Patricia D. Benke....................Associate Justice
Hon. Richard D. Huffman....................Associate Justice
Hon. James McIntyre....................Associate Justice
Hon. Gilbert Nares....................Associate Justice
Stephen M. Kelly....................Clerk

750 B St., Suite 300, San Diego 92101

DIVISION TWO

Hon. Manuel A. Ramirez .... Presiding Justice
Hon. Barton C. Gant .... Senior Justice
Hon. Thomas E. Hollenhorst........ Associate Justice
Hon. Betty Ann Richli........ Associate Justice
Hon. Art W. McKinster .... Associate Justice
Hon. James Ward .... Associate Justice
Stephen M. Kelly .... Clerk

303 W. Fifth St., San Bernardino 92401

DIVISION THREE

Hon. David G. Sills........ Presiding Justice
Hon. Thomas F. Crosby .... Associate Justice
Hon. Edward J. Wallin .... Associate Justice
Hon. Sheila Prell Sonenshine........ Associate Justice
Hon. William F. Rylaarsdam........ Associate Justice
Hon. William Bedsworth........ Associate Justice
Stephen M. Kelly .... Clerk

925 No. Spurgeon St., Santa Ana 92701

FIFTH APPELLATE DISTRICT

Hon. James A. Ardaiz........ Presiding Justice
Hon. Herbert Levy .... Associate Justice
Hon. William A. Stone .... Associate Justice
Hon. Nickolas J. Dibiaso .... Associate Justice
Hon. Steven M. Vartabedian .... Associate Justice
Hon. James F. Thaxter........ Associate Justice
Hon. Thomas A. Harris .... Associate Justice
Hon. Timothy S. Buckley........ Associate Justice
Hon. Rebecca Wiseman .... Associate Justice
Eve Sproule .... Clerk

2525 Capitol Street, Fresno 93721

SIXTH APPELLATE DISTRICT

Hon. Christopher C. Cottle .... Presiding Justice
Hon. Patricia Bamattre-Manoukian .... Associate Justice
Hon. Franklin D. Elia........ Associate Justice
Hon. Eugene M. Premo........ Associate Justice
Hon. William M. Wunderlich........ Associate Justice
Hon. Nathan D. Mihara........ Associate Justice
Michael J. Yerly........ Clerk

333 West Santa Clara Street, Suite 1060, San Jose 95113

PUBLIC UTILITIES COMMISSION

P. Gregory Conlon........ President
Richard A. Bilas .... Commissioner
Jessie J. Knight........ Commissioner
Henry M. Duque .... Commissioner
Josiah L. Neeper........ Commissioner
Wesley Franklin........ Executive Director

WORKERS' COMPENSATION APPEALS BOARD

Diana Marshall........ Chairperson
Robert N. Ruggles........ Member
Arlene Heath .... Member
Jane Wiegand .... Member
Richard (Dick) Gannon........ Member
Colleen Casey .... Member
Douglas Moore........ Member

TABLE OF LAWS ENACTED

TABLE OF RESOLUTIONS ADOPTED BY THE LEGISLATURE

1997

1997–98 REGULAR SESSION

1997–98 FIRST EXTRAORDINARY SESSION

TABLE OF LAWS ENACTED

1997

1997–98 Regular Session

Ch. No.	A.B. No.	S.B. No.	Author
1	18	—	Mazzoni and Pringle (Principal coauthors: Assembly Members Davis and Knox) (Coauthors: Assembly Members Baca, Brown, Cunneen, Kuehl, Machado, Sweeney, Torlakson, and Villaraigosa) (Coauthors: Senators McPherson, Sher, Solis, Vasconcellos, and Watson)
2	—	20	Maddy
3	—	21	Lockyer
4	—	181	Kopp and Burton (Principal coauthors: Assembly Members Migden and Shelley)
5	74	—	Bowler
6	—	131	Kopp
7	—	39	Johannessen (Coauthor: Senator O'Connell)
8	—	23	Johnson
9	—	350	Lee and Assembly Member Davis (Principal coauthors: Senators Lockyer, Solis, Thompson, and Vasconcellos) (Principal coauthors: Assembly Members Migden and Shelley) (Coauthor: Senator Polanco) (Coauthors: Assembly Members Baca, Cardenas, Goldsmith, Kuehl, Napolitano, Perata, Prenter, Sweeney, Thomson, and Villaraigosa)
10	169	—	Bordonaro
11	—	1	Burton (Coauthors: Senators Hurtt and Johnson) (Coauthors: Assembly Members Baugh, Granlund, and Woods)
12	—	69	Burton
13	—	449	Sher
14	239	—	Ortiz
15	—	84	Ayala (Coauthors: Assembly Members Miller and Murray)
16	—	191	Ayala
17	—	947	Committee on Judiciary (Senators Burton (Chair), Calderon, Lee, Leslie, Lockyer, O'Connell, Sher, and Wright)
18	—	115	Burton (Principal coauthor: Assembly Member Alby) (Coauthor: Senator Karnette) (Coauthor: Assembly Member Knox)
19	249	—	Cunneen
20	710	—	Kuehl
21	114	—	Battin (Principal coauthor: Assembly Member Baca)
22	163	—	Baugh (Principal coauthors: Senators Mountjoy, Burton, and Johannessen) (Coauthors: Assembly Members Baldwin, Bordonaro, Campbell, Escutia, Goldsmith, House, Kuehl, Leach, Leonard, Margett, Migden, Miller, Morrissey, Oller, Perata, Richter, Runner, Villaraigosa, Washington, and Woods) (Coauthors: Senators Haynes, Johnson, and Knight)
23	979	—	Leach (Principal coauthor: Senator Rainey)
24	1536	—	Wright
25	1603	—	Bustamante (Principal coauthor: Assembly Member Villaraigosa) (Coauthors: Assembly Members Aroner, Brown, Cardoza, Escutia, Honda, Knox, Kuehl, Lempert, Mazzoni, Ortiz, Scott, Shelley, Sweeney, Washington, and Wayne)
26	973	—	Papan
27	1562	—	Committee on Budget (Assembly Members Ducheny (Chair), Miller (Vice Chair), Bowen, Brown, Cardenas, Davis, Escutia, Figueroa, Gallegos, Keeley, Knox, Lempert, Scott, Strom-Martin, Torlakson, Villaraigosa, and Wright)
28	—	203	Lewis
29	700	—	Alby
30	—	1261	Sher (Principal coauthor: Assembly Member Torlakson) (Coauthors: Senators Lee, O'Connell, and Rainey) (Coauthors: Assembly Members Davis, Leach, Mazzoni, Napolitano, and Woods)
31	—	349	McPherson
32	1164	—	Wright (Coauthor: Senator Calderon)
33	1398	—	Oller
34	728	—	Bowler
35	1448	—	Committee on Labor and Employment (Floyd (Chair), Escutia, Havice, Knox, Martinez, Migden, and Washington)
36	—	197	Craven
37	1380	—	Ashburn (Principal coauthor: Senator Burton)
38	—	919	Rainey
39	150	—	Alby
40	315	—	Granlund
41	485	—	Papan
42	—	257	Lee (Principal coauthor: Senator Thompson) (Coauthors: Senators Costa, Monteith, Rainey, Solis, Vasconcellos, and Watson) (Coauthors: Assembly Members Goldsmith, Migden, Ortiz, McClintock, Torlakson, Vincent, Scott, Washington, and Wright)
43	—	419	Karnette
44	1272	—	Pacheco
45	—	344	Monteith (Principal coauthor: Assembly Member House)
46	463	—	Machado
47	211	—	Baca
48	340	—	Alby
49	359	—	House (Coauthors: Assembly Members Prenter and Richter) (Coauthor: Senator Costa)
50	669	—	Wright
51	769	—	Baugh
52	1097	—	Committee on Governmental Organization
53	1502	—	Campbell
54	281	—	Hertzberg
55	943	—	Washington (Coauthors: Assembly Members Hertzberg, Vincent, and Wright)
56	1098	—	Ortiz
57	—	456	Lewis
58	—	1318	Polanco (Principal coauthor: Assembly Member Villaraigosa) (Coauthors: Assembly Members Alquist, Caldera, Honda, Lempert, Scott, Washington, and Wayne)
59	157	—	Villaraigosa (Principal coauthor: Assembly Member Kuehl) (Coauthors: Assembly Members Brown, Cunneen, Firestone, Gallegos, Keeley, Knox, Lempert, Mazzoni, Migden, Napolitano, Perata, Shelley, Thomson, and Washington) (Coauthors: Senators Calderon, Lee, Sher, Vasconcellos, and Watson)
60	286	—	Honda
61	729	—	Bowler
62	1160	—	Shelley (Principal coauthor: Senator Johnston) (Coauthors: Assembly Members Cardoza, Lempert, Leonard, Machado, Washington, and Wayne)
63	1165	—	Richter
64	1365	—	Ashburn
65	—	26	Maddy
66	—	98	Haynes (Coauthors: Assembly Members Ashburn, Bowler, Brewer, Granlund, Margett, Miller, and Runner)
67	—	109	Kopp (Coauthor: Senator Mountjoy) (Coauthor: Assembly Member Richter)
68	—	160	Watson
69	—	215	Alpert
70	—	228	Kelley
71	—	384	Craven
72	—	484	Craven

TABLE OF LAWS ENACTED—Continued

1997

Ch. No.	A.B. No.	S.B. No.	Author
73	—	538	Greene
74	—	665	Johnson
75	—	928	Burton
76	—	612	Costa
77	—	819	Calderon (Coauthor: Senator Polanco)
78	71	—	Wright (Principal coauthors: Assembly Members Aroner, Baca, Bowen, Knox, Kuehl, Ortiz, Vincent, and Wayne) (Principal coauthors: Senators Alpert, Polanco, Solis, and Vasconcellos)
79	—	260	Kelley
80	213	—	Wildman (Principal coauthor: Senator Schiff) (Coauthors: Assembly Members Havice, Hertzberg, Kuehl, and Scott) (Coauthor: Senator Peace)
81	1130	—	Oller
82	451	—	Havice
83	327	—	Havice
84	292	—	Floyd
85	—	342	McPherson
86	132	—	Campbell (Coauthors: Assembly Members Ashburn, Baldwin, Battin, Cardoza, Frusetta, Granlund, Havice, House, Leach, Margett, Oller, Prenter, Runner, Takasugi, Thompson, Vincent, and Woods) (Coauthor: Senator Haynes)
87	—	78	Thompson (Principal coauthor: Assembly Member Migden)
88	—	154	Thompson (Principal coauthors: Assembly Members Brown and Thomson) (Coauthor: Assembly Member Lempert)
89	—	396	Kelley
90	—	572	Maddy, Costa, and Knight (Coauthor: Assembly Member Ashburn)
91	—	584	O'Connell (Coauthors: Assembly Members Firestone, McClintock, and Takasugi)
92	—	1071	Polanco and Lockyer
93	—	696	Rainey
94	—	76	Kopp
95	—	1146	Schiff
96	—	511	Committee on Insurance (Senators Rosenthal (Chair), Johnson, Johnston, Leslie, and Peace)
97	—	556	Watson
98	—	212	Burton and Brulte (Coauthor: Assembly Members Migden, Miller, and Shelley)
99	1004	—	Thompson (Principal coauthor: Senator Monteith) (Coauthor: Senator Solis)
100	566	—	McClintock (Coauthors: Assembly Members Baldwin, Granlund, House, Lempert, Margett, Olberg, Oller, Prenter, and Richter) (Coauthors: Senators Leslie and Mountjoy)
101	139	—	Poochigian (Principal coauthors: Assembly Members Brown and Cunneen) (Coauthors: Assembly Members Alby, Ashburn, Baldwin, Battin, Bordonaro, Bowler, Campbell, Havice, House, Knox, Kuehl, Leach, Margett, Miller, Morrissey, Morrow, Olberg, Pacheco, Prenter, Runner, Wayne, and Woods) (Coauthors: Senators Ayala, Haynes, Leslie, Monteith, and Rainey)
102	245	—	Cunneen
103	81	—	Wright
104	—	1313	Leslie (Coauthor: Assembly Member Ducheny)
105	—	327	Greene
106	—	33	Maddy
107	—	107	Kelley
108	—	127	Ayala
109	—	186	Solis
110	—	198	Kelley (Principal coauthor: Senator Alpert)
111	—	282	Leslie (Coauthor: Senator Kopp)
112	—	338	Karnette
113	—	343	Calderon
114	—	354	Johannessen
115	—	358	Rainey
116	—	362	Maddy
117	—	366	Hughes (Coauthors: Senators Schiff and Wright)
118	—	372	Peace
119	—	430	Knight
120	—	497	Brulte (Principal coauthor: Senator Lewis)
121	—	498	Kelley
122	—	518	Monteith and Knight
123	—	531	Polanco
124	—	562	Alpert
125	—	590	Johnson
126	—	691	Committee on Local Government (Senators Craven (Chair), Ayala, Calderon, Johnston, Kopp, Rainey, and Watson)
127	—	786	Knight
128	—	925	Ayala
129	—	927	Ayala
130	—	1058	Schiff
131	—	1153	Johnson (Principal coauthor: Senator Leslie)
132	—	1159	Schiff (Coauthor: Assembly Member Scott)
133	79	—	Granlund
134	273	—	Sweeney (Coauthors: Assembly Members Baca, Havice, Machado, Napolitano, Strom-Martin, and Wayne)
135	330	—	Bordonaro, Ackerman, Alby, Ashburn, Battin, Bowler, Brewer, Brown, Campbell, Cardoza, Cunneen, Ducheny, Frusetta, Granlund, House, Kaloogian, Leach, Leonard, Machado, Margett, Mazzoni, Morrow, Oller, Pacheco, Perata, Poochigian, Prenter, Richter, Runner, Strom-Martin, Takasugi, Thomson, and Woods (Coauthors: Senators Costa, Kopp, Monteith, and Thompson)
136	389	—	Cunneen
137	519	—	Richter
138	552	—	Leach
139	564	—	McClintock
140	575	—	Richter
141	591	—	Aguiar (Coauthors: Assembly Members Escutia, Keeley, and Morrow) (Coauthors: Senators Karnette, McPherson, and O'Connell)
142	603	—	Kuykendall
143	688	—	Bowler
144	924	—	Richter
145	937	—	Vincent
146	1129	—	Prenter
147	1279	—	Bustamante
148	1436	—	Cardoza and Washington
149	1522	—	Thomson
150	296	—	Vincent
151	1143	—	Murray
152	1259	—	Ackerman
153	1278	—	Cardenas
154	—	104	Craven
155	—	574	Knight
156	—	846	Mountjoy
157	47	—	Murray
158	78	—	Granlund
159	90	—	Cunneen (Coauthors: Assembly Members Alquist, Leach, and Thomson) (Coauthor: Senator Watson)
160	133	—	Scott (Coauthor: Senator Peace)
161	143	—	Cunneen (Principal coauthor: Senator Schiff) (Coauthors: Assembly Members Alquist and Figueroa) (Coauthor: Senator Alpert)
162	198	—	Wayne
163	223	—	Papan (Coauthors: Assembly Members Brewer and Figueroa)
164	303	—	Runner
165	311	—	Granlund
166	339	—	Takasugi and Wildman (Coauthor: Assembly Member Sweeney)
167	345	—	Granlund

TABLE OF LAWS ENACTED—Continued

1997

Ch. No.	A.B. No.	S.B. No.	Author
168	348	—	Cunneen and Mazzoni (Coauthors: Assembly Members Bowler, Granlund, Kuehl, Lempert, Oller, Scott, and Wayne) (Coauthor: Senator Leslie)
169	350	—	Firestone
170	433	—	Hertzberg
171	517	—	Cunneen
172	525	—	Aroner
173	543	—	Perata
174	606	—	Martinez
175	637	—	Alby (Principal coauthor: Assembly Member Ortiz) (Coauthors: Assembly Members Bowler and Thomson) (Coauthor: Senator Johnston)
176	649	—	Napolitano
177	708	—	Ackerman
178	806	—	Morrow
179	938	—	Vincent (Coauthors: Assembly Members Bustamante, Thompson, and Wright)
180	951	—	Margett
181	1025	—	Torlakson
182	1319	—	Alquist (Coauthor: Senator Kopp)
183	1372	—	Morrow
184	—	13	Mountjoy
185	—	122	Alpert
186	—	144	Thompson
187	—	188	Kelley
188	—	229	Johnston
189	—	310	Costa (Coauthor: Senator Maddy) (Coauthors: Assembly Members Ashburn, Bustamante, Poochigian, and Prenter)
190	—	433	Lewis
191	—	437	Johnston (Principal coauthor: Assembly Member Bowler) (Coauthor: Assembly Member Machado)
192	—	504	Johnston
193	—	563	Brulte
194	—	568	Sher
195	—	595	Burton
196	—	650	Lewis
197	—	785	Johnson
198	—	792	Burton
199	—	922	Thompson
200	—	1017	Leslie
201	—	1041	Johnson and Polanco
202	—	1118	Monteith and Costa (Coauthors: Assembly Members House and Prenter)
203	—	1215	Burton (Coauthors: Assembly Members Migden and Shelley)
204	—	1287	Calderon
205	—	1352	Johannessen
206	—	949	Schiff
207	—	939	Schiff (Coauthor: Assembly Member Machado)
208	121	—	Battin
209	685	—	Wayne
210	1257	—	House
211	1294	—	Aguiar
212	—	16	Knight (Coauthor: Senator Schiff)
213	—	833	Rosenthal
214	464	—	Richter
215	683	—	Morrow
216	100	—	Granlund
217	334	—	Wildman, Sweeney, and Takasugi (Coauthor: Assembly Member Napolitano)
218	725	—	Papan
219	752	—	Migden
220	—	68	Kopp
221	811	—	Brewer
222	1258	—	Ackerman
223	1598	—	Committee on Public Employees, Retirement and Social Security (Knox (Chair), Migden, Runner, Scott, Shelley, and Wildman)
224	268	—	Campbell
225	—	206	Ayala
226	197	—	Thomson
227	240	—	Takasugi
228	364	—	Baca
229	289	—	Baca
230	313	—	Thomson
231	331	—	Figueroa
232	447	—	Kuykendall
233	503	—	Cardoza
234	558	—	Miller
235	689	—	Bowler
236	854	—	Mazzoni (Coauthor: Senator Thompson)
237	950	—	Davis
238	1451	—	Cardoza (Coauthor: Assembly Member House)
239	—	18	Rosenthal (Coauthor: Assembly Member Figueroa)
240	—	183	Thompson
241	—	457	Costa
242	—	421	Johnson, Craven, and Lewis (Coauthors: Assembly Members Brewer, Campbell, and Morrow)
243	—	97	Alpert (Coauthors: Senators McPherson and Solis) (Coauthors: Assembly Members Baca, Cardoza, Cunneen, Granlund, Havice, Knox, Kuehl, Lempert, Washington, Wayne, and Woods)
244	354	—	Mazzoni
245	442	—	Gallegos
246	788	—	Thomson
247	848	—	Cunneen (Coauthors: Assembly Members Knox, Kuykendall, and Mazzoni) (Coauthor: Senator Karnette)
248	927	—	Thompson (Coauthor: Assembly Member Battin)
249	1178	—	Davis
250	1261	—	Baugh
251	1263	—	Poochigian
252	—	47	Kopp
253	—	138	Kopp and Ayala
254	180	—	Torlakson (Principal coauthor: Senator Rainey)
255	216	—	Wayne
256	237	—	Figueroa
257	299	—	Ducheny
258	317	—	Ortiz
259	380	—	Pacheco
260	477	—	Leonard
261	578	—	Martinez
262	666	—	Ortiz
263	757	—	Escutia
264	820	—	Brewer
265	866	—	Thomson and Brown (Coauthor: Senator Thompson)
266	1132	—	Alby
267	1152	—	Poochigian
268	1196	—	Shelley (Coauthors: Assembly Members Aroner, Goldsmith, Knox, Perata, and Washington) (Coauthor: Senator Solis)
269	1215	—	Mazzoni
270	1542	—	Ducheny and Ashburn and Senators Thompson and Maddy
271	—	1296	Lockyer
272	—	112	Kopp and McPherson
273	—	113	Lewis
274	—	373	Kelley
275	—	477	Peace (Principal coauthors: Senators Brulte, Sher, and Solis) (Principal coauthors: Assembly Members Keeley, Kuykendall, and Leonard) (Coauthors: Senators Burton, Costa, Dills, Hughes, Johnson, Kelley, Leslie, McPherson, Mountjoy, and Watson) (Coauthors: Assembly Members Alby, Alquist, Baca, Bordonaro, Campbell, Cunneen, Frusetta, Granlund, Hertzberg, Honda, Kuehl, Machado, Murray, Papan, Perata, Runner, Shelley, Takasugi, Torlakson, Villaraigosa, Wayne, Wildman, and Wright)

TABLE OF LAWS ENACTED—Continued
1997

Ch. No.	A.B. No.	S.B. No.	Author
276	—	448	Sher
277	—	789	Sher (Coauthor: Assembly Member Lempert)
278	—	1137	Kopp
279	—	123	Peace
280	—	292	Committee on Appropriations (Senators Johnston (Chair), Alpert, Burton, Calderon, Johnson, Karnette, Lee, Leslie, McPherson, and Vasconcellos)
281	—	1204	Schiff (Coauthor: Senator Vasconcellos)
282	107	—	Ducheny
283	1008	—	Introduced by Assembly Member Ashburn and Senator Schiff (Principal coauthors: Assembly Member Machado and Senator O'Connell
284	1260	—	Ashburn and Senator Schiff (Principal coauthor: Assembly Member Machado) (Principal coauthor: Senator O'Connell)
285	751	—	Escutia and Senator Polanco (Principal coauthors: Assembly Members Villaraigosa, Pringle, and Morrissey)
286	1086	—	Mazzoni, Baldwin, and Pacheco (Coauthor: Senator Hughes)
287	1576	—	Bustamante, Pringle, and Senator Lockyer
288	1582	—	Bowen and Senator Kopp (Principal coauthor: Assembly Member Kuykendall)
289	1584	—	Prenter and Cardoza (Principal coauthors: Assembly Members Havice, Leach, Wayne, Morrissey, Wildman, and Frusetta)
290	1589	—	Pringle and Senator Lockyer (Coauthor: Assembly Member Mazzoni)
291	1591	—	House
292	1592	—	Leonard
293	—	271	Thompson and Assembly Member Ducheny (Principal coauthor: Assembly Member Woods) (Coauthor: Assembly Member Machado)
294	—	391	Solis and Assembly Member Ducheny (Principal Senate coauthors: Senators Lee and Thompson) (Principal Assembly coauthors: Assembly Members: Gallegos and Granlund)
295	—	1320	Sher (Coauthors: Assembly Members Cunneen and Escutia)
296	1579	—	Strom-Martin and Senator Peace
297	1593	—	Machado and Senator Costa (Principal coauthors: Assembly Members Bowler, Ortiz, and Senator Johnston)
298	—	804	Introduced by Senators O'Connell and Polanco and Assembly Members Brown, Pacheco, and Scott (Principal Assembly coauthors: Assembly Members Frusetta, Runner, Strom-Martin, and Thomson) (Principal Senate coauthors: Senators Karnette, Knight, and Costa) (Coauthors: Senators Johannessen, Johnson, Kelley, Leslie, McPherson, Monteith, Alpert, Ayala, Calderon, Hayden, Lee, Lockyer, Rosenthal, Schiff, Sher, Solis, Thompson, Vasconcellos, and Watson) (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Bowler, Brewer, Bustamante, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Floyd, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, Honda, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Martinez, Mazzoni, Migden, Miller, Morrissey, Murray, Napolitano, Olberg, Ortiz, Papan, Perata, Poochigian, Prenter, Pringle, Richter, Shelley, Sweeney, Takasugi, Torlakson, Villaraigosa, Vincent, Washington, Wayne, and Wildman)
299	1578	—	Migden and Leach and Senator Alpert
300	1586	—	Wright
301	116	—	Runner (Principal coauthor: Senator Knight)
302	210	—	Hertzberg
303	298	—	Murray (Coauthor: Senator Calderon)
304	658	—	Scott
305	946	—	Washington
306	1565	—	Committee on Budget (Assembly Members Ducheny (Chair), Miller (Vice Chair), Bowen, Brown, Cardenas, Davis, Escutia, Figueroa, Gallegos, Keeley, Knox, Lempert, Scott, Strom-Martin, Torlakson, Villaraigosa, and Wright)
307	1607	—	Committee on Budget (Ducheny (Chair), Miller (Vice Chair), Bowen, Brown, Cardenas, Cardoza, Davis, Escutia, Figueroa, Gallegos, Keeley, Leonard, Strom-Martin, Torlakson, and Wright)
308	—	114	Johnson
309	—	156	Johannessen (Coauthors: Senators Haynes and Kopp) (Coauthors: Assembly Members House, Oller, and Richter)
310	—	170	Lewis
311	—	192	Peace
312	—	204	Lewis
313	—	357	Rainey
314	—	481	Dills
315	—	482	Lewis
316	—	486	Craven
317	—	573	Johnson
318	—	608	Johannessen
319	—	618	Watson (Coauthor: Assembly Member Napolitano)
320	—	708	Greene
321	—	784	Peace
322	—	815	Leslie
323	—	849	Kelley
324	—	871	Committee on Public Safety (Senators Vasconcellos (Chair), Burton, Kopp, McPherson, Polanco, Rainey, Schiff, and Watson)
325	—	1324	Johannessen
326	64	—	Baca, Aguiar, Mazzoni, Poochigian, and Senators Vasconcellos, Schiff, and Karnette (Principal coauthor: Assembly Member Leach) (Coauthors: Senators Alpert, Ayala, Brulte, Calderon, Costa, Hayden, Johannessen, Kelley, Lee, Leslie, Lockyer, McPherson, Monteith, O'Connell, Polanco, Rosenthal, Solis, Thompson, and Watson)
327	—	60	Kopp
328	—	226	Kopp (Principal coauthor: Assembly Member Migden)
329	440	—	Prenter (Principal coauthors: Assembly Members Cardoza and House) (Coauthors: Assembly Members Battin, Bordonaro, Frusetta, Machado, and Thomson)
330	770	—	Margett
331	—	389	Monteith (Coauthor: Senator Costa) (Coauthors: Assembly Members Cardoza, House, and Prenter)
332	523	—	Lempert
333	—	245	Haynes (Coauthor: Senator Knight)
334	—	299	Mountjoy
335	—	335	Johannessen (Principal coauthor: Assembly Member Baldwin) (Coauthors: Senators Ayala, Dills, Knight, and Thompson)
336	—	578	Rosenthal
337	—	602	Alpert (Principal coauthor: Assembly Member Hertzberg) (Coauthors: Senators Costa, Hughes, Karnette, Kelley, Lee, McPherson, O'Connell, Rainey, Rosenthal, Solis, Vasconcellos, and Watson) (Coauthors: Assembly Members

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			Aguiar, Alquist, Aroner, Bowen, Brown, Cunneen, Davis, Figueroa, Granlund, Kuehl, Machado, Martinez, Mazzoni, Napolitano, Scott, Thomson, and Wayne)
338	—	959	Kopp (Principal coauthor: Assembly Member Woods)
339	—	1057	Mountjoy
340	—	1095	Lockyer (Principal coauthors: Assembly Members Havice, Margett, Mazzoni, and Villaraigosa) (Coauthors: Senators McPherson, Schiff, and Watson) (Coauthors: Assembly Members Figueroa, Goldsmith, and Hertzberg)
341	—	388	Karnette
342	—	465	Rainey (Coauthor: Assembly Member Torlakson)
343	—	626	Karnette
344	—	674	Thompson
345	—	952	Johnson
346	—	1063	Peace
347	356	—	Figueroa
348	622	—	Miller
349	—	106	Kelley
350	—	380	Peace
351	—	435	McPherson (Principal coauthor: Senator Craven) (Coauthors: Senators Kopp, O'Connell, and Rainey) (Coauthors: Assembly Members Cunneen, House, Kuehl, Lempert, Mazzoni, Migden, Shelley, and Wayne)
352	—	496	Maddy
353	—	594	Wright
354	—	631	Burton
355	—	688	Ayala
356	—	690	Polanco, Leslie, and Rainey
357	—	805	Alpert (Coauthors: Senators Lee, McPherson, O'Connell, Solis, and Watson) (Coauthors: Assembly Members Alquist, Knox, Ortiz, Scott, Thompson, Washington, Wayne, and Wildman)
358	—	839	Karnette (Coauthor: Assembly Member Kuykendall)
359	103	—	Figueroa, Alquist, Kuehl, and Napolitano (Coauthor: Senator Solis)
360	170	—	Papan (Coauthor: Senator Thompson)
361	256	—	Cunneen
362	300	—	Escutia
363	335	—	Wayne and Cunneen
364	349	—	Firestone
365	361	—	Cunneen
366	396	—	Kaloogian
367	672	—	Honda
368	692	—	Morrow
369	711	—	Ackerman
370	723	—	Takasugi
371	793	—	House (Principal coauthor: Assembly Member Escutia)
372	1148	—	Cunneen and Figueroa
373	1316	—	Alquist (Coauthors: Assembly Members Cunneen, Figueroa, and Lempert) (Coauthors: Senators Sher and Vasconcellos)
374	1366	—	Lempert and Papan (Coauthor: Assembly Member Machado)
375	1432	—	Papan
376	1445	—	Shelley
377	1548	—	Committee on Consumer Protection, Governmental Efficiency and Economic Development (Assembly Members Davis (Chair), Campbell (Vice Chair), Alquist, Figueroa, Firestone, Machado, Morrissey, Napolitano, Ortiz, and Strom-Martin)
378	1549	—	Committee on Insurance (Figueroa (Chair), Alby (Vice Chair), Baldwin, Brewer, Cunneen, Escutia, Floyd, Gallegos, Honda, Leach, and Villaraigosa)
379	—	4	Kopp
380	—	80	Kopp
381	—	210	Ayala
382	—	407	Polanco
383	—	509	Thompson
384	—	571	Wright
385	—	1315	Burton
386	—	629	Karnette (Coauthor: Assembly Member Baca)
387	—	1080	Calderon
388	—	1295	Maddy
389	38	—	Figueroa (Coauthors: Assembly Members Aguiar, Alquist, Aroner, Brown, Cardoza, Davis, Escutia, Keeley, Knox, Kuehl, Lempert, Machado, Martinez, Napolitano, Perata, Thomson, Villaraigosa, Washington, Wayne, and Wildman) (Coauthors: Senators Karnette, Solis, and Vasconcellos)
390	611	—	Villaraigosa (Principal coauthors: Assembly Members Campbell, Cardenas, and Hertzberg)
391	721	—	Firestone
392	754	—	Kuykendall
393	1465	—	Bordonaro
394	—	363	Lewis
395	—	544	Maddy
396	—	564	Solis
397	1173	—	Olberg
398	—	699	Rainey
399	799	—	Bowler
400	174	—	Napolitano
401	—	780	Kelley
402	111	—	Battin (Coauthor: Senator Costa)
403	593	—	Cardoza
404	1023	—	Mazzoni
405	307	—	Kaloogian
406	1310	—	Wayne
407	1564	—	Committee on Budget (Assembly Members Ducheny (Chair), Miller (Vice Chair), Bowen, Brown, Cardenas, Davis, Escutia, Figueroa, Gallegos, Keeley, Knox, Lempert, Scott, Strom-Martin, Torlakson, Villaraigosa, and Wright)
408	—	146	Johnston (Principal coauthor: Assembly Member Ortiz)
409	—	355	Monteith (Coauthor: Assembly Member House)
410	—	914	Brulte
411	—	605	Maddy (Coauthors: Senators Lockyer, Kopp, and Vasconcellos) (Coauthors: Assembly Members Aroner, Perata, and Poochigian)
412	445	—	Pacheco (Principal coauthor: Assembly Member Prenter) (Principal coauthor: Senator Calderon) (Coauthors: Assembly Members Aguiar, Ashburn, Bordonaro, Cunneen, Frusetta, Kaloogian, Kuykendall, Leach, Leonard, Margett, Miller, Morrissey, Morrow, and Richter) (Coauthors: Senators Costa, Haynes, Johannessen, Rainey, and Watson)
413	446	—	Pacheco (Principal coauthor: Assembly Member Prenter) (Principal coauthors: Senators Calderon and Kopp) (Coauthors: Assembly Members Aguiar, Ashburn, Bordonaro, Cunneen, Frusetta, Kaloogian, Kuykendall, Leach, Leonard, Margett, Miller, Morrissey, Morrow, and Richter) (Coauthors: Senators Costa, Haynes, Johannessen, Leslie, Rainey, and Watson)
414	—	1039	Thompson and Assembly Member Migden (Coauthor: Assembly Members Aroner and Kuehl)
415	175	—	Torlakson
416	206	—	Hertzberg
417	259	—	Scott, Papan, Baca, Mazzoni, Wayne, and Knox
418	421	—	Baugh

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419	467	—	Goldsmith
420	719	—	Torlakson
421	1209	—	Olberg
422	—	196	Knight (Coauthor: Assembly Member Runner)
423	—	259	Haynes
424	—	263	McPherson and Alpert
425	—	367	Sher
426	—	416	Kelley
427	—	454	Kelley
428	—	464	Rainey
429	—	515	Polanco
430	—	707	Calderon, Alpert, Costa, Hughes, Karnette, Lee, Peace, and Watson (Coauthors: Assembly Members Alquist, Cunneen, Gallegos, Keeley, Napolitano, Scott, Villaraigosa, Washington, and Wayne)
431	—	744	Hughes
432	—	850	Kelley (Principal coauthor: Senator Costa)
433	—	908	Lee
434	—	997	Schiff
435	—	1100	Solis
436	816	—	Brewer
437	—	1312	Leslie
438	1317	—	Ducheny (Coauthors: Assembly Members Baldwin and Davis) (Coauthor: Senator Alpert)
439	407	—	Napolitano
440	489	—	Figueroa (Principal coauthor: Assembly Member Cunneen)
441	620	—	Baugh
442	758	—	Morrow
443	829	—	Thomson (Coauthor: Assembly Member Alquist)
444	870	—	Hertzberg and Napolitano
445	1093	—	Committee on Judiciary (Escutia (Chair), Morrow (Vice Chair), Alby, Aroner, Baugh, Figueroa, Keeley, Kuehl, Ortiz, Pacheco, Shelley, and Villaraigosa)
446	1308	—	Cardenas
447	1325	—	Bordonaro
448	1390	—	House (Coauthors: Assembly Members Brown, Cardoza, Honda, Kuehl, Leach, Machado, Richter, Thomson, Wayne, and Woods) (Coauthors: Senators Monteith and Vasconcellos)
449	1526	—	Escutia, Aroner, Figueroa, Keeley, Kuehl, Ortiz, Shelley, and Villaraigosa
450	—	124	Karnette (Coauthor: Assembly Member Vincent)
451	—	220	Rosenthal
452	—	243	Peace
453	—	468	Rainey
454	—	609	Karnette
455	—	946	Maddy
456	—	1077	Schiff
457	—	1144	Rosenthal
458	—	1192	Schiff
459	304	—	Scott and Villaraigosa
460	491	—	Keeley
461	797	—	Takasugi
462	991	—	Shelley and Perata (Coauthors: Assembly Members Alquist, Aroner, Ducheny, Keeley, Kuehl, Lempert, and Mazzoni) (Coauthors: Senators Alpert, Karnette, McPherson, Peace, Polanco, and Watson)
463	1221	—	Aroner
464	—	57	Ayala (Principal coauthor: Assembly Member Goldsmith)
465	—	1224	Kopp and Rainey (Principal coauthor: Assembly Member Pacheco)
466	235	—	Takasugi (Coauthor: Senator Lee)
467	379	—	Alquist (Coauthors: Assembly Members Cunneen, Figueroa, and Lempert) (Coauthor: Senator Sher)
468	500	—	Ashburn (Principal coauthor: Assembly Member Prenter)
469	772	—	Margett
470	882	—	Wayne
471	996	—	Sweeney
472	1054	—	Goldsmith
473	1237	—	Granlund
474	1543	—	Committee on Human Services
475	1546	—	Committee on Consumer Protection, Governmental Efficiency and Economic Development (Assembly Members Davis (Chair), Campbell (Vice Chair), Alquist, Figueroa, Firestone, Machado, Morrissey, Napolitano, Ortiz, and Strom-Martin)
476	—	189	Kelley
477	—	219	Rosenthal
478	—	238	Haynes (Coauthor: Senator Leslie) (Coauthors: Assembly Members Ashburn, Battin, Campbell, Granlund, House, Leach, Margett, McClintock, Olberg, Richter, and Woods)
479	—	252	Kelley
480	—	294	Monteith
481	—	329	McPherson (Principal coauthor: Assembly Member Keeley) (Coauthors: Assembly Members Brown and Honda)
482	—	471	Burton
483	—	603	Monteith
484	—	651	Wright
485	—	692	Committee on Local Government (Senators Craven (Chair), Ayala, Calderon, Johnston, Kopp, Rainey, and Watson)
486	—	693	Committee on Local Government (Senators Craven (Chair), Ayala, Calderon, Johnston, Kopp, Rainey, and Watson)
487	—	703	Rainey
488	—	716	Alpert (Coauthor: Assembly Member Wayne)
489	—	883	Committee on Local Government (Senators Craven (Chair), Ayala, Johnston, Kopp, Polanco, Rainey, and Watson)
490	—	1003	McPherson and Leslie
491	—	1020	Committee on Public Employment and Retirement (Senators Schiff (Chair), Burton, and Karnette)
492	—	1049	Maddy
493	—	1177	Johnson
494	—	1231	Watson
495	—	1240	Costa
496	—	1262	Johnston
497	—	1277	Leslie
498	207	—	Frusetta (Principal coauthor: Senator Hayden) (Coauthors: Assembly Members Campbell, Granlund, Leonard, Margett, McClintock, Morrissey, Takasugi, Washington, and Wayne) (Coauthors: Senators Haynes and McPherson)
499	—	941	Leslie
500	—	940	Leslie (Coauthor: Senator Schiff) (Coauthor: Assembly Member Hertzberg)
501	—	695	Rainey
502	731	—	Keeley (Coauthor: Senator McPherson)
503	4	—	Bordonaro (Principal coauthor: Senator Hurtt) (Coauthors: Assembly Members Ashburn, Baldwin, Battin, Baugh, Bowler, Cunneen, Goldsmith, House, Leach, Margett, McClintock, Miller, Morrissey, Morrow, Prenter, Richter, Runner, Takasugi, Thompson, and Wayne) (Coauthors: Senators Calderon, Haynes, Johnson, Leslie, McPherson, Monteith, Mountjoy, O'Connell, and Rainey)
504	115	—	Havice (Principal coauthors: Assembly Members Bordonaro and Hertzberg) (Coauthor: Senator Peace)
505	513	—	Hertzberg (Principal coauthor: Assembly Member Thomson)
506	853	—	Hertzberg (Principal coauthor: Assembly Member Washington) (Coauthors:

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			Assembly Members Bowen, Gallegos, Knox, Kuehl, Pacheco, and Villaraigosa) (Coauthors: Senators Karnette and Solis)
507	856	—	Hertzberg (Principal coauthor: Senator Leslie) (Coauthors: Assembly Members Villaraigosa and Wildman) (Coauthors: Senators Kopp and Schiff)
508	21	—	Olberg (Principal coauthor: Assembly Member Machado) (Coauthors: Assembly Members Cardoza, Frusetta, Margett, Oller, Poochigian, Thompson, and Woods) (Coauthors: Senators Johannessen, Leslie, and Monteith)
509	127	—	Morrow (Coauthor: Assembly Member Escutia)
510	329	—	Caldera
511	441	—	Richter and Mazzoni (Principal coauthor: Senator Karnette)
512	482	—	Aroner
513	553	—	Leach (Coauthors: Assembly Members House, Margett, Richter, and Thomson)
514	563	—	Prenter (Principal coauthor: Assembly Member Granlund)
515	605	—	Ashburn (Coauthors: Assembly Members Frusetta, Machado, Oller, Poochigian, Thompson, and Woods)
516	764	—	Davis
517	877	—	Miller (Coauthor: Senator Solis)
518	968	—	Knox and Alquist
519	1061	—	Machado
520	1089	—	Miller
521	1128	—	Miller
522	1280	—	Bustamante
523	1399	—	Cardenas
524	1460	—	Bordonaro
525	1505	—	Ashburn (Coauthors: Senators Costa and Maddy)
526	1545	—	Committee on Human Services (Assembly Members Aroner (Chair), Ashburn (Vice Chair), Bordonaro, Brown, Goldsmith, Kuehl, Ortiz, and Wright) (Coauthor: Assembly Member Davis)
527	—	150	Kopp
528	—	231	Costa (Coauthors: Assembly Members Bustamante, Cardoza, Machado, Margett, Olberg, Oller, Papan, Poochigian, Prenter, Thomson, Thompson, and Woods)
529	—	359	Rainey
530	—	365	Lewis
531	—	383	O'Connell
532	—	467	Rainey
533	—	472	Maddy
534	—	494	Maddy
535	—	508	Thompson
536	—	525	Maddy
537	—	548	Solis (Coauthors: Assembly Members Ortiz and Shelley)
538	—	638	O'Connell (Principal coauthors: Assembly Members Firestone and Takasugi) (Coauthors: Senators Ayala, Costa, Kopp, Johnson, Monteith, and Mountjoy) (Coauthors: Assembly Members Ackerman, Campbell, Havice, Knox, Machado, Margett, Martinez, Mazzoni, Morrissey, Napolitano, Olberg, and Runner)
539	—	713	Rosenthal
540	—	795	Kopp (Coauthor: Senator Hughes)
541	—	726	Kopp
542	—	916	Vasconcellos
543	—	920	Thompson (Coauthor: Assembly Member Machado)
544	—	993	Burton
545	—	1015	Schiff (Coauthor: Assembly Member Scott)
546	—	1107	Committee on Revenue and Taxation (Senators Alpert (Chair), Greene, Karnette, Knight, Kopp, and McPherson)
547	—	1111	Costa
548	—	1245	Costa
549	—	1349	Committee on Business and Professions (Senators Polanco (Chair), Ayala, Craven, Greene, Johannessen, Kelley, Lee, O'Connell, and Rosenthal)
550	221	—	Goldsmith (Coauthors: Assembly Members Aguiar, Aroner, Ashburn, Baca, Bordonaro, Brewer, Figueroa, Floyd, House, Leach, Machado, Margett, Migden, Oller, Papan, Perata, Poochigian, Richter, Thomson, Washington, and Wayne) (Coauthors: Senators Leslie, Peace, and Solis)
551	293	—	Cunneen
552	768	—	Gallegos, Perata, and Villaraigosa (Principal coauthor: Assembly Members Ducheny and Granlund) (Coauthors: Assembly Members Alquist, Cunneen, Figueroa, Honda, Lempert, and Prenter) (Coauthors: Senators Hughes, Lee, McPherson, Polanco, Sher, Vasconcellos, and Watson)
553	904	—	Miller (Coauthor: Senator Alpert)
554	1127	—	Knox (Coauthor: Senator Rosenthal)
555	—	381	Watson
556	—	461	Karnette
557	—	641	Polanco
558	—	945	Wright
559	—	1121	Craven
560	6	—	Bowler
561	323	—	Baca (Coauthors: Senators Johannessen, Kopp, and Monteith)
562	590	—	Ashburn
563	749	—	Papan
564	849	—	Sweeney (Principal coauthor: Assembly Member Thompson)
565	—	275	Kopp
566	—	543	Committee on Agriculture and Water Resources (Senators Costa (Chair), Craven, Johnston, Kelley, Kopp, Monteith, Peace, Thompson, and Wright)
567	—	879	Johnston and Assembly Member Machado (Principal coauthors: Senator Costa and Assembly Members Olberg and Thomson) (Coauthors: Assembly Members Baca, Cardoza, Frusetta, Honda, Margett, Papan, Poochigian, and Woods)
568	—	987	Sher
569	—	1027	Schiff
570	—	67	Kopp (Principal coauthor: Senator Thompson) (Principal coauthor: Assembly Member Shelley) (Coauthors: Senators Burton, Calderon, Lockyer, and Vasconcellos) (Coauthors: Assembly Members Alquist, Aroner, Caldera, Keeley, Knox, Kuehl, Lempert, Mazzoni, Napolitano, Perata, Thomson, and Wayne)
571	1088	—	Committee on Judiciary (Escutia (Chair), Morrow (Vice Chair), Alby, Aroner, Baugh, Caldera, Kaloogian, Keeley, Kuehl, Ortiz, Pacheco, Shelley, and Villaraigosa)
572	686	—	Baugh
573	1296	—	Morrow, Mazzoni, and Strom-Martin (Coauthor: Senator Thompson)
574	837	—	Thomson and Ackerman
575	397	—	Kuykendall
576	738	—	Papan
577	387	—	Miller
578	195	—	Murray
579	—	236	Solis
580	—	320	Committee on Housing and Land Use (Senators Lee (Chair), Costa, Kopp, Monteith, and Vasconcellos)
581	—	392	Rosenthal
582	—	514	Hayden (Principal coauthor: Assembly Member Shelley) (Coauthors: Assembly

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			Members Alquist, Aroner, Cunneen, Havice, Knox, Kuehl, Mazzoni, Strom-Martin, Sweeney, Thomson, Torlakson, Washington, and Wayne)
583	1226	—	Granlund (Principal coauthor: Assembly Member Miller)
584	—	969	Burton
585	—	1072	Burton
586	—	1302	Leslie (Coauthor: Senator Haynes) (Coauthors: Assembly Members Ashburn, Baldwin, Battin, Bowler, Cunneen, Gallegos, Granlund, House, Leach, Margett, Olberg, Runner, Thompson, and Woods)
587	—	720	Lockyer
588	1610	—	Ortiz and Alby (Coauthors: Assembly Members Ackerman, Aguiar, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowler, Brewer, Brown, Bustamante, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Martinez, Mazzoni, Migden, Miller, Morrissey, Morrow, Napolitano, Olberg, Oller, Pacheco, Papan, Perata, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Woods) (Coauthors: Senators Alpert, Costa, Dills, Greene, Hayden, Haynes, Hughes, Karnette, Knight, McPherson, Monteith, O'Connell, Sher, Solis, and Watson)
589	1612	—	Alby and Ortiz (Coauthors: Assembly Members Ackerman, Aguiar, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowler, Brewer, Brown, Bustamante, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Martinez, Mazzoni, Migden, Miller, Morrissey, Morrow, Napolitano, Olberg, Oller, Pacheco, Papan, Perata, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Woods) (Coauthors: Senators Alpert, Calderon, Costa, Dills, Greene, Hayden, Haynes, Hughes, Karnette, Kelley, Knight, Leslie, McPherson, Monteith, O'Connell, and Rainey)
590	181	—	Kuykendall (Coauthors: Assembly Members Aguiar, Ashburn, Baldwin, Battin, Bowler, Brewer, Campbell, Cardoza, Granlund, House, Leach, Margett, Miller, Morrow, Morrissey, Olberg, Oller, Papan, Prenter, Runner, and Takasugi) (Coauthors: Senators Calderon, Haynes, Leslie, Peace, and Polanco)
591	995	—	Pacheco (Principal coauthor: Assembly Member Prenter) (Coauthor: Assembly Member Frusetta) (Coauthor: Senator Kopp)
592	149	—	Runner
593	202	—	Scott
594	1222	—	Wright (Principal coauthor: Senator Calderon)
595	1611	—	Ortiz, Knox, Kuehl, Murray, Runner, Thomson, and Wayne (Coauthors: Senators Johnston and Watson)
596	—	532	Solis, Brulte, Burton, Karnette, and Lee (Coauthors: Assembly Members Aguiar, Floyd, and Machado)
597	450	—	Torlakson
598	—	633	Ayala
599	573	—	Kuehl (Coauthor: Senator McPherson)
600	713	—	Caldera
601	—	247	Lockyer (Principal coauthor: Assembly Member Villaraigosa) (Coauthor: Assembly Member Washington)
602	1217	—	Bustamante (Coauthor: Assembly Member Ashburn)
603	—	965	Costa
604	—	1106	Committee on Revenue and Taxation (Senators Alpert (Chair), Greene, Karnette, Knight, Kopp, and McPherson)
605	1040	—	Committee on Revenue and Taxation (Caldera (Chair), Alquist, Aroner, Knox, Machado, and Papan)
606	67	—	Escutia (Principal coauthors: Senators Solis and Wright)
607	122	—	Brown (Principal coauthor: Senator Thompson) (Coauthor: Senator McPherson)
608	—	1234	Alpert
609	—	200	Kelley
610	—	5	Lockyer and Lewis and Assembly Member Bustamante (Coauthors: Senators Alpert, Costa, and Schiff) (Coauthor: Assembly Members Honda, Kuehl, Machado, Migden, Papan, Scott, Thomson, and Villaraigosa)
611	—	455	Alpert (Coauthor: Senator McPherson)
612	—	1233	Lockyer and Assembly Members Bustamante and Pringle (Principal coauthors: Senators Alpert, Brulte, and Lewis) (Principal coauthors: Assembly Members Knox and Leonard) (Coauthors: Senators Costa, Haynes, Johannessen, Johnson, Johnston, Knight, McPherson, O'Connell, Peace, Rainey, Schiff, and Thompson) (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowler, Brewer, Campbell, Cardenas, Cardoza, Cunneen, Davis, Figueroa, Firestone, Frusetta, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Kuykendall, Leach, Lempert, Machado, Margett, McClintock, Miller, Morrissey, Morrow, Murray, Olberg, Oller, Pacheco, Poochigian, Prenter, Richter, Runner, Scott, Strom-Martin, Sweeney, Takasugi, Thompson, Washington, Wayne, Woods, and Wildman)
613	1042	—	Wayne (Principal coauthors: Assembly Members Figueroa and Pringle and Senators Alpert, Brulte, and Lockyer) (Coauthors: Assembly Member Cunneen) (Coauthors: Senators Costa, Haynes, Johannessen, Johnson, Johnston, Knight, Lewis, McPherson, O'Connell, Peace, Rainey, Schiff, and Thompson)
614	1395	—	Escutia
615	366	—	Havice, Ducheny, Kuykendall, Perata, Strom-Martin, and Wayne (Principal coauthor: Senator Karnette)
616	—	566	Thompson (Coauthor: Assembly Member Lempert)
617	747	—	Alby
618	1269	—	Granlund and Murray (Principal coauthors: Senators Costa and Kopp) (Coauthors: Assembly Members Aguiar, Ashburn,

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			Bowler, Leonard, Machado, Margett, Olberg, Oller, Papan, Perata, Prenter, Richter, Thomson, Washington, Wayne, and Woods) (Coauthors: Senators Knight, Johannessen, and Johnston)
619	—	506	Committee on Transportation (Senators Kopp (Chair), Ayala, Costa, Karnette, Kelley, Monteith, Polanco, and Rainey)
620	—	1102	Committee on Revenue and Taxation (Senators Alpert (Chair), Greene, Karnette, Knight, Kopp, and McPherson)
621	258	—	Floyd (Coauthor: Senator Lewis)
622	—	45	Kopp (Coauthor: Assembly Member Papan)
623	1126	—	Villaraigosa and Figueroa (Principal coauthors: Assembly Members Gallegos, Escutia, Kuehl, and Thomson) (Principal coauthors: Senators Johnston, Lee, Lockyer, Maddy, Polanco, Rosenthal, and Thompson) (Coauthors: Assembly Members Alquist, Bustamante, Cardoza, Davis, Honda, Migden, Ortiz, and Strom-Martin)
624	—	903	Lee and Maddy (Principal coauthors: Senators Johnston, Lockyer, Polanco, Rosenthal, and Thompson) (Principal coauthors: Assembly Members Escutia, Figueroa, Gallegos, Kuehl, Thomson, and Villaraigosa) (Coauthors: Assembly Members Bustamante, Honda, and Migden)
625	1572	—	Villaraigosa and Gallegos
626	217	—	Figueroa
627	2	—	Ashburn (Coauthors: Assembly Members Bordonaro, Cunneen, Granlund, and Prenter)
628	838	—	Pacheco
629	865	—	Pringle (Principal coauthor: Assembly Member Campbell) (Coauthor: Assembly Member Scott)
630	1033	—	Frusetta (Coauthors: Assembly Members Aroner, Bowler, Campbell, Cunneen, Granlund, Leach, Machado, Margett, Morrissey, Oller, Prenter, Richter, Scott, Takasugi, and Wayne) (Coauthors: Senators McPherson and Rainey)
631	—	1061	Vasconcellos
632	76	—	Miller
633	125	—	Pacheco (Coauthors: Assembly Members Aguiar, Granlund, and Thompson) (Coauthors: Senators Brulte and Haynes)
634	178	—	Gallegos
635	280	—	Keeley (Coauthor: Senator McPherson)
636	318	—	Takasugi and Kuykendall
637	412	—	Wildman and Mazzoni (Coauthors: Assembly Members Baca, Havice, and Kaloogian) (Coauthor: Senator Solis)
638	627	—	Scott and Thomson (Coauthors: Senators Karnette and Schiff)
639	680	—	House (Principal coauthor: Senator Monteith)
640	727	—	Martinez
641	777	—	Prenter (Coauthor: Senator Costa)
642	839	—	Thomson
643	875	—	Takasugi
644	1020	—	Firestone (Principal coauthor: Assembly Member Thomson) (Coauthors: Assembly Members Cardoza, Cunneen, Knox, Kuehl, Lempert, Mazzoni, Migden, Scott, and Shelley) (Coauthor: Senator Johnston)
645	1071	—	Cardoza and Wayne (Principal coauthor: Assembly Member Torlakson) (Principal coauthor: Senator Lee)
646	1104	—	Knox
647	1206	—	Martinez
648	1306	—	Granlund
649	1337	—	Shelley
650	1425	—	Campbell
651	1480	—	Bordonaro
652	1518	—	Committee on Transportation (Murray (Chair), Baugh (Vice Chair), Bowler, Cardenas, Figueroa, Lempert, Mazzoni, Morrow, Napolitano, Runner, and Torlakson)
653	1547	—	Committee on Consumer Protection, Governmental Efficiency and Economic Development (Davis (Chair), Campbell (Vice Chair), Alquist, Figueroa, Firestone, Machado, Morrissey, Napolitano, Ortiz, and Strom-Martin)
654	1555	—	Committee on Health (Gallegos (Chair), Alquist, Brown, Davis, Escutia, Figueroa, Hertzberg, Mazzoni, Ortiz, Thomson, Villaraigosa, Vincent, and Wildman)
655	1556	—	Committee on Health (Gallegos (Chair), Granlund (Vice Chair), Alquist, Brown, Davis, Escutia, Figueroa, Hertzberg, Margett, Mazzoni, Ortiz, Thomson, Villaraigosa, Vincent, and Wildman)
656	—	66	Greene (Principal coauthor: Senator Sher) (Principal coauthor: Assembly Member Pringle) (Coauthors: Assembly Members Mazzoni and Migden)
657	—	89	Hayden (Principal coauthor: Assembly Member Murray)
658	—	291	Committee on Appropriations (Senators Johnston (Chair), Alpert, Burton, Calderon, Karnette, Lee, McPherson, and Vasconcellos)
659	—	368	Peace, Kopp, and Thompson (Principal coauthors: Assembly Members Ducheny, Murray, and Leonard)
660	—	417	Burton
661	—	492	Rosenthal and Kopp
662	—	550	O'Connell (Coauthors: Senators Johannessen, Johnston, and McPherson) (Coauthors: Assembly Members Frusetta and Machado)
663	—	628	Kopp
664	—	657	Sher (Coauthor: Assembly Member Lempert)
665	—	719	Johnston
666	—	810	Johnson
667	—	812	Hayden
668	—	894	Lee
669	—	921	Thompson
670	—	951	Johnson, Calderon, Leslie, and Polanco
671	—	999	Maddy
672	—	1066	Sher (Coauthor: Assembly Member Honda)
673	—	1094	Schiff
674	—	1141	Johnson
675	—	1268	Kelley (Principal coauthor: Assembly Member Martinez) (Coauthor: Assembly Member Papan)
676	—	1299	Watson
677	—	1347	Committee on Business and Professions (Senators Polanco (Chair), Ayala, Craven, Greene, Johannessen, Kelley, O'Connell, and Rosenthal)
678	640	—	Aguiar (Coauthors: Assembly Members Keeley and Villaraigosa)
679	1105	—	Hertzberg
680	1275	—	Baca (Coauthors: Assembly Members Alquist, Strom-Martin, and Washington) (Coauthor: Senator Costa)
681	1423	—	Martinez
682	1433	—	Olberg (Coauthor: Senator Alpert)
683	1537	—	Machado
684	—	136	Costa
685	—	458	Peace and Assembly Member Cardenas
686	—	1104	Committee on Revenue and Taxation (Senators Alpert (Chair), Greene, Karnette, Knight, Kopp, Lee, and McPherson)

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687	—	1273	Hurtt (Principal coauthor: Assembly Member Alquist)
688	—	1344	Johnston and Assembly Member Battin
689	—	230	Alpert
690	—	408	Maddy (Coauthor: Assembly Member Wildman)
691	—	445	Monteith
692	—	466	Rainey
693	—	614	Thompson
694	—	972	Greene
695	—	1161	Costa
696	—	1198	Costa (Coauthors: Assembly Members Cardoza and Machado)
697	702	—	Villaraigosa
698	—	1238	Johannessen (Coauthors: Senators Haynes, Leslie, McPherson, Mountjoy, and Rainey) (Coauthors: Assembly Members Aguiar, Alby, Baldwin, Cunneen, Granlund, House, Kaloogian, Leach, Margett, Olberg, Oller, Richter, and Woods)
699	—	1052	Vasconcellos
700	1483	—	Gallegos
701	—	527	Rosenthal
702	—	110	Dills
703	—	162	Haynes
704	—	826	Greene
705	—	828	Greene
706	—	1135	O'Connell (Principal coauthor: Assembly Member Wayne) (Coauthor: Senator Alpert)
707	153	—	Baldwin
708	167	—	Brewer and Morrissey (Coauthor: Assembly Member Bustamante) (Coauthor: Senator Costa)
709	827	—	Thomson (Coauthors: Senators Johnston and O'Connell)
710	1029	—	Frusetta
711	1394	—	Figueroa and Escutia (Principal coauthor: Assembly Members Keeley, Pringle, and Shelley) (Principal coauthor: Senator Polanco) (Coauthors: Assembly Members Campbell, Cunneen, Davis, and Morrow) (Coauthors: Senators McPherson and Sher)
712	1472	—	Thomson
713	1583	—	Shelley and Senator Sher
714	—	3	Leslie and Hayden (Principal coauthor: Assembly Member Bowler) (Coauthors: Senators Johnson, Kopp, and Thompson) (Coauthors: Assembly Members Bowen and Sweeney)
715	242	—	Honda and Machado and Senator Lee (Coauthors: Assembly Members Bowen, Brown, Cunneen, Knox, Kuehl, Mazzoni, and Wayne) (Coauthors: Senators McPherson, O'Connell, Solis, Vasconcellos, and Watson)
716	—	255	Lee and Assembly Member Honda (Principal coauthors: Senators Schiff, Thompson, and Vasconcellos)
717	55	—	Mazzoni
718	308	—	Leonard
719	475	—	Pringle
720	515	—	Ashburn
721	957	—	Migden
722	994	—	Sweeney
723	1139	—	Gallegos (Coauthors: Assembly Members Margett and Vincent) (Coauthors: Senators Hughes and Mountjoy)
724	1172	—	Kaloogian
725	1447	—	Washington and Havice
726	1558	—	Committee on Agriculture (Cardoza (Chair), House (Vice Chair), Brown, Ducheny, Frusetta, Machado, Perata, Prenter, and Thomson)
727	1559	—	Cardoza, House, Machado, and Thomson (Coauthors: Senators Costa, McPherson, and Monteith)
728	1575	—	Committee on Human Services (Aroner (Chair), Ashburn (Vice Chair), Bordonaro, Gallegos, Goldsmith, Kuehl, Ortiz, and Wright) (Coauthor: Assembly Member Richter)
729	—	450	Peace
730	—	617	Monteith (Coauthor: Assembly Member House)
731	—	970	Committee on Health and Human Services (Senators Watson (Chair), Hughes, Maddy, Mountjoy, Polanco, Solis, and Vasconcellos)
732	—	1034	Maddy
733	—	1101	Alpert
734	—	1307	Costa and Thompson
735	—	1332	Vasconcellos
736	—	187	Hughes (Coauthors: Assembly Members Alquist, Campbell, Davis, Lempert, Martinez, Pacheco, Scott, Strom-Martin, Sweeney, Washington, Wayne, and Wildman)
737	352	—	Scott, Keeley, and Wildman (Coauthors: Senators O'Connell and Thompson)
738	1238	—	Granlund
739	1297	—	Morrow (Principal coauthor: Assembly Member Machado) (Coauthor: Assembly Member Papan)
740	51	—	Murray (Principal coauthor: Senator Kopp) (Coauthors: Assembly Members Alquist, Baca, Bowen, Cardoza, Cunneen, Goldsmith, Knox, Margett, Mazzoni, Napolitano, Pacheco, Thompson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Wright) (Coauthors: Senators Costa, Hayden, Johnson, Lee, O'Connell, Peace, Solis, and Watson)
741	99	—	Runner
742	186	—	Brown
743	662	—	Hertzberg
744	1468	—	Runner
745	—	318	Thompson and Costa (Coauthors: Assembly Members Cardoza, Machado, Olberg, Papan, Richter, and Woods)
746	—	347	Thompson
747	—	545	Rosenthal
748	—	1217	Johnston
749	1320	—	Bordonaro
750	—	721	Lockyer
751	29	—	Villaraigosa
752	—	1014	Brulte (Principal coauthor: Assembly Member Thomson)
753	560	—	Perata, Cardenas, Kuehl, and Wayne (Coauthor: Senator Rosenthal)
754	833	—	Ortiz and Perata
755	1554	—	Ortiz, Migden, and Perata (Principal coauthor: Assembly Member Granlund) (Principal coauthors: Senators Burton, Watson, and McPherson) (Coauthors: Assembly Members Aguiar, Alby, Alquist, Baca, Bordonaro, Bustamante, Cardoza, Cunneen, Davis, Escutia, Frusetta, Havice, Knox, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Mazzoni, Miller, Murray, Napolitano, Papan, Poochigian, Prenter, Pringle, Richter, Scott, Strom-Martin, Thomson, Villaraigosa, Vincent, Wayne, Wildman, Woods, and Wright) (Coauthors: Senators Brulte, Costa, Karnette, Lee, Lockyer, Peace, Polanco, Rosenthal, Sher, Solis, and Vasconcellos)

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756	—	273	Burton, Watson, and McPherson (Principal coauthors: Assembly Members Ortiz, Perata, Granlund, and Migden) (Coauthors: Senators Brulte, Costa, Karnette, Lee, Lockyer, Peace, Polanco, Rosenthal, Sher, Solis, and Vasconcellos) (Coauthors: Assembly Members Alby, Alquist, Ashburn, Baca, Bordonaro, Bustamante, Cardoza, Cunneen, Davis, Escutia, Frusetta, Havice, Knox, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Mazzoni, Miller, Murray, Napolitano, Papan, Poochigian, Prenter, Richter, Scott, Strom-Martin, Thomson, Villaraigosa, Vincent, Wayne, Wildman, Woods, and Wright)
757	—	1328	Brulte
758	—	1346	Committee on Business and Professions (Senators Polanco (Chair), Ayala, Craven, Greene, Johannessen, Kelley, Lee, O'Connell, and Rosenthal)
759	—	827	Greene
760	—	1329	Leslie (Principal coauthor: Assembly Member Murray) (Coauthors: Senators Alpert and Haynes) (Coauthors: Assembly Members Campbell, Kuykendall, Margett, Richter, and Scott)
761	—	1270	Johnston
762	1159	—	Bowen
763	1363	—	Machado (Coauthors: Assembly Members Baca, Cardoza, Escutia, Kuykendall, Miller, Morrissey, and Oller) (Principal coauthor: Senator Johnston) (Coauthor: Senator Costa)
764	—	65	McPherson (Coauthors: Senators Craven, Karnette, Kopp, Solis, and Watson) (Coauthors: Assembly Members Cunneen, Goldsmith, Granlund, Havice, House, Knox, Kuehl, Kuykendall, Margett, Mazzoni, and Takasugi)
765	411	—	Wayne and Shelley (Coauthors: Assembly Members Bowen, Cunneen, Davis, Keeley, Knox, Kuehl, Lempert, and Scott) (Coauthors: Senators Alpert, Craven, Karnette, Solis, and Watson)
766	11	—	Escutia, Bustamante, Knox, and Sweeney
767	52	—	Washington (Coauthors: Assembly Members Alquist, Brewer, Bowler, Hertzberg, Honda, Leonard, Napolitano, Oller, Prenter, Richter, Thompson, Villaraigosa, Vincent, and Wright) (Coauthor: Senator Watson)
768	156	—	Murray (Coauthors: Assembly Members Lempert, Scott, and Wayne) (Coauthor: Senator Solis)
769	219	—	Alby
770	459	—	Firestone
771	739	—	Machado (Coauthor: Senator Thompson)
772	939	—	Ortiz (Principal coauthor: Assembly Member Ackerman)
773	993	—	Perata
774	1082	—	Committee on Governmental Organization (Brown (Chair), Baca, Bordonaro, Floyd, Hertzberg, Honda, Margett, Perata, Vincent, Wayne, and Wright)
775	1186	—	Knox
776	1242	—	Granlund
777	1302	—	Wayne (Coauthor: Senator Alpert)
778	1357	—	Baldwin
779	1581	—	Keeley (Principal coauthors: Senators Alpert and O'Connell) (Coauthors: Assembly Members Bordonaro and Bowen) (Coauthors: Senators Hayden, McPherson, and Thompson)
780	1606	—	Committee on Public Employees, Retirement and Social Security (Knox (Chair), Bowler, Runner, Scott, Shelley, and Wildman)
781	—	62	McPherson (Coauthor: Assembly Member Keeley)
782	—	72	McPherson
783	—	105	Ayala
784	—	193	Mountjoy
785	—	364	Sher and Karnette (Principal coauthor: Assembly Member Papan)
786	—	431	Lee (Coauthors: Senators Greene, Johannessen, and Rainey) (Coauthors: Assembly Members Aroner, Bowler, Honda, Leach, Mazzoni, Napolitano, Ortiz, Thomson, and Torlakson)
787	—	463	Thompson (Coauthor: Assembly Member Keeley)
788	—	675	Costa
789	—	802	Costa and Maddy (Principal coauthors: Assembly Members Bustamante and Prenter)
790	—	1348	Committee on Business and Professions (Senators Polanco (Chair), Ayala, Craven, Greene, Johannessen, Kelley, O'Connell, and Rosenthal)
791	—	1243	Hughes
792	1116	—	Keeley (Coauthor: Assembly Member Villaraigosa) (Coauthor: Senator Johannessen)
793	1544	—	Committee on Human Services
794	1193	—	Shelley, Aroner, Cunneen, Goldsmith, Knox, Ortiz, Perata, and Washington (Coauthors: Senators Alpert, McPherson, Rainey, Solis, and Watson)
795	—	163	Solis (Principal coauthor: Assembly Member Aroner) (Coauthors: Assembly Members Ashburn, Cunneen, Gallegos, Goldsmith, Ortiz, and Wright)
796	—	1305	Sher (Principal coauthor: Assembly Member Martinez) (Coauthors: Assembly Members Campbell, Gallegos, Kuykendall, Murray, Wood, and Wright)
797	456	—	Ducheny
798	1553	—	Committee on Insurance (Assembly Members Figueroa (Chair), Alby (Vice Chair), Baldwin, Cunneen, Escutia, Floyd, Gallegos, Honda, Leach, and Villaraigosa)
799	—	1130	Thompson
800	—	1291	Calderon
801	—	42	Kopp (Coauthors: Senators Knight and Mountjoy) (Coauthor: Assembly Member Cunneen)
802	208	—	Migden
803	1492	—	Baugh (Principal coauthor: Senator Kopp)
804	57	—	Escutia
805	915	—	Baugh
806	1043	—	Committee on Revenue and Taxation (Assembly Members Caldera (Chair), Alquist, Aroner, Knox, Machado, and Papan)
807	1245	—	Martinez and Bordonaro (Coauthor: Senator Rosenthal)
808	1491	—	Cunneen and Richter
809	—	94	Ayala
810	—	132	Solis
811	—	316	Hayden and Solis
812	—	857	Polanco
813	—	825	Greene
814	592	—	Kuehl (Principal coauthor: Senator Sher) (Coauthor: Assembly Member Thomson) (Coauthor: Senator Karnette)
815	—	1189	Hayden
816	—	521	Mountjoy, Haynes, Johannessen, Knight, and Monteith (Coauthors: Assembly Members Frusetta, House, Margett, McClintock, Richter, and Woods)

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817	59	—	Brown (Coauthors: Assembly Members Aguiar, Alquist, Bowen, Cardoza, Ducheny, Granlund, Honda, Keeley, Knox, Kuehl, Lempert, Machado, Napolitano, Pacheco, Torlakson, Washington, and Wildman) (Coauthors: Senators Alpert, Ayala, Costa, Haynes, Johnson, Peace, Rainey, Solis, and Watson)
818	1303	—	Miller
819	—	314	Ayala (Coauthor: Assembly Member Leach)
820	—	882	Schiff
821	290	—	Alby
822	—	1078	Lockyer
823	—	558	Leslie (Coauthor: Senator Polanco)
824	—	912	Calderon
825	287	—	Honda
826	1346	—	Olberg (Coauthors: Assembly Members Ackerman, Aguiar, Battin, Granlund, House, Machado, Mazzoni, Oller, Richter, Strom-Martin, and Woods) (Coauthors: Senators Costa and Leslie)
827	670	—	Mazzoni (Principal coauthor: Assembly Member Olberg) (Coauthor: Senator Brulte)
828	—	376	Alpert (Principal coauthors: Assembly Members Mazzoni and Pacheco) (Coauthor: Senator McPherson) (Coauthors: Assembly Members Baldwin, Frusetta, and Prenter)
829	58	—	Escutia
830	177	—	Goldsmith and Senator Schiff (Coauthor: Senator Calderon)
831	353	—	Wildman and Keeley (Coauthors: Assembly Members Baca, Havice, Machado, Scott, Sweeney, and Washington) (Coauthors: Senators Alpert, Karnette, O'Connell, and Solis)
832	355	—	Morrissey
833	541	—	Ducheny
834	730	—	Keeley
835	922	—	Battin
836	1277	—	Thomson (Principal coauthor: Senator O'Connell)
837	1527	—	Brown
838	—	227	Solis
839	—	402	Greene (Coauthors: Assembly Members Bordonaro and Miller)
840	—	624	Costa
841	388	—	Runner
842	—	644	Polanco
843	753	—	Escutia (Coauthor: Senator Alpert)
844	1065	—	Goldsmith (Coauthor: Senator Solis)
845	588	—	Figueroa
846	807	—	Scott
847	45	—	Murray
848	102	—	Cunneen, Alby, and Kuehl (Coauthors: Assembly Members Alquist, Ashburn, Brown, Cardoza, Havice, Honda, Knox, Leach, Lempert, Margett, Mazzoni, McClintock, Morrissey, Perata, Scott, Shelley, Sweeney, and Wayne) (Coauthors: Senators Alpert, Leslie, McPherson, O'Connell, Rainey, Solis, and Watson)
849	200	—	Kuehl and Alby (Principal Senate coauthor: Senator Rainey) (Coauthors: Assembly Members Alquist, Baca, Havice, Keeley, Knox, Lempert, Martinez, Mazzoni, McClintock, Napolitano, Ortiz, Perata, Thomson, Washington, and Wayne) (Coauthors: Senators Alpert, Karnette, McPherson, Solis, and Watson)
850	233	—	Escutia and Pringle (Principal coauthors: Assembly Members Cardoza and Morrow) (Coauthors: Assembly Members Aguiar, Alby, Ashburn, Baca, Battin, Bordonaro, Brewer, Campbell, Cunneen, Granlund, House, Kaloogian, Kuehl, Leach, Leonard, Machado, Migden, Miller, Morrissey, Pacheco, Papan, Perata, Prenter, Shelley, Strom-Martin, Sweeney, and Thomson) (Principal coauthors: Senators Calderon, Johannessen, Leslie, and Solis) (Coauthors: Senators Ayala, Burton, Johnston, O'Connell, Schiff, and Thompson)
851	530	—	Introduced by the Assembly Committee on Higher Education (Lempert (Chair), Firestone (Vice Chair), Ackerman, Ashburn, Baldwin, Caldera, Cardoza, Cunneen, Havice, Keeley, Knox, Kuehl, Kuykendall, and Scott) and the Senate Committee on Education (Greene (Chair), McPherson (Vice Chair), Alpert, Dills, Hayden, Haynes, Hughes, Knight, Monteith, O'Connell, Sher, Vasconcellos, and Watson) (Coauthors: Assembly Members Aguiar, Alquist, Bordonaro, Ducheny, Frusetta, Gallegos, Goldsmith, Granlund, Hertzberg, House, Leach, Leonard, Machado, Margett, Mazzoni, Morrissey, Napolitano, Pacheco, Papan, Perata, Runner, Sweeney, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Woods) (Coauthors: Senators Karnette, Lee, Leslie, Peace, Polanco, Rainey, Schiff, and Solis)
852	1191	—	Shelley (Principal coauthor: Senator Kopp) (Coauthors: Assembly Members Alquist, Keeley, Lempert, Perata, and Wayne)
853	1318	—	Ducheny (Principal coauthors: Senators Brulte, O'Connell, and Peace) (Coauthors: Assembly Members Alquist, Aguiar, Alby, Ashburn, Baldwin, Battin, Baugh, Bordonaro, Bowler, Brewer, Bustamante, Campbell, Cunneen, Davis, Firestone, Frusetta, Goldsmith, Granlund, Havice, House, Kaloogian, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Miller, Morrissey, Oller, Pacheco, Poochigian, Prenter, Pringle, Richter, Scott, Strom-Martin, Wayne, and Wildman) (Coauthors: Senators Alpert, Calderon, Hayden, Haynes, Johannessen, Johnson, Kelley, Lee, Leslie, McPherson, Monteith, Polanco, Rainey, Sher, and Vasconcellos)
854	602	—	Davis and Poochigian (Coauthors: Assembly Members Aguiar, Aroner, Baca, Baldwin, Battin, Campbell, Cunneen, Figueroa, Keeley, Kuehl, Leach, Margett, Mazzoni, Miller, Pacheco, Papan, Prenter, Thomson, and Wayne) (Coauthor: Senators Costa and Knight)
855	—	727	Rosenthal, Alpert, and Watson (Coauthor: Assembly Member Leonard)
856	—	1253	Mountjoy (Principal coauthors: Senators Dills and Knight)
857	1438	—	Escutia (Coauthors: Assembly Members Baca, Kuehl, Papan, Sweeney, and Villaraigosa)
858	420	—	Baca and Senator Johnston
859	1574	—	Escutia (Principal coauthors: Assembly Members Cardoza and Morrow) (Coauthors: Assembly Members Aguiar, Alby, Ashburn, Baca, Battin, Bordonaro, Brewer, Campbell, Cunneen, Granlund, House, Kaloogian, Kuehl, Leach, Leonard, Machado, Migden, Miller, Morrissey, Pacheco, Papan, Perata, Prenter, Shelley, Strom-Martin, Sweeney, and Thomson) (Principal coauthors: Senators Calderon, Johannessen, Leslie, and Solis) (Coauthors: Senators Ayala, Burton,

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			Johnston, O'Connell, Schiff, and Thompson)
860	—	377	Greene (Coauthors: Senators Craven and Hughes) (Coauthors: Assembly Members Mazzoni, Morrow, Ortiz, and Washington)
861	—	1051	Vasconcellos (Coauthors: Assembly Members Figueroa and Honda)
862	—	1163	Greene (Coauthor: Assembly Member Ortiz)
863	—	712	Haynes and Rainey (Coauthor: Assembly Member Firestone)
864	—	824	Greene
865	—	1155	Leslie (Coauthor: Assembly Member Richter)
866	—	49	Karnette (Principal coauthors: Senators Lockyer, McPherson, and Polanco) (Principal coauthors: Assembly Members Cunneen and Frusetta) (Coauthors: Senators Costa, Hayden, O'Connell, Sher, Solis, and Vasconcellos) (Coauthors: Assembly Members Alquist, Bowen, Davis, Keeley, Knox, Kuehl, Lempert, Mazzoni, McClintock, Shelley, and Strom-Martin)
867	—	8	Lockyer
868	1378	—	Prenter (Coauthors: Assembly Members Aguiar, Battin, Bordonaro, Frusetta, House, Runner, and Thomson) (Coauthors: Senators Ayala, Costa, Johannessen, and McPherson)
869	—	513	Lockyer (Principal coauthor: Assembly Member Pacheco) (Coauthors: Assembly Members Hertzberg, Morrow, and Wayne)
870	—	660	Sher
871	—	1040	Maddy (Coauthor: Assembly Member Keeley)
872	—	1068	Thompson
873	—	1081	Calderon
874	—	1082	Kelley
875	—	1330	Lockyer (Principal coauthor: Senator Leslie) (Coauthors: Senators O'Connell and Rainey)
876	1485	—	Scott (Coauthor: Senators Schiff and Kopp)
877	524	—	Cunneen (Principal coauthor: Assembly Member Olberg) (Coauthors: Assembly Members Mazzoni and Wayne) (Coauthors: Senators Alpert and Watson)
878	595	—	Brown (Coauthors: Assembly Members Alquist, Honda, Mazzoni, Strom-Martin, and Torlakson)
879	776	—	Baca (Coauthor: Assembly Member Kuehl)
880	—	517	Haynes (Coauthor: Senator Ayala) (Coauthors: Assembly Members Battin, Margett, and Pacheco)
881	10	—	Ducheny (Coauthors: Assembly Members Ashburn, Battin, Bustamante, Cardoza, House, Keeley, and Prenter)
882	381	—	Takasugi and Machado
883	549	—	Wildman and Thomson (Principal coauthor: Senator Thompson)
884	847	—	Wayne (Coauthor: Assembly Member Machado)
885	963	—	Keeley (Principal coauthor: Assembly Member Shelley) (Coauthors: Assembly Members Aguiar, Baca, Bustamante, Honda, Lempert, Pacheco, Perata, and Takasugi) (Coauthor: Senator McPherson)
886	1188	—	Lempert and Senator Thompson (Coauthors: Assembly Members Cardoza, Davis, Honda, Machado, and Wayne) (Coauthor: Senator O'Connell)
887	1198	—	Hertzberg (Coauthors: Assembly Members Baca and Honda)
888	1213	—	Miller
889	1587	—	Committee on Budget (Ducheny (Chair), Miller (Vice Chair), Bowen, Brown, Cardenas, Davis, Escutia, Figueroa, Gallegos, Keeley, Knox, Lempert, Scott, Strom-Martin, Torlakson, Villaraigosa, Wright, and Senator Thompson)
890	—	413	Peace (Coauthors: Senators Alpert, Burton, and Karnette) (Coauthors: Assembly Members Aroner, Baldwin, Ducheny, Havice, Strom-Martin, and Wayne)
891	—	1325	Mountjoy
892	—	73	Kopp
893	—	161	Greene
894	—	512	Committee on Insurance (Senators Rosenthal (Chair), Johnson, Johnston, Leslie, and Peace)
895	460	—	House (Coauthors: Assembly Members Cardoza and Prenter)
896	—	1048	Sher, Kopp, and Vasconcellos (Coauthors: Senators Burton, Lee, McPherson, and Thompson) (Coauthors: Assembly Members Alquist, Aroner, Brown, Cunneen, Honda, Lempert, Mazzoni, Migden, Papan, Perata, Shelley, Sweeney, and Torlakson)
897	—	673	Karnette
898	699	—	Migden
899	1429	—	Shelley, Wayne, and Cardenas
900	584	—	Villaraigosa
901	130	—	Battin (Principal coauthor: Senator Leslie) (Coauthor: Assembly Member Honda)
902	152	—	Morrow
903	761	—	McClintock (Coauthors: Assembly Members Baldwin, Campbell, Granlund, House, Kaloogian, Margett, Olberg, Oller, Richter, and Woods) (Coauthors: Senators Costa, Monteith, and Schiff)
904	1223	—	Strom-Martin
905	—	90	Sher (Principal coauthor: Assembly Member Martinez) (Coauthors: Assembly Members Baca, Bustamante, Campbell, Cardenas, Kuehl, Kuykendall, Leonard, Machado, Murray, Runner, Sweeney, Villaraigosa, Washington, Woods, and Wright)
906	—	438	Johnston
907	—	526	Hayden (Principal coauthor: Assembly Member Villaraigosa) (Coauthors: Assembly Members Hertzberg and Washington)
908	—	853	Schiff (Coauthor: Senator Calderon)
909	—	1050	Alpert and Kopp (Coauthor: Assembly Member Goldsmith)
910	—	1195	Schiff
911	62	—	McClintock and Hertzberg (Coauthors: Senators Hayden and Rosenthal)
912	572	—	Caldera (Coauthors: Assembly Members Campbell and Sweeney)
913	—	873	Vasconcellos (Coauthor: Senator Kopp) (Coauthors: Assembly Members Papan and Torlakson)
914	—	623	O'Connell
915	—	394	Johnston (Principal coauthor: Assembly Member Shelley)
916	690	—	Morrow
917	326	—	Ortiz, Ducheny, Kuehl, and Mazzoni (Coauthors: Senators Alpert, Hughes, Karnette, Lee, Polanco, Sher, and Watson)
918	568	—	Lempert
919	633	—	Cardenas, Frusetta, and Hertzberg
920	874	—	Takasugi
921	989	—	Perata
922	896	—	Napolitano and Machado (Coauthors: Senators Ayala, Costa, Johannessen, and Solis)
923	1219	—	Bustamante
924	1230	—	Wright (Coauthors: Senators Calderon and Polanco)

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925	1601	—	Shelley and Senator Burton (Coauthors: Assembly Members Migden and Papan) (Coauthor: Senator Kopp)
926	—	936	Burton
927	—	1350	Burton, Assembly Member Shelley, Senator Kopp, and Assembly Members Migden and Papan
928	1571	—	Ducheny (Principal coauthor: Senator Thompson)
929	—	85	Peace (Principal coauthor: Assembly Member Mazzoni) (Coauthors: Senators Alpert and Polanco) (Coauthors: Assembly Members Alquist and Bowen)
930	—	172	Rainey (Principal coauthor: Senator Johnston) (Principal coauthors: Assembly Members Leach and Torlakson) (Coauthor: Senator O'Connell) (Coauthor: Assembly Member Lempert)
931	920	—	Davis (Principal coauthor: Assembly Member Prenter)
932	—	820	Polanco
933	301	—	Cunneen
934	351	—	Scott (Coauthor: Senator Vasconcellos)
935	367	—	Havice (Principal coauthor: Senator Hughes) (Coauthor: Assembly Member Baca) (Coauthor: Senator Watson)
936	748	—	Escutia
937	1266	—	Mazzoni
938	1475	—	Bordonaro and Senator O'Connell (Coauthors: Assembly Members Ackerman, Alby, Alquist, Ashburn, Baugh, Campbell, Cunneen, Figueroa, Firestone, Granlund, Havice, Kuykendall, Leonard, Margett, Morrissey, Olberg, and Runner) (Coauthors: Senators Alpert, Brulte, Costa, Haynes, Karnette, Kelley, Knight, Leslie, and Vasconcellos)
939	—	1026	Schiff (Coauthors: Senators Craven and O'Connell)
940	—	1105	Committee on Revenue and Taxation (Senators Alpert (Chair), Greene, Karnette, Knight, Kopp, and McPherson)
941	—	542	Alpert
942	—	283	Leslie
943	1484	—	Hertzberg (Coauthor: Assembly Member McClintock)
944	1391	—	Goldsmith
945	1561	—	Committee on Transportation (Assembly Members Murray (Chair), Baugh (Vice Chair), Baca, Bowler, Cardenas, Figueroa, Havice, Mazzoni, Napolitano, Perata, Runner, Scott, and Torlakson)
946	1224	—	Thomson
947	1520	—	Vincent (Coauthors: Assembly Members Frusetta and Takasugi)
948	1106	—	Knox
949	—	95	Ayala and Kopp (Coauthor: Assembly Member Shelley)
950	437	—	Aroner
951	1595	—	Committee on Public Employees, Retirement and Social Security (Knox (Chair), Migden, Runner, Scott, Shelley, and Wildman)

TABLE OF RESOLUTIONS ADOPTED BY THE LEGISLATURE

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Res. Ch.	Res. No.	Author
1	ACR 7	Cunneen, Ackerman, Aroner, Baca, Baldwin, Brown, Cardoza, Frusetta, Gallegos, Havice, Keeley, Knox, Kuehl, Lempert, Leonard, Martinez, Mazzoni, Papan, Perata, Runner, Shelley, Strom-Martin, Washington, Wayne, Wildman, Wright, Aguiar, Alquist, Ashburn, Battin, Bordonaro, Brewer, Bustamante, Campbell, Cardenas, Davis, Figueroa, Floyd, Goldsmith, Granlund, Honda, House, Kaloogian, Kuykendall, Leach, Machado, Miller, Morrissey, Murray, Olberg, Oller, Ortiz, Pacheco, Pringle, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, and Woods (Coauthors: Senators Alpert, Ayala, Brulte, Calderon, Costa, Craven, Dills, Greene, Hayden, Haynes, Hughes, Johannessen, Johnson, Johnston, Karnette, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Mountjoy, O'Connell, Peace, Polanco, Rainey, Rosenthal, Schiff, Sher, Solis, Thompson, Vasconcellos, Watson, and Wright)
2	ACR 11	Honda (Coauthors: Assembly Members Ackerman, Aguiar, Alquist, Baca, Battin, Baugh, Bordonaro, Bustamante, Cardoza, Davis, Ducheny, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, House, Keeley, Knox, Kuehl, Kuykendall, Leonard, Machado, Margett, Martinez, Mazzoni, Morrissey, Morrow, Murray, Napolitano, Olberg, Oller, Papan, Perata, Pringle, Runner, Scott, Takasugi, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright)
3	SCR 6	Lockyer, Alpert, Hughes, Karnette, McPherson, O'Connell, Polanco, Rosenthal, Schiff, Solis, Thompson, and Watson (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Baca, Baugh, Bordonaro, Bowen, Bustamante, Cardoza, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Keeley, Knox, Kuehl, Kuykendall, Leach, Machado, Margett, Martinez, Mazzoni, Morrissey, Murray, Napolitano, Pacheco, Papan, Perata, Pringle, Scott, Takasugi, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright)
4	ACR 8	Honda and Takasugi (Coauthors: Assembly Members Aguiar, Alby, Alquist, Aroner, Baca, Battin, Baugh, Bordonaro, Bowen, Brown, Bustamante, Caldera, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Floyd, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Martinez, Mazzoni, McClintock, Migden, Morrissey, Morrow, Murray, Napolitano, Oller, Papan, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright)
5	ACR 13	Alby, Aguiar, Alquist, Aroner, Battin, Baugh, Bordonaro, Bowen, Bowler, Brown, Bustamante, Caldera, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Floyd, Frusetta, Gallegos, Goldsmith, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Martinez, Mazzoni, McClintock, Morrissey, Murray, Napolitano, Oller, Papan, Poochigian, Prenter, Pringle, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Wright)
6	ACR 6	Torlakson and Mazzoni (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Baca, Bordonaro, Bowen, Bustamante, Cardoza, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Keeley, Knox, Kuehl, Kuykendall, Leach, Machado, Margett, Martinez, Morrissey, Morrow, Napolitano, Olberg, Ortiz, Pacheco, Papan, Perata, Pringle, Runner, Scott, Takasugi, Thomson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright) (Coauthors: Senators Alpert, Ayala, Brulte, Burton, Calderon, Costa, Craven, Dills, Greene, Haynes, Hughes, Hurtt, Johannessen, Johnson, Johnston, Karnette, Kelley, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Mountjoy, O'Connell, Rainey, Rosenthal, Schiff, Sher, Solis, Vasconcellos, Watson, and Wright)
7	ACR 9	Murray (Principal coauthors: Assembly Members Vincent, Washington, and Wright) (Principal coauthors: Senators Hughes, Lee, and Watson) (Coauthors: Assembly Members Knox, Morrissey, Ortiz, Strom-Martin, Wildman, Ackerman, Aguiar, Alquist, Baca, Battin, Bordonaro, Bustamante, Cardoza, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Keeley, Kuehl, Leonard, Machado, Margett, Martinez, Mazzoni, Napolitano, Olberg, Oller, Pacheco, Papan, Perata, Pringle, Richter, Runner, Scott, Takasugi, Thomson, Torlakson, Villaraigosa, Wayne, and Woods) (Coauthors: Senators Alpert, Ayala, Brulte, Calderon, Costa, Craven, Dills, Greene, Haynes, Hughes, Johannessen, Johnson, Johnston, Karnette, Kelley, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, O'Connell, Peace, Polanco, Rainey, Rosenthal, Schiff, Solis, Thompson, Watson, and Wright)
8	SCR 5	Lockyer
9	ACR 10	Floyd (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Baca, Battin, Baugh, Bordonaro, Bowen, Bustamante, Cardoza, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, House, Keeley, Knox, Kuehl, Kuykendall, Leach, Leonard, Machado, Margett,

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			Martinez, Mazzoni, McClintock, Morrissey, Morrow, Murray, Napolitano, Olberg, Oller, Pacheco, Papan, Perata, Pringle, Runner, Scott, Takasugi, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright)
10	SCR	21	Thompson
11	ACR	18	Wildman, Ackerman, Alby, Baca, Baldwin, Bowen, Brown, Bustamante, Caldera, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Gallegos, Havice, Hertzberg, Honda, House, Keeley, Knox, Lempert, Machado, Martinez, Mazzoni, Murray, Napolitano, Ortiz, Papan, Perata, Runner, Scott, Shelley, Strom-Martin, Sweeney, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, and Wright (Coauthors: Senators Alpert, Ayala, Brulte, Burton, Calderon, Costa, Craven, Greene, Haynes, Hughes, Hurtt, Johnson, Johnston, Karnette, Kelley, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Mountjoy, O'Connell, Peace, Polanco, Rosenthal, Schiff, Sher, Thompson, Vasconcellos, Watson, and Wright)
12	SCR	29	O'Connell
13	ACR	16	Wright, Ackerman, Aguiar, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Bordonaro, Bowen, Brown, Bustamante, Campbell, Cardenas, Cordoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Floyd, Frusetta, Gallegos, Goldsmith, Granlund, Hertzberg, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Martinez, Mazzoni, Migden, Miller, Morrissey, Morrow, Murray, Napolitano, Olberg, Oller, Ortiz, Pacheco, Papan, Perata, Prenter, Pringle, Runner, Scott, Shelley, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Woods
14	SCR	4	Burton (Coauthors: Assembly Members Alquist, Aroner, Brown, Caldera, Cardoza, Escutia, Figueroa, Havice, Hertzberg, Honda, Keeley, Knox, Kuehl, Kuykendall, Mazzoni, Migden, Murray, Napolitano, Ortiz, Perata, Scott, Shelley, Strom-Martin, Sweeney, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne and Wildman)
15	SCR	16	Polanco
16	SCR	12	Solis, Alpert, Ayala, Brulte, Burton, Costa, Craven, Dills, Greene, Hayden, Haynes, Hughes, Hurtt, Johannessen, Johnson, Johnston, Karnette, Kelley, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Mountjoy, O'Connell, Polanco, Rainey, Rosenthal, Schiff, Sher, Thompson, Watson, and Wright (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Aroner, Ashburn, Baca, Battin, Bordonaro, Bowen, Brewer, Brown, Bustamante, Caldera, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Floyd, Frusetta, Gallegos, Goldsmith, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Machado, Margett, Martinez, Mazzoni, Migden, Miller, Morrissey, Morrow, Napolitano, Olberg, Oller, Ortiz, Papan, Perata, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Wright
17	ACR	15	Havice, Baca, Ackerman, Ashburn, Baldwin, Bustamante, Caldera, Campbell, Cunneen, Ducheny, Figueroa, Gallegos, Goldsmith, Hertzberg, Kaloogian, Knox, Kuehl, Kuykendall, Lempert, Martinez, Mazzoni, McClintock, Morrissey, Oller, Perata, Scott, Strom-Martin, Sweeney, Takasugi, Thomson, Washington, Wayne, Wildman, Wright, Aguiar, Alby, Alquist, Aroner, Battin, Bordonaro, Bowen, Bowler, Brewer, Brown, Cardenas, Cardoza, Davis, Firestone, Frusetta, Granlund, Honda, House, Keeley, Leach, Leonard, Machado, Margett, Migden, Miller, Murray, Olberg, Ortiz, Pacheco, Papan, Poochigian, Prenter, Pringle, Runner, Shelley, Thompson, Torlakson, Villaraigosa, Vincent, and Woods (Coauthors: Senators Alpert, Costa, Hughes, Karnette, McPherson, Monteith, Mountjoy, O'Connell, Peace, Polanco, Rainey, Solis, Watson, and Wright)
18	ACR	34	Mazzoni, Aguiar, Alquist, Aroner, Baca, Baldwin, Battin, Baugh, Bowen, Brown, Bustamante, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Granlund, Havice, Hertzberg, Honda, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Margett, Martinez, McClintock, Migden, Miller, Morrissey, Morrow, Murray, Napolitano, Oller, Ortiz, Papan, Perata, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright
19	ACR	30	Goldsmith
20	ACR	39	Bustamante (Principal coauthor: Senator Lockyer)
21	SCR	35	Johannessen
22	SCR	30	Johnston, Alpert, Costa, Craven, Hughes, Karnette, Lee, Leslie, Lockyer, McPherson, O'Connell, Peace, Rainey, Solis, Thompson, Vasconcellos, and Watson (Coauthors: Assembly Members Ackerman, Alby, Aroner, Baca, Baldwin, Battin, Bowler, Bustamante, Cardoza, Cunneen, Ducheny, Gallegos, Granlund, Knox, Leach, Lempert, Machado, Martinez, Mazzoni, McClintock, Migden, Olberg, Ortiz, Shelley, Strom-Martin, Sweeney, Takasugi, Washington, Wayne, Woods, Aguiar, Alquist, Ashburn, Baugh, Bordonaro, Bowen, Brewer, Brown, Caldera, Campbell, Cardenas, Davis, Escutia, Figueroa, Firestone, Frusetta, Havice, Honda, House, Kaloogian, Keeley, Kuehl, Kuykendall, Leonard, Margett, Miller, Morrissey, Morrow, Murray, Napolitano, Oller, Perata, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Wildman, and Wright)
23	ACR	23	Morrissey, Ackerman, Aguiar, Alby, Alquist, Aroner, Ashburn, Baca, Battin, Baugh, Bordonaro, Bowen, Bowler, Brown,

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24	ACR	29	Migden, Aguiar, Alquist, Aroner, Ashburn, Baca, Baldwin, Brewer, Brown, Bustamante, Cardenas, Cardoza, Cunneen, Davis, Escutia, Figueroa, Firestone, Gallegos, Havice, Hertzberg, Kaloogian, Keeley, Knox, Kuehl, Lempert, Machado, Margett, Martinez, Mazzoni, McClintock, Murray, Oller, Ortiz, Papan, Perata, Poochigian, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman and Wright (Coauthors: Senators Alpert, Costa, Karnette, O'Connell, Polanco, Rosenthal, Solis, Vasconcellos, and Watson)
25	ACR	50	Pacheco (Principal coauthor: Senator Kelley) (Coauthors: Assembly Members Ackerman, Aguiar, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Brown, Bustamante, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Mazzoni, McClintock, Miller, Morrissey, Morrow, Murray, Napolitano, Olberg, Oller, Ortiz, Perata, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright) (Coauthors: Senators Alpert, Ayala, Brulte, Burton, Costa, Dills, Haynes, Hughes, Hurtt, Johannessen, Johnson, Johnston, Karnette, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Mountjoy, O'Connell, Peace, Rosenthal, Schiff, Sher, Solis, Thompson, Watson, and Wright)
26	AJR	5	Havice, Aroner, Baca, Bustamante, Caldera, Ducheny, Figueroa, Floyd, Knox, Kuehl, Lempert, Margett, Martinez, Mazzoni, Papan, Perata, Takasugi, Washington, Wildman, Wright, Ackerman, Aguiar, Alquist, Ashburn, Battin, Bowen, Brown, Campbell, Cardenas, Cardoza, Cunneen, Davis, Escutia, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Hertzberg, Honda, Keeley, Kuykendall, Leach, Machado, Migden, Miller, Morrissey, Murray, Ortiz, Pacheco, Prenter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Thomson, Torlakson, Villaraigosa, Vincent, Wayne, and Woods (Coauthors: Senators Karnette, McPherson, O'Connell, Peace, Polanco, Solis, and Watson)
27	SJR	12	Thompson (Coauthor: Assembly Member Strom-Martin)
28	ACR	38	Davis, Aguiar, Aroner, Bowen, Brown, Caldera, Campbell, Cunneen, Figueroa, Gallegos, Knox, Kuykendall, Lempert, Leonard, Martinez, Mazzoni, McClintock, Migden, Murray, Olberg, Papan, Richter, Runner, Takasugi, Thompson, Ackerman, Alby, Alquist, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowler, Bustamante, Cardoza, Ducheny, Escutia, Firestone, Frusetta, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Kuehl, Leach, Machado, Margett, Miller, Morrissey, Morrow, Napolitano, Oller, Ortiz, Perata, Poochigian, Prenter, Pringle, Scott, Shelley, Strom-Martin, Sweeney, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright (Coauthors: Senators Costa, Dills, Hughes, Johnson, Karnette, Kelley, Kopp, Lockyer, Mountjoy, Polanco, Rainey, Rosenthal, Sher, Solis, Vasconcellos, Watson, Alpert, Ayala, Brulte, Burton, Calderon, Greene, Hayden, Haynes, Hurtt, Johannessen, Johnston, Knight, Lee, Leslie, Lewis, Maddy, McPherson, Monteith, O'Connell, Peace, Schiff, Thompson, and Wright)
29	SCR	8	Thompson, Ayala, Brulte, Craven, Dills, Hughes, Johannessen, Johnson, Johnston, Karnette, Kelley, Knight, Kopp, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Rosenthal, Schiff, Sher, Vasconcellos, and Watson (Coauthors: Assembly Members Brown, Morrow, and Scott)
30	SCR	32	Thompson (Coauthors: Assembly Members Ackerman, Aguiar, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Brewer, Brown, Bustamante, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Martinez, Mazzoni, McClintock, Migden, Miller, Morrissey, Morrow, Murray, Napolitano, Olberg, Oller, Ortiz, Papan, Perata, Poochigian, Prenter, Pringle, Runner, Scott, Shelley, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, and Wright)
31	ACR	33	Murray, Baca, Mazzoni, McClintock, and Wayne
32	ACR	36	Introduced by Assembly Members Mazzoni, Ackerman, Aguiar, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Brewer, Brown, Bustamante, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Havice, Hertzberg, Honda, House, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Margett, Martinez, McClintock, Migden, Miller, Morrissey, Morrow, Murray,

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Res. Ch.		Res. No.	Author
			Napolitano, Olberg, Ortiz, Papan, Perata, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright
33	ACR	37	Washington, Alquist, Aroner, Baca, Bowen, Brown, Bustamante, Cardenas, Cardoza, Cunneen, Davis, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Havice, Hertzberg, Honda, Kaloogian, Keeley, Knox, Kuehl, Leach, Lempert, Machado, Margett, Martinez, Mazzoni, Migden, Miller, Morrow, Murray, Napolitano, Ortiz, Papan, Perata, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thomson, Torlakson, Villaraigosa, Vincent, Wayne, Wildman, Woods, and Wright
34	ACR	17	Bustamante (Principal coauthor: Senator Lockyer) (Coauthors: Assembly Members Aroner, Baca, Bowen, Brown, Ducheny, Figueroa, Floyd, Ortiz, Shelley, Washington, and Wayne) (Coauthors: Senators Polanco, Solis, and Watson)
35	ACR	41	Olberg, Alby, Papan, Scott, Bowler, Ackerman, Aguiar, Alquist, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Brown, Bustamante, Caldera, Campbell, Cardoza, Cunneen, Davis, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Martinez, McClintock, Miller, Morrissey, Morrow, Murray, Napolitano, Oller, Ortiz, Perata, Poochigian, Prenter, Pringle, Runner, Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Vincent, Washington, Wayne, Wildman, and Woods (Coauthors: Senators Alpert, Ayala, Brulte, Burton, Costa, Haynes, Hughes, Hurtt, Johannessen, Johnson, Kelley, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, McPherson, Monteith, Mountjoy, O'Connell, Peace, Polanco, Rainey, Rosenthal, Schiff, Solis, Thompson, Watson, and Wright)
36	ACR	51	Kaloogian, Poochigian, Wildman, Papan, Ackerman, Aguiar, Alby, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Bowler, Brown, Bustamante, Caldera, Campbell, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, House, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Mazzoni, McClintock, Miller, Morrissey, Morrow, Murray, Napolitano, Olberg, Oller, Ortiz, Pacheco, Perata, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Woods, and Wright (Coauthors: Senators Alpert, Ayala, Brulte, Burton, Calderon, Costa, Dills, Greene, Hayden, Haynes, Hughes, Hurtt, Johannessen, Johnson, Johnston, Karnette, Kelley, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Mountjoy, O'Connell, Peace, Polanco, Rainey, Rosenthal, Schiff, Sher, Solis, Thompson, Vasconcellos, Watson, and Wright)
37	ACR	49	Alby
38	SJR	11	Kelley
39	SCR	7	Greene
40	ACR	28	Havice
41	SCR	1	Burton
42	ACR	52	Mazzoni (Coauthors: Senators Johnston, Karnette, McPherson, Sher, and Thompson)
43	SCR	28	Peace
44	AJR	12	Mazzoni
45	ACR	42	Olberg (Coauthor: Senator Knight)
46	ACR	44	Machado (Coauthor: Assembly Member Cardoza)
47	SCR	45	Brulte (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Ashburn, Baca, Baldwin, Battin, Bordonaro, Bowen, Bowler, Brown, Bustamante, Caldera, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Machado, Margett, Martinez, Mazzoni, Migden, Miller, Morrissey, Morrow, Murray, Napolitano, Olberg, Oller, Ortiz, Papan, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright)
48	SCR	10	Hughes, Alpert, Dills, Karnette, Lee, McPherson, Solis, Thompson, Vasconcellos, and Watson (Coauthors: Assembly Members Alquist, Baca, Cardoza, Floyd, Gallegos, Havice, Keeley, Kuehl, Leonard, Martinez, Murray, Napolitano, Ortiz, Scott, Shelley, Washington, Wayne, Wildman, and Wright)
49	ACR	31	Morrissey and Napolitano
50	ACR	56	Honda (Principal coauthor: Assembly Member Takasugi) (Coauthors: Assembly Members Baldwin, Bowen, Brown, Caldera, Cunneen, Davis, Ducheny, Gallegos, Knox, Kuehl, Kuykendall, Lempert, Mazzoni, Migden, Olberg, Ortiz, Papan, Richter, Shelley, Torlakson, Villaraigosa, and Wright) (Coauthors: Senators Alpert, Costa, Hughes, Lockyer, and Solis)
51	SCR	41	Rainey
52	SCR	19	Brulte and Lockyer
53	AJR	24	Murray (Principal coauthors: Assembly Members Washington and Wright) (Principal coauthors: Senators Hughes, Lee, and Watson) (Coauthors: Assembly Members Ackerman, Aguiar, Alquist, Aroner, Baca, Baldwin, Battin, Campbell, Cardenas, Cunneen, Davis, Ducheny, Figueroa, Firestone, Goldsmith, Honda, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Martinez, Mazzoni, Migden, Miller, Morrissey, Olberg, Ortiz, Papan, Prenter, Pringle, Runner, Scott, Shelley, Strom-Martin, Sweeney, Thomson, Torlakson, Villaraigosa, Wayne, and Wildman) (Coauthors: Senators Karnette and Rosenthal)
54	ACR	55	Wildman

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Res. Ch.	Res. No.		Author
55	SCR	31	Alpert, Craven, Kelley, and Peace (Coauthors: Assembly Members Baldwin, Davis, Ducheny, Goldsmith, Morrow, and Wayne)
56	SCR	36	Alpert, Costa, Craven, Hughes, Karnette, Lee, Leslie, Lockyer, McPherson, Monteith, O'Connell, Peace, Rainey, Solis, Vasconcellos, and Watson (Coauthors: Assembly Members Ackerman, Aguiar, Alquist, Bowen, Caldera, Campbell, Cardoza, Cunneen, Ducheny, Figueroa, Goldsmith, Granlund, Havice, Knox, Kuehl, Leach, Lempert, Machado, Martinez, Mazzoni, McClintock, Napolitano, Oller, Scott, Strom-Martin, Takasugi, Thomson, and Wayne)
57	SJR	1	Haynes (Coauthor: Senator Rainey) (Coauthors: Assembly Members Bordonaro and Thompson)
58	ACR	5	Richter
59	SJR	20	Polanco (Principal coauthor: Senator Wright) (Principal coauthor: Assembly Member Battin) (Coauthor: Assembly Member Baca)
60	AJR	19	Baca (Principal Senate coauthors: Senators Costa and Knight) (Coauthors: Assembly Members Alby, Ashburn, Bordonaro, Campbell, Ducheny, Gallegos, Havice, Lempert, Morrissey, Olberg, Prenter, Runner, Thomson, and Wayne) (Coauthors: Senators Hughes, Karnette, Monteith, O'Connell, Rainey, and Rosenthal)
61	SCR	2	Johannessen
62	SCR	9	Kelley
63	SCR	18	Sher (Principal coauthor: Assembly Member Migden) (Coauthor: Senator Thompson) Coauthors: Assembly Members Strom-Martin, Alquist, Aroner, Baca, Bowen, Brown, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Havice, Hertzberg, Honda, Keeley, Knox, Kuehl, Kuykendall, Lempert, Martinez, Mazzoni, Murray, Napolitano, Ortiz, Papan, Perata, Scott, Shelley, Sweeney, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, and Wildman)
64	ACR	1	Machado, Ackerman, Aguiar, Alby, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Brown, Bustamante, Campbell, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Havice, Hertzberg, Honda, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Margett, Mazzoni, McClintock, Miller, Morrissey, Morrow, Murray, Napolitano, Olberg, Oller, Ortiz, Pacheco, Papan, Perata, Poochigian, Prenter, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Vincent, Washington, Wayne, Wildman, Woods, and Wright (Coauthor: Senator Johnston)
65	SCR	22	McPherson (Principal coauthor: Assembly Member Frusetta) (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Bowler, Campbell, Cardenas, Cunneen, Ducheny, Escutia, Figueroa, Firestone, Gallegos, Granlund, Havice, Honda, House, Kaloogian, Knox, Kuehl, Leach, Lempert, Leonard, Machado, Margett, Martinez, McClintock, Miller, Morrissey, Morrow, Napolitano, Olberg, Oller, Ortiz, Papan, Perata, Prenter, Richter, Runner, Scott, Shelley, Sweeney, Takasugi, Thomson, Torlakson, Vincent, Wayne, Wildman, Woods, and Wright)
66	ACR	22	Napolitano, Kuehl, Mazzoni, Strom-Martin, and Washington (Coauthors: Senators Karnette and Watson)
67	AJR	8	Honda (Principal coauthor: Assembly Member Murray) (Coauthors: Assembly Members Alquist, Aroner, Ducheny, Figueroa, Keeley, Knox, Lempert, Mazzoni, Napolitano, and Perata) (Coauthors: Senators Kopp, O'Connell, Sher, Solis, Vasconcellos, and Watson)
68	AJR	11	Granlund
69	AJR	29	Baca, Alby, Bordonaro, Kuykendall, and Olberg (Coauthors: Assembly Members Aguiar and Ducheny) (Coauthors: Senators Dills and Hughes)
70	SJR	2	Thompson
71	SCR	34	Thompson
72	AJR	30	Baca, Alby, Ortiz, and Thomson (Coauthor: Senator Dills)
73	SJR	5	Haynes (Coauthor: Senator Knight) (Coauthors: Assembly Members Baldwin, Battin, Leonard, Margett, and Pacheco)
74	SJR	18	Karnette (Principal coauthor: Senator Kopp) (Coauthors: Senators Lockyer and Watson) (Coauthors: Assembly Members Baca, Ducheny, Keeley, Kuykendall, Leach, Mazzoni, Shelley, Strom-Martin, and Wayne)
75	AJR	16	Baca
76	ACR	59	Woods
77	SCR	33	Haynes
78	AJR	21	Migden, Leach, and Torlakson (Coauthors: Assembly Members Alquist, Aroner, Bowen, Brown, Cunneen, Figueroa, Honda, Lempert, Mazzoni, Ortiz, Papan, Perata, Richter, Shelley, Sweeney, Thomson, Villaraigosa, Ackerman, Aguiar, Alby, Baca, Bordonaro, Bustamante, Cardenas, Cardoza, Ducheny, Escutia, Frusetta, Goldsmith, Granlund, Havice, Hertzberg, Keeley, Knox, Kuehl, Machado, Margett, Martinez, Morrissey, Murray, Napolitano, Prenter, Scott, Strom-Martin, Takasugi, Vincent, Washington, Wildman, Woods, and Wright)
79	AJR	22	Kaloogian (Coauthors: Assembly Members Baldwin, Ducheny, Morrow, Thompson, and Wayne) (Coauthors: Senators Alpert, Craven, Haynes, and Kelley)
80	AJR	28	Ducheny and Villaraigosa (Principal coauthor: Assembly Member Honda) (Principal coauthors: Senators Peace and Polanco) (Coauthors: Assembly Members Aroner, Baca, Baldwin, Bowen, Caldera, Cardenas, Cunneen, Davis, Gallegos, Havice, Hertzberg, Knox, Kuehl, Kuykendall, Leach, Margett, Martinez, Mazzoni, Ortiz, Perata, Strom-Martin, Takasugi, Torlakson, and Wayne) (Coauthors: Senators Alpert, Costa, Dills, Haynes, Johannessen, Johnston, Karnette, Kelley, Kopp, Lee, Lockyer, Maddy, O'Connell, Rosenthal, Schiff, Sher, Watson, and Wright)
81	SCR	51	Costa (Principal coauthor: Senator Johnston) (Principal coauthors: Assembly Members Honda and Takasugi) (Coauthors:

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Res. Ch.	Res. No.		Author
			Senators Alpert, Burton, Hughes, Karnette, Kopp, Lee, Lewis, Lockyer, Monteith, O'Connell, Polanco, Rosenthal, Solis, Vasconcellos, Watson, and Wright) (Coauthors: Assembly Members Alquist, Aroner, Ashburn, Baca, Bowen, Caldera, Campbell, Cardoza, Cunneen, Gallegos, Granlund, Havice, Knox, Kuehl, Kuykendall, Lempert, Margett, Morrissey, Ortiz, Pacheco, Papan, Perata, Richter, Shelley, Strom-Martin, and Wayne)
82	AJR	7	Machado (Coauthor: Senator Johnston)
83	ACR	65	Goldsmith and Machado
84	AJR	25	Baca
85	SCR	25	Costa, Ayala, Karnette, Kelley, Kopp, Monteith, and Polanco (Coauthors: Assembly Members Bustamante and Poochigian)
86	AJR	17	Murray
87	SCR	13	Kopp and Burton
88	SCR	40	Watson
89	SCR	56	Lockyer
90	ACR	43	Murray, Aroner, Baca, Bowler, Cardoza, Davis, Hertzberg, Knox, Kuehl, Lempert, Machado, Migden, Scott, Washington, Wayne, and Wright (Coauthors: Senators Hughes, Lee, Leslie, Rosenthal, Solis, and Watson)
91	ACR	4	Perata, Ortiz, Gallegos, Torlakson, Alquist, Aroner, Bowen, Brown, Cardoza, Davis, Escutia, Figueroa, Granlund, Havice, Hertzberg, Honda, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Lempert, Mazzoni, Migden, Napolitano, Scott, Shelley, Strom-Martin, Thompson, Thomson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Wright (Coauthors: Senators Burton, Hughes, Karnette, Kopp, Lee, Solis, Vasconcellos, and Watson)
92	SCR	17	Watson
93	SJR	6	Solis, Lockyer, Calderon, and Hayden (Principal coauthor: Assembly Member Honda) (Coauthors: Assembly Members Cardenas, Torlakson, Ackerman, Aguiar, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Brown, Bustamante, Caldera, Campbell, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, House, Kaloogian, Keeley, Kuehl, Kuykendall, Leach, Leonard, Machado, Margett, Martinez, Mazzoni, McClintock, Migden, Miller, Morrissey, Morrow, Murray, Napolitano, Olberg, Oller, Ortiz, Pacheco, Papan, Perata, Poochigian, Prenter, Pringle, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Thomson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright)
94	ACR	2	Floyd
95	SCR	20	Solis
96	SCR	27	Kopp (Principal coauthor: Senator Dills) (Coauthors: Senators Schiff and Watson) (Coauthor: Assembly Member Brewer)
97	SCR	42	Kopp, Costa, Dills, Hayden, Johannessen, Karnette, Kelley, Maddy, McPherson, Monteith, Sher, and Watson (Coauthors: Assembly Members Aroner, Cunneen, Davis, Hertzberg, Napolitano, and Richter)
98	SJR	25	Solis (Coauthors: Senators Burton, Calderon, Costa, Hayden, Hughes, Johnston, Karnette, Lee, O'Connell, Peace, and Watson) (Coauthor: Assembly Member Villaraigosa)
99	SJR	26	Kopp
100	ACR	32	Cardoza (Coauthor: Senator Costa)
101	ACR	63	Prenter and Oller (Principal coauthors: Assembly Members Leach, Miller, Morrissey, and Woods)
102	SCR	3	Kopp
103	SCR	23	Polanco (Coauthor: Senator Watson)
104	SCR	38	Alpert, Costa, Craven, Dills, Hughes, Karnette, Lee, Lockyer, O'Connell, Peace, Polanco, Rainey, Solis, Vasconcellos, Watson, and Wright (Coauthors: Assembly Members Aguiar, Baca, Baldwin, Bowen, Brewer, Brown, Bustamante, Caldera, Cardoza, Ducheny, Figueroa, Floyd, Frusetta, Gallegos, Knox, Kuehl, Kuykendall, Leach, Lempert, Machado, Mazzoni, Morrow, Papan, Scott, Shelley, Strom-Martin, Washington, Wayne, and Woods)
105	SCR	39	Johnston
106	SCR	43	Leslie (Principal coauthor: Senator Johnston) (Principal coauthor: Assembly Member Oller) (Coauthors: Senators Ayala, Dills, Greene, Johnson, Kopp, Lockyer, Maddy, and Vasconcellos)
107	SCR	48	McPherson
108	SCR	54	Lockyer (Principal coauthor: Assembly Member Bustamante) (Coauthors: Senators Burton, Costa, Dills, Hughes, Johnston, Karnette, Polanco, Rosenthal, Schiff, Solis, Vasconcellos, and Watson) (Coauthors: Assembly Members Aroner, Baca, Bowen, Brown, Cardenas, Figueroa, Floyd, Honda, Keeley, Knox, Kuehl, Gallegos, Migden, Murray, Napolitano, Ortiz, Perata, Shelley, Sweeney, Thomson, Torlakson, Villaraigosa, Washington, Wayne, Wildman, and Wright)
109	SJR	27	Kopp, Costa, Johannessen, Maddy, and Polanco
110	SJR	29	Vasconcellos (Principal coauthor: Assembly Member Cunneen) (Coauthors: Senators Alpert, Leslie, McPherson, O'Connell, Polanco, Sher, Solis, Watson, and Wright) (Coauthors: Assembly Members Alquist, Bowen, Caldera, Campbell, Cardenas, Davis, Figueroa, Keeley, Knox, Lempert, and McClintock)
111	ACR	12	Cunneen, Alquist, Honda, Keeley, and Lempert (Coauthors: Senators McPherson, Sher, and Vasconcellos)
112	ACR	57	Goldsmith, Baldwin, Davis, Ducheny, Kaloogian, and Wayne (Coauthors: Senators Alpert, Haynes, and Kelley)
113	AJR	32	Kuykendall (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Bustamante, Caldera, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Havice, Honda, Keeley, Knox, Kuehl, Leach, Lempert, Leonard, Margett, Martinez, McClintock, Migden, Miller, Morrissey, Morrow, Murray, Napolitano, Olberg, Oller, Ortiz, Papan, Perata, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney,

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			Takasugi, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Woods)
114	ACR	74	Kaloogian
115	AJR	36	Machado
116	SCR	26	Committee on Public Employment and Retirement (Senators Schiff (Chair), Burton, Haynes, and Karnette)
117	SCR	46	Karnette
118	SCR	49	Hughes (Coauthors: Senators Alpert, Costa, Dills, Karnette, Johnston, Lee, Lockyer, O'Connell, Polanco, Rosenthal, Sher, Solis, Vasconcellos, and Watson) (Coauthors: Assembly Members Ackerman, Baca, Bowen, Caldera, Campbell, Cardenas, Davis, Ducheny, Gallegos, Havice, Hertzberg, Honda, Keeley, Knox, Kuehl, Leach, Mazzoni, Migden, Murray, Napolitano, Perata, Scott, Shelley, Strom-Martin, Sweeney, Thomson, and Washington)
119	SCR	52	O'Connell
120	SCR	53	Watson, Hughes, and Lee (Coauthors: Assembly Members Murray, Vincent, Washington, and Wright)
121	ACR	26	Gallegos
122	ACR	58	Ortiz (Coauthor: Assembly Member Machado)
123	ACR	68	Morrissey (Principal coauthors: Assembly Members Frusetta and Pacheco)
124	AJR	4	Floyd
125	AJR	13	Havice, Honda, Martinez, Ortiz, and Shelley
126	AJR	18	Shelley, Aroner, Baca, Bowen, Brown, Figueroa, Keeley, Knox, Kuehl, Lempert, Mazzoni, Ortiz, Washington, and Wayne (Principal coauthor: Senator McPherson) (Coauthors: Senators Karnette, Lee, O'Connell, Polanco, Solis, Vasconcellos, and Watson)
127	ACR	21	Woods
128	ACR	76	Wayne
129	ACR	77	Thomson and Perata (Coauthors: Assembly Members: Ackerman, Aguiar, Alquist, Aroner, Ashburn, Baca, Baugh, Bordonaro, Bowen, Brewer, Brown, Bustamante, Campbell, Cardenas, Cardoza, Cunneen, Davis, Escutia, Figueroa, Floyd, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Leach, Lempert, Leonard, Machado, Margett, Martinez, Mazzoni, McClintock, Migden, Morrissey, Murray, Napolitano, Oller, Ortiz, Pacheco, Papan, Poochigian, Prenter, Pringle, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright)
130	AJR	37	Ortiz and Perata (Coauthor: Senator Polanco)
131	AJR	39	Thomson and Murray (Principal coauthors: Assembly Members Battin, Baugh, Leach, and Washington) (Coauthors: Assembly Members Bustamante, Ackerman, Alquist, Aroner, Ashburn, Baca, Baldwin, Bowler, Brown, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Havice Hertzberg, Honda, House, Keeley, Knox, Kuehl, Kuykendall, Lempert, Machado, Margett, Mazzoni, McClintock, Miller, Morrissey, Morrow, Napolitano, Olberg, Ortiz, Pacheco, Papan, Perata, Poochigian, Pringle, Richter, Runner, Shelley, Strom-Martin, Sweeney, Takasugi, Torlakson, Villaraigosa, Vincent, Wayne, Wildman, and Wright) (Coauthors: Senators Costa, Johannessen, Kelley, Kopp, Lee, Lockyer, and Monteith)
132	SCR	50	Johannessen (Principal coauthor: Senator Knight) (Coauthors: Senators Alpert, Ayala, Brulte, Burton, Calderon, Costa, Craven, Dills, Greene, Hayden, Haynes, Hughes, Hurtt, Johnson, Johnston, Karnette, Kelley, Kopp, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Mountjoy, O'Connell, Polanco, Rainey, Rosenthal, Schiff, Sher, Solis, Thompson, and Watson) (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Ashburn, Baca, Baldwin, Bordonaro, Bowen, Bowler, Caldera, Cunneen, Havice, House, Knox, Leach, Leonard, Margett, McClintock, Miller, Morrissey, Morrow, Olberg, Poochigian, Runner, Scott, Strom-Martin, Thomson, Wayne, Woods, Aroner, Battin, Baugh, Brown, Bustamante, Campbell, Cardenas, Cardoza, Davis, Ducheny, Escutia, Figueroa, Firestone, Frusetta, Gallegos, Goldsmith, Granlund, Hertzberg, Honda, Kaloogian, Keeley, Kuehl, Kuykendall, Lempert, Machado, Martinez, Mazzoni, Migden, Murray, Napolitano, Oller, Ortiz, Pacheco, Papan, Perata, Prenter, Pringle, Richter, Shelley, Sweeney, Takasugi, Thompson, Torlakson, Villaraigosa, Vincent, Washington, Wildman, and Wright)
133	SCR	55	Mountjoy, Alpert, Ayala, Brulte, Burton, Calderon, Costa, Craven, Dills, Greene, Hayden, Haynes, Hughes, Hurtt, Johannessen, Johnson, Johnston, Karnette, Kelley, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, O'Connell, Peace, Polanco, Rainey, Rosenthal, Schiff, Sher, Solis, Thompson, Vasconcellos, Watson, and Wright (Coauthors: Assembly Members Aguiar, Alby, Alquist, Aroner, Baca, Baugh, Bordonaro, Bowen, Bowler, Brown, Bustamante, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Floyd, Frusetta, Gallegos, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Lempert, Machado, Margett, Mazzoni, McClintock, Migden, Miller, Morrissey, Murray, Napolitano, Olberg, Oller, Ortiz, Pacheco, Papan, Perata, Prenter, Pringle, Richter, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, and Woods)
134	SCR	59	Solis, Alpert, Ayala, Brulte, Burton, Calderon, Costa, Craven, Dills, Greene, Hayden, Haynes, Hughes, Hurtt, Johannessen, Johnson, Johnston, Karnette, Kelley, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Mountjoy, O'Connell, Peace, Polanco, Rainey, Rosenthal, Schiff, Sher, Thompson, Vasconcellos, Watson, and Wright (Coauthors: Assembly Members Ackerman, Aguiar, Alby, Alquist, Aroner, Ashburn, Baca, Baldwin, Battin, Baugh, Bordonaro, Bowen, Bowler, Brewer, Brown, Bustamante, Campbell, Cardenas, Cardoza, Cunneen, Davis, Ducheny,

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135	ACR	78	Bordonaro
136	AJR	38	Bustamante (Principal coauthors: Assembly Members Honda, Leonard, and Takasugi) (Principal coauthors: Senators Hurtt, Lockyer, Polanco, and Solis)

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1	—	4	Costa (Coauthor: Senator Leslie) (Coauthor: Assembly Member Machado)
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3	1	—	Cardoza, Brown, Frusetta, Machado, Mazzoni, Oller, Richter, Strom-Martin, and Thomson (Principal coauthors: Assembly Members Bowler and Woods) (Principal coauthor: Senator Monteith) (Coauthors: Assembly Members Campbell, Papan, Prenter, and Wayne) (Coauthors: Senators Dills, Johnston, Leslie, and McPherson)
4	2	—	Strom-Martin, Cardoza, Brown, Mazzoni, Machado, and Thomson (Coauthors: Assembly Members Bowler, Frusetta, Oller, Poochigian, Prenter, Richter, and Woods) (Principal coauthor: Senator Thompson) (Coauthors: Senators Costa, Dills, Johnston, and Leslie)
5	11	—	Poochigian
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8	10	—	Machado

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1	AJR	1	Oller, Aguiar, Alby, Alquist, Aroner, Baca, Battin, Baugh, Bordonaro, Bowen, Bowler, Brown, Bustamante, Caldera, Cardenas, Cardoza, Cunneen, Davis, Ducheny, Escutia, Figueroa, Firestone, Floyd, Frusetta, Gallegos, Goldsmith, Granlund, Havice, Hertzberg, Honda, House, Kaloogian, Keeley, Knox, Kuehl, Kuykendall, Leach, Lempert, Leonard, Machado, Margett, Martinez, Mazzoni, McClintock, Migden, Morrissey, Murray, Napolitano, Papan, Poochigian, Prenter, Pringle, Richter, Runner, Scott, Shelley, Strom-Martin, Sweeney, Takasugi, Thompson, Thomson, Torlakson, Villaraigosa, Vincent, Washington, Wayne, Wildman, Woods, and Wright

STATUTES OF CALIFORNIA

1997–98

REGULAR SESSION

1997 CHAPTERS

CHAPTER 1

An act to repeal Section 7 of Chapter 948 of the Statutes of 1996, relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor February 11, 1997. Filed with
Secretary of State February 11, 1997.]

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

SECTION 1. Section 7 of Chapter 948 of the Statutes of 1996 is repealed.

SEC. 2. It is the intent of the Legislature in enacting this act to immediately facilitate the reduction of class size in California and to cause Chapter 948 of the Statutes of 1996 to become operative.

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 provide for a new credentialing process to be in place to support the teachers that will be needed to implement the provisions of the class size reduction program contained in the Budget Act of 1996 and the supporting provisions of law, it is necessary that this act take effect immediately.

CHAPTER 2

An act to amend Sections 19605.7, 19614.4, 19617, and 19617.2 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 3, 1997. Filed with
Secretary of State March 3, 1997.]

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

SECTION 1. Section 19605.7 of the Business and Professions Code 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 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; 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. 2. Section 19614.4 of the Business and Professions Code is amended 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 winner's share of the purse for a qualifying race, as defined in paragraph (2) of subdivision (b) of Section 19617, 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 winner's share of the purse for a qualifying race, as defined in paragraph (2) of subdivision (b) of Section 19617, 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.

(c) The official registering agency shall develop a policy for the payment of owner premiums pursuant to subdivisions (a) and (b) in the event of a dead heat that involves one or more registered California-bred horses.

SEC. 3. Section 19617 of the Business and Professions Code is amended to read:

19617. The following definitions shall govern the construction of this section:

(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) As qualified by paragraph (5), in the case of owner premiums, certain claiming races, as defined by paragraph (4), and all allowance races, including maiden special weights. No owner premiums shall be paid on California-bred restricted races pursuant to Section 19568.

(3) As qualified by paragraph (5), 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 section, 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 15 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 15 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 15 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. 4. 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. Any funds not used for those purposes during any year and that remain in the California-bred race fund shall be redistributed to augment the funds referred to in subdivision (c), and shall be allocated to the breeder fund and to the stallion fund as provided in that subdivision. 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. 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 for the changes made by this act to apply to the 1997 racing season, it is necessary that this act take effect immediately.

CHAPTER 3

An act relating to trial court funding, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 4, 1997. Filed with Secretary of State March 4, 1997.]

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

SECTION 1. There is hereby appropriated from the General Fund to the Trial Court Trust Fund in augmentation of Item 0450-111-0001 of the Budget Act of 1996 the sum of two hundred ninety million five hundred thousand dollars ($290,500,000).

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 provide adequate state trial court funding for the 1996–97 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 4

An act to add and repeal Section 21080.12 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 12, 1997. Filed with Secretary of State April 14, 1997.]

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

SECTION 1. Section 21080.12 is added to the Public Resources Code, to read:

21080.12. (a) This division does not apply to the repair, reconstruction, restoration, or rehabilitation of a public facility or private levee damaged or destroyed by the storms and floods of 1997 in a disaster-stricken area of a county for which the Governor has proclaimed a state of emergency, so long as the repair, reconstruction, restoration, or rehabilitation is limited to restoring the condition of the public facility or private levee as it was immediately prior to the storms and floods of 1997.

(b) 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. 2. (a) Division 13 (commencing with Section 21000) of the Public Resources Code shall not apply to the relocation of occupants or uses from real property pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code, or to the relocation of occupants or uses from real property of the Port of San Francisco to other real property of the Port of San Francisco, if both of the following criteria are met:

(1) The real property is proposed to be used for an open air ballpark for major league baseball, and is located in a special zoning district permitting, or conditionally permitting, that use, which zoning district was established pursuant to a ballot measure approved by the voters of the city and county in which the property is located.

(2) The relocation activities, if considered independently of the proposed ballpark use of the property, would be exempt from this division.

(b) This section shall not affect the application of Division 13 (commencing with Section 21000) to any discretionary action by a public agency not otherwise exempted by this section, including the construction of such a ballpark.

(c) Nothing in this section shall be construed to restrict the ability or rights of relocated occupants to challenge or appeal the relocation options offered them by the City and County of San Francisco, the City and County of San Francisco Redevelopment Agency, the Port of San Francisco, or the Department of Transportation pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code, or under proposed mitigation measures, if any, specified pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) This section shall remain in effect for two years after its effective date and as of that date shall become inoperative, and as of January 1, 2000, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2000, 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 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.

Moreover, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain other costs that may be incurred by a local agency or school district that 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.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that proposed ballpark construction and needed repair, reconstruction, restoration, or rehabilitation of storm or flood damaged public facilities and levees are not delayed, it is necessary that this act take effect immediately.

CHAPTER 5

An act to amend and repeal Sections 13202.3 and 14907 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 15, 1997. Filed with Secretary of State April 15, 1997.]

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

SECTION 1. Section 13202.3 of the Vehicle Code is amended to read:

13202.3. (a) The department shall immediately suspend or delay the privilege of any person to drive a motor vehicle for six months upon receipt of a duly certified abstract of the record of any court showing the person has been convicted of any controlled substance offense specified in subdivision (c). For each successive offense, the department 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 an additional six months.

This subdivision does not apply if, upon conviction, the court orders the department to suspend, restrict, or revoke the driving privilege as required under Section 13202 or 13202.5, if the suspension, restriction, or revocation is for a period of not less than six months.

(b) (1) In the absence of compelling circumstances warranting an exception, whenever a court in this state convicts a person of any controlled substance offense specified in subdivision (c), the court in which the conviction occurs shall require all driver's licenses held by the person to be surrendered to the court. The court shall, not later than 10 days after the conviction, transmit to the department a certified abstract of the conviction, together with any driver's license surrendered.

(2) For purposes of this subdivision, the court may consider compelling circumstances to include 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.

(c) This section applies to convictions involving controlled substances contained in the following provisions:

(1) The laws of the United States, each state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. For purposes of this subdivision, "conviction" means a conviction of any controlled substance offense prohibited by any federal or state law, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any controlled substance offense.

(2) Division 10 (commencing with Section 11000) of the Health and Safety Code, involving the possession, distribution, manufacture, cultivation, sale, or transfer of any substance or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any of those substances, the possession of which is prohibited under that division.

(3) Article 2 (commencing with Section 23152) of Chapter 12 of Division 11.

(d) Suspension or delay of driving privileges pursuant to this section shall be in addition to any penalty imposed upon conviction of any violation specified in subdivision (c), unless the court has ordered suspension, revocation, or restriction as required under Section 13202 or 13202.5.

(e) Any law enforcement officer who arrests a person, or issues a notice to appear to a person, for any violation of the provisions listed in subdivision (c) shall inform the person of the driver's license sanctions required under this section, either orally or in a written form approved by the Judicial Council. If the information required to be provided under this subdivision is provided orally, the officer shall indicate on the arrest report or the notice to appear the time and date that the information was provided. If the information is

provided in a written form, the officer shall attach a copy of the written document to the arrest report or notice to appear.

(f) This section shall become inoperative on June 30, 1999, and is repealed as of January 1, 2000.

SEC. 2. Section 14907 of the Vehicle Code is amended to read:

14907. (a) Notwithstanding any other provision of this code, in lieu of the fees in Section 14904, before a driver's license may be issued, reissued, or returned to a person after the suspension or delay of the person's privilege to operate a motor vehicle pursuant to Section 13202.3, there shall be paid to the department a fee in an amount of twenty-four dollars ($24) to pay the costs of the administration of these license actions by the department.

(b) This section does not apply to a suspension or revocation that is set aside by the department or a court.

(c) This section shall become inoperative on June 30, 1999, and is repealed as of January 1, 2000.

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.

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 protect the health and well-being of the public by reducing the number of drug-related offenses as soon as possible, it is necessary that this act take effect immediately.

SEC. 5. This act shall become operative only if Senate Bill 131 of the 1997–98 Regular Session is enacted.

CHAPTER 6

An act relating to vehicles.

[Approved by Governor April 15, 1997. Filed with Secretary of State April 15, 1997.]

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

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

(a) Public Law 101-516 was signed by the President of the United States and became effective on November 5, 1990. Public Law 101-516 requires, among other things, that states either (1) enact laws that mandate suspending or revoking for six months the driver's license of any person convicted of specified controlled substance violations or (2) enact legislation declaring that a state does not wish to impose the specified driver's license sanction.

(b) Public Law 101-516 provides that if a state fails to enact a law that conforms with the federal statute, either providing for driver's license suspension for controlled substance violations or explicitly rejecting that action, then the state will suffer the loss of a portion of its federal transportation funds.

(c) California has been a leader in developing programs to prevent the abuse and unlawful use of controlled substances as well as enacting laws regulating driving behavior and imposing driver's license suspensions and revocations for drug violations and driving under the influence of drugs.

(d) California is opposed to federal requirements prescribing the content and conclusions of state laws, especially in those policy areas where the state has acted responsibly and in the best interests of its citizens.

(e) It is the intent of the Legislature and the Governor that this act constitutes a certification, pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 159 of Title 23 of the United States Code, that the Legislature and the Governor do not wish to impose the sanctions specified under the law described in subparagraph (A) of paragraph (3) of subdivision (a) of Section 159 of the United States Code.

(f) It is the further intent of the Legislature to enact a driver's license suspension statute that is consistent with California public policy and the United States Constitution and the California Constitution.

SEC. 2. This act shall become operative only if Assembly Bill 74 is also enacted and becomes operative on or before January 1, 1998.

CHAPTER 7

An act to amend Section 18843 of the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 15, 1997. Filed with Secretary of State April 15, 1997.]

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

SECTION 1. Section 18843 of the Revenue and Taxation Code is amended to read:

18843. All money transferred to the California Military Museum Fund is hereby appropriated for allocation as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article not otherwise funded in the Budget Act.

(b) To the California Military Museum for the operation of the museum as provided by Section 179 of the Military and Veterans Code.

SEC. 2. There is hereby appropriated the sum of one hundred thirty-five thousand dollars ($135,000) from the D.A.R.E. California (Drug Abuse Resistance Education) Fund to the Controller for allocation to D.A.R.E. California to assist in establishing and maintaining drug abuse resistance education programs in California schools.

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 Controller may transfer money that is collected by the Franchise Tax Board and deposited in the D.A.R.E. California (Drug Abuse Resistance Education) Fund to D.A.R.E. California and may transfer money that is collected by the Franchise Tax Board and deposited in the California Military Museum Fund to the California Military Museum at the earliest possible time, it is necessary that this bill take effect immediately.

CHAPTER 8

An act to amend Section 2938 of the Civil Code, relating to security interests, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 15, 1997. Filed with Secretary of State April 15, 1997.]

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

SECTION 1. Section 2938 of the Civil Code is amended to read:

2938. (a) A written assignment of an interest in leases, rents, issues, or profits of real property made in connection with an obligation secured by real property, irrespective of whether the assignment is denoted as absolute, absolute conditioned upon default,

additional security for an obligation, or otherwise, shall, upon execution and delivery by the assignor, be effective to create a present security interest in existing and future leases, rents, issues, or profits of that real property. As used in this section, "leases, rents, issues, and profits of real property" include the cash proceeds thereof. The term "cash proceeds" means cash, checks, deposit accounts, and the like.

(b) An assignment of an interest in leases, rents, issues, or profits of real property may be recorded in the records of the county recorder in which the underlying real property is located in the same manner as any other conveyance of an interest in real property, whether the assignment is in a separate document or part of a mortgage or deed of trust, and when so duly recorded in accordance with the methods, procedures, and requirements for recordation of conveyances of other interests in real property, (1) the assignment shall be deemed to give constructive notice of the content of the assignment with the same force and effect as any other duly recorded conveyance of an interest in real property and (2) the interest granted by the assignment shall be deemed fully perfected as of the time of recordation with the same force and effect as any other duly recorded conveyance of an interest in real property, notwithstanding any provision of the assignment or any provision of law that would otherwise preclude or defer enforcement of the rights granted the assignee under the assignment until the occurrence of a subsequent event, including, but not limited to, a subsequent default of the assignor, or the assignee's obtaining possession of the real property or the appointment of a receiver.

(c) Upon default of the assignor under the obligation secured by the assignment of leases, rents, issues, and profits, the assignee shall be entitled to enforce the assignment in accordance with this section. On and after the date the assignee takes one or more of the enforcement steps described in this subdivision, the assignee shall be entitled to collect and receive all rents, issues, and profits that have accrued but remain unpaid and uncollected by the assignor or its agent or for the assignor's benefit on that date, and all rents, issues, and profits that accrue on or after the date. The assignment shall be enforced by one or more of the following:

(1) The appointment of a receiver.

(2) Obtaining possession of the rents, issues, or profits.

(3) Delivery to any one or more of the tenants of a written demand for turnover of rents, issues, and profits in the form specified in subdivision (j), a copy of which demand shall also be delivered to the assignor; and a copy of which shall be mailed to all other assignees of record of the leases, rents, issues, and profits of the real property at the address for notices provided in the assignment or, if none, to the address to which the recorded assignment was to be mailed after recording.

(4) Delivery to the assignor of a written demand for the rents, issues, or profits, a copy of which shall be mailed to all other assignees of record of the leases, rents, issues, and profits of the real property at the address for notices provided in the assignment or, if none, to the address to which the recorded assignment was to be mailed after recording.

Moneys received by the assignee pursuant to this subdivision, net of amounts paid pursuant to subdivision (g), if any, shall be applied by the assignee to the debt or otherwise in accordance with the assignment or the promissory note, deed of trust, or other instrument evidencing the obligation; provided, however, that neither the application nor the failure to so apply the rents, issues, or profits shall result in a loss of any lien or security interest which the assignee may have in the underlying real property or any other collateral, render the obligation unenforceable, constitute a violation of Section 726 of the Code of Civil Procedure, or otherwise limit any right available to the assignee with respect to its security.

(d) If an assignee elects to take the action provided for under paragraph (3) of subdivision (c), the demand provided for therein shall be signed under penalty of perjury by the assignee or an authorized agent of the assignee and shall be effective as against the tenant when actually received by the tenant at the address for notices provided under the lease or other contractual agreement under which the tenant occupies the property or, if no address for notices is so provided, at the property. Upon receipt of this demand, the tenant shall be obligated to pay to the assignee all rents, issues, and profits that are past due and payable on the date of receipt of the demand, and all rents, issues, and profits coming due under the lease following the date of receipt of the demand, unless either of the following occurs:

(1) The tenant has previously received a demand which is valid on its face from another assignee of the leases, issues, rents, and profits sent by the other assignee in accordance with this subdivision and subdivision (c).

(2) The tenant, in good faith and in a manner which is not inconsistent with the lease, has previously paid, or within 10 days following receipt of the demand notice pays, the rent to the assignor.

Payment of rent to an assignee following a demand under an assignment of leases, rents, issues, and profits shall satisfy the tenant's obligation to pay the amounts under the lease. If a tenant pays rent to the assignor after receipt of a demand other than under the circumstances described in this subdivision, the tenant shall not be discharged of the obligation to pay rent to the assignee, unless the tenant occupies the property for residential purposes. The obligation of a tenant to pay rent pursuant to this subdivision and subdivision (c) shall continue until receipt by the tenant of a written notice from a court directing the tenant to pay the rent in a different manner or receipt by the tenant of a written notice from the assignee from

whom the demand was received canceling the demand, whichever occurs first. Nothing in this subdivision shall affect the entitlement to rents, issues, or profits as between assignees as set forth in subdivision (h).

(e) No enforcement action of the type authorized by subdivision (c), and no collection, distribution, or application of rents, issues, or profits by the assignee following an enforcement action of the type authorized by subdivision (c), shall do any of the following:

(1) Make the assignee a mortgagee in possession of the property, except if the assignee obtains actual possession of the real property, or an agent of the assignor.

(2) Constitute an action, render the obligation unenforceable, violate Section 726 of the Code of Civil Procedure or, other than with respect to marshaling requirements, otherwise limit any rights available to the assignee with respect to its security.

(3) Be deemed to create any bar to a deficiency judgment pursuant to any provision of law governing or relating to deficiency judgments following the enforcement of any encumbrance, lien, or security interest, notwithstanding that the action, collection, distribution, or application may reduce the indebtedness secured by the assignment or by any deed of trust or other security instrument.

The application of rents, issues, or profits to the secured obligation shall satisfy the secured obligation to the extent of those rents, issues, or profits, and, notwithstanding any provisions of the assignment or other loan documents to the contrary, shall be credited against any amounts necessary to cure any monetary default for purposes of reinstatement under Section 2924c.

(f) If cash proceeds of rents, issues or profits to which the assignee is entitled following enforcement as set forth in subdivision (c) are received by the assignor or its agent for collection or by any other person who has collected such rents, issues, or profits for the assignor's benefit, or for the benefit of any subsequent assignee under the circumstances described in subdivision (h), following the taking by the assignee of either of the enforcement actions authorized in paragraph (3) or (4) of subdivision (c), and the assignee has not authorized the assignor's disposition of the cash proceeds in a writing signed by the assignee, the rights to the cash proceeds and to the recovery of the cash proceeds shall be determined by the following:

(1) The assignee shall be entitled to an immediate turnover of the cash proceeds received by the assignor or its agent for collection or any other person who has collected the rents, issues, or profits for the assignor's benefit, or for the benefit of any subsequent assignee under the circumstances described in subdivision (h), and the assignor or other described party in possession of such cash proceeds shall turn over the full amount of cash proceeds to the assignee, less any amount representing payment of expenses authorized by the assignee in writing. The assignee shall have a right to bring an action for recovery of the cash proceeds, and to recover the cash proceeds, without the

necessity of bringing an action to foreclose any security interest which it may have in the real property. This action shall not violate Section 726 of the Code of Civil Procedure or otherwise limit any right available to the assignee with respect to its security.

(2) As between an assignee with an interest in cash proceeds perfected in the manner set forth in subdivision (b) and enforced in accordance with paragraph (3) or (4) of subdivision (c) and any other person claiming an interest in the cash proceeds, other than the assignor or its agent for collection or one collecting rents, issues, and profits for the benefit of the assignor, and subject to subdivision (h), the assignee shall have a continuously perfected security interest in the cash proceeds to the extent that the cash proceeds are identifiable. For purposes hereof, cash proceeds are identifiable if they are either (A) segregated or (B) if commingled with other funds of the assignor or its agent or one acting on its behalf, can be traced using the lowest intermediate balance principle, unless the assignor or other party claiming an interest in proceeds shows that some other method of tracing would better serve the interests of justice and equity under the circumstances of the case. The provisions of this paragraph are subject to any generally applicable law with respect to payments made in the operation of the assignor's business.

(g) (1) If the assignee enforces the assignment under subdivision (c) by any means other than the appointment of a receiver and receives rents, issues, or profits pursuant to this enforcement, the assignor or any other assignee of the affected real property may make written demand upon the assignee to pay the reasonable costs of protecting and preserving the property, including payment of taxes and insurance and compliance with building and housing codes, if any.

(2) On and after the date of receipt of the demand, the assignee shall pay for the reasonable costs of protecting and preserving the real property to the extent of any rents, issues, or profits actually received by the assignee; provided, however, that no such acts by the assignee shall cause the assignee to become a mortgagee in possession and the assignee's duties under this subdivision, upon receipt of a demand from the assignor or any other assignee of the leases, rents, issues, and profits pursuant to paragraph (1), shall not be construed to require the assignee to operate or manage the property, which obligation shall remain that of the assignor.

(3) The obligation of the assignee hereunder shall continue until the earlier of (A) the date on which the assignee obtains the appointment of a receiver for the real property pursuant to application to a court of competent jurisdiction, or (B) the date on which the assignee ceases to enforce the assignment.

(4) Nothing in this subdivision shall be construed to supersede or diminish the right of the assignee to the appointment of a receiver.

(h) The lien priorities, rights, and interests among creditors concerning rents, issues, or profits collected before the enforcement

by the assignee shall be governed by subdivisions (a) and (b). Without limiting the generality of the foregoing, if an assignee who has recorded its interest in leases, rents, issues, and profits prior to the recordation of such interest by a subsequent assignee seeks to enforce its interest in those rents, issues, or profits in accordance with this section after any enforcement action has been taken by a subsequent assignee, the prior assignee shall be entitled only to the rents, issues, and profits that are accrued and unpaid as of the date of its enforcement action and unpaid rents, issues, and profits accruing thereafter. The prior assignee shall have no right to rents, issues, or profits paid prior to the date of the enforcement action, whether in the hands of the assignor or any subsequent assignee. Upon receipt of notice that the prior assignee has enforced its interest in the rents, issues, and profits, the subsequent assignee shall immediately send a notice to any tenant to whom it has given notice under subdivision (c). The notice shall inform the tenant that the subsequent assignee cancels its demand that the tenant pay rent to the subsequent assignee.

(i) This section shall apply to contracts entered into on or after January 1, 1997.

Sections 2938 and 2938.1, as these sections were in effect prior to January 1, 1997, shall govern contracts entered into prior to January 1, 1997, and shall govern actions and proceedings initiated on the basis of these contracts.

(j) "Real property," as used in this section, shall mean real property or any estate or interest therein.

(k) The demand required by paragraph (3) of subdivision (c) shall be in the following form:

DEMAND TO PAY RENT TO
PARTY OTHER THAN LANDLORD
(SECTION 2938 OF THE CIVIL CODE)

Tenant: [Name of Tenant]

Property Occupied by Tenant: [Address]

Landlord: [Name of Landlord]

Secured Party: [Name of Secured Party]

Address: [Address for Payment of Rent to Secured Party and for Further Information]:

The secured party named above is the assignee of leases, rents, issues, and profits under [name of document] dated ____________, and recorded at [recording information] in the official records of

_______________ County, California. You may request a copy of such assignment from the secured party at _______ (address).

THIS NOTICE AFFECTS YOUR LEASE OR RENTAL AGREEMENT RIGHTS AND OBLIGATIONS. YOU ARE THEREFORE ADVISED TO CONSULT AN ATTORNEY CONCERNING THOSE RIGHTS AND OBLIGATIONS IF YOU HAVE ANY QUESTIONS REGARDING YOUR RIGHTS AND OBLIGATIONS UNDER THIS NOTICE.

IN ACCORDANCE WITH SUBDIVISION (C) OF SECTION 2938 OF THE CIVIL CODE, YOU ARE HEREBY DIRECTED TO PAY TO THE SECURED PARTY, _______ (NAME OF SECURED PARTY) AT _______ (ADDRESS), ALL RENTS UNDER YOUR LEASE OR OTHER RENTAL AGREEMENT WITH THE LANDLORD OR PREDECESSOR IN INTEREST OF LANDLORD, FOR THE OCCUPANCY OF THE PROPERTY AT _______ (ADDRESS OF RENTAL PREMISES) WHICH ARE PAST DUE AND PAYABLE ON THE DATE YOU RECEIVE THIS DEMAND, AND ALL RENTS COMING DUE UNDER THE LEASE OR OTHER RENTAL AGREEMENT FOLLOWING THE DATE YOU RECEIVE THIS DEMAND UNLESS YOU HAVE ALREADY PAID THIS RENT TO THE LANDLORD IN GOOD FAITH AND IN A MANNER NOT INCONSISTENT WITH THE AGREEMENT BETWEEN YOU AND THE LANDLORD. IN THIS CASE, THIS DEMAND NOTICE SHALL REQUIRE YOU TO PAY TO THE SECURED PARTY _______, (NAME OF THE SECURED PARTY), ALL RENTS THAT COME DUE FOLLOWING THE DATE OF THE PAYMENT TO THE LANDLORD.

IF YOU PAY THE RENT TO THE UNDERSIGNED SECURED PARTY, _______ (NAME OF SECURED PARTY), IN ACCORDANCE WITH THIS NOTICE, YOU DO NOT HAVE TO PAY THE RENT TO THE LANDLORD. YOU WILL NOT BE SUBJECT TO DAMAGES OR OBLIGATED TO PAY RENT TO THE SECURED PARTY IF YOU HAVE PREVIOUSLY RECEIVED A DEMAND OF THIS TYPE FROM A DIFFERENT SECURED PARTY.

[For other than residential tenants]. IF YOU PAY ANY RENT TO THE LANDLORD THAT BY THE TERMS OF THIS DEMAND YOU ARE REQUIRED TO PAY TO THE SECURED PARTY, YOU MAY BE SUBJECT TO DAMAGES INCURRED BY THE SECURED PARTY BY REASON OF YOUR FAILURE TO COMPLY WITH THIS DEMAND, AND YOU MAY NOT BE DISCHARGED FROM YOUR OBLIGATION TO PAY SUCH RENT TO THE SECURED

PARTY. YOU WILL NOT BE SUBJECT TO SUCH DAMAGES OR OBLIGATED TO PAY SUCH RENT TO THE SECURED PARTY IF YOU HAVE PREVIOUSLY RECEIVED A DEMAND OF THIS TYPE FROM A DIFFERENT ASSIGNEE.

Your obligation to pay rent under this demand shall continue until you receive either (1) a written notice from a court directing you to pay the rent in a manner provided therein, or (2) a written notice from the secured party named above canceling this demand.

The undersigned hereby certifies, under penalty of perjury, that the undersigned is an authorized officer or agent of the secured party and that the secured party is the assignee, or the current successor to the assignee, under an assignment of leases, rents, issues, or profits executed by the landlord, or a predecessor in interest, that is being enforced pursuant to and in accordance with Section 2938 of the Civil Code.

Executed at ________________, California, this ________ day of ________________, __________.

[Secured Party]

Name: ______________________________

Title: ______________________________

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 clarify ambiguous language enacted in 1996, it is necessary for this act to take effect immediately.

CHAPTER 9

An act relating to violence against women, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 24, 1997. Filed with Secretary of State April 24, 1997.]

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

SECTION 1. It is the intent of the Legislature to develop and strengthen effective and innovative law enforcement, prosecution strategies, and victim services in cases involving violent crimes against women. In order to use federal funds appropriated to the State of California appropriately and effectively, the Legislature hereby makes the appropriations set forth in Section 2 of this act.

SEC. 2. The sum of eleven million four hundred fifty-three thousand dollars ($11,453,000) is hereby appropriated from the Federal Trust Fund from the moneys received by the state from the federal government pursuant to STOP (Services-Training-Officers-Prosecutors) Violence Against Women Formula Grant Program (Subpart B (commencing with Section 90.11) of Title 28 of the Code of Federal Regulations, Part 90) that implements a portion of the Violence Against Women Act of 1994 (Title IV of Public Law 103-322) to the Office of Criminal Justice Planning for allocation as follows:

(a) Grants for Law Enforcement: $2,720,087 to be allocated by the Office of Criminal Justice Planning as follows:

(1) $300,000 to the State Commission on Peace Officer Standards and Training (POST) to continue the development of three interactive telecourse trainings addressing violence against women.

(2) $1,425,210 to POST for the support of the POST certified domestic violence Institute of Criminal Investigation specialty course and first responder training. In designing this training, POST shall consult with community-based organizations that address violent crimes against women.

(3) $35,000 to the California Domestic Violence Investigators Association, an association comprised of public law enforcement and prosecution employees who investigate domestic violence cases, to plan, organize, and conduct a conference for the purpose of organizing the association.

(4) $959,877 to fund, through a competitive bid process, courses in photodocumentation of victims' injuries and crime scenes in domestic violence and sexual assault cases. The grantee shall purchase, through a competitive bid process, cameras which shall be provided to class participants. The Office of Criminal Justice Planning shall submit, commencing on January 1, 1999, an annual report to the Legislature showing the number of participants who have completed these courses, the agencies represented, the number of cameras provided, and any other information relevant to measuring the success of the courses funded pursuant to this paragraph.

(b) Grants for Prosecution: $2,720,087 to be allocated by the Office of Criminal Justice Planning as follows:

(1) $408,000 to the California District Attorneys Association to organize and conduct sexual assault and domestic violence training and related prosecution support services.

(2) $2,312,087 to the Office of Criminal Justice Planning to fund, through a competitive grant process, vertical prosecution for violence against women.

(c) Grants for Victim Services: $2,720,087 to be allocated by the Office of Criminal Justice Planning as follows:

(1) $150,087 to continue the Farmworker Women Sexual Assault and Domestic Violence Program.

(2) $975,123 to fund, through a competitive grant process, six rape crisis centers, one in each of the following underserved counties: Fresno, eastern Kern, eastern San Bernardino, and eastern San Diego, and two in the underserved portions of northern Los Angeles County.

(3) $935,000 to augment domestic violence shelter-based services for children in existing shelters.

(4) $359,877 to fund the statewide sexual assault and domestic violence coalitions to support statewide technical assistance, networking, policy development, information and referral, materials distribution and resource development, and training for their respective service providers. Funding shall be divided equally between the two disciplines.

(5) $300,000, through a competitive grant process, to Indian tribes or Indian organizations for at least two Indian tribal shelter services or programs, with at least one located in northern California and one located in southern California.

(d) Discretionary Grants: $2,720,087 to be allocated by the Office of Criminal Justice Planning as follows:

(1) $40,089 to continue funding for tracking software for rape crisis and domestic violence projects.

(2) $1,000,000 to fund, through a competitive grant process, multidisciplinary sexual assault response team victim advocate projects.

(3) $165,124 to fund, through a competitive grant process, multidisciplinary domestic violence response team victim advocate projects.

(4) $100,000 to fund a feasibility study report of a statewide automated victim notification system.

(5) $471,624 to POST for the support of the POST certified domestic violence Institute of Criminal Investigation specialty course and first responder training. In designing this training, POST shall consult with community-based organizations that address violent crimes against women.

(6) $471,624 to fund, through a competitive grant process, vertical prosecution efforts of violence against women.

(7) $235,812 to fund, through a competitive grant process, multidisciplinary sexual assault response team victim advocate projects.

(8) $235,812 to fund, through competitive grant processes, victim services projects that address domestic violence. Successful grant applicants shall identify all of the following:

(A) Detailed program goals.

(B) The populations that will be served by the project.

(C) How the project will address the particular needs of the targeted populations.

(D) How the project will assure, where relevant, appropriate multiagency participation and integrated services.

(E) How the project will be evaluated.

(e) All entities receiving funds pursuant to this act shall report annually to the Legislature and the Office of Criminal Justice Planning on the activities and accomplishments of each individual project or program. The report shall include all of the following information:

(1) A summary of the project's or program's operations, activities, and costs.

(2) An itemization of the services provided by the entity, including the number of clients served.

(3) An account of all public and private funds received by the entities for the previous year.

SEC. 3. Funding for the programs identified in Section 2 shall be provided from moneys in the Federal Trust Fund that the state receives from the federal government pursuant to STOP (Services-Training-Officers-Prosecutors) Violence Against Women Formula Grant Program (Subpart B (commencing with Section 90.11), Title 28 of the Code of Federal Regulations, Part 90). Up to 5 percent of the amount appropriated in Section 2 of this act shall be transferred, upon the approval of the Director of Finance, to the Office of Criminal Justice Planning to administer the programs identified in that section. From the 5 percent allocated for administrative purposes under this section, the Office of Criminal Justice Planning shall complete an evaluation of the programs funded pursuant to this act.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make use of federal funding and to enable state and local agencies to enhance both the law enforcement and prosecution of violent crimes against women and the provision of services to the victims of violent crimes against women, it is necessary that this act take effect immediately.

CHAPTER 10

An act to amend and supplement the Budget Act of 1996 (Chapter 162 of the Statutes of 1996), relating to forest resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 16, 1997. Filed with Secretary of State May 16, 1997.]

On this date I have signed Assembly Bill No. 169, however, I am reducing the allocation provided in Section 1(a)(1) of this bill for staffing for the Department of Forestry and Fire Protection from $1,962,000 to $1,100,000, or by $862,000, to more accurately reflect the staffing needs of the Department based on the enactment date of this bill. Indeed, the original figure of $1,962,000 was based upon a enactment of this measure in March.

PETE WILSON, Governor

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

SECTION 1. (a) The sum of seventy million nine hundred seventy-two thousand dollars ($70,972,000) is hereby appropriated, for expenditure in the 1996–97 fiscal year, from the following funds to the Controller for allocation in accordance with the following schedule:

(1) For allocation to the Department of Forestry and Fire Protection, in augmentation of Item 3540-001-0001 of Section 2.00 of the Budget Act of 1996, to provide a staff for the first fire engine of one operator and two firefighters 24 hours a day and seven days a week during the declared fire season, and for the second fire engine at two-engine stations of one operator and two firefighters 24 hours a day and seven days a week during the declared peak fire season. Staffing allocations, determination of declared fire season periods, and associated funding provided under this section shall be defined by allocation levels for each ranger unit, as determined by the Department of Forestry and Fire Protection, the sum of one million nine hundred sixty-two thousand dollars ($1,962,000).

(2) For allocation to the Department of Forestry and Fire Protection, in augmentation of Item 3540-001-0001 of Section 2.00 of the Budget Act of 1996, and for the adoption by the State Board of Forestry of an appendix to the 1996 fire protection plan adopted pursuant to Section 4130 of the Public Resources Code that provides information on the intensity of protection to be assigned to lands of the same type within state responsibility areas, and the estimated costs of that intensity of protection, the sum of ten thousand dollars ($10,000).

(3) For allocation to the Department of Forestry and Fire Protection, in augmentation of Item 3540-006-0001 of Section 2.00 of the Budget Act of 1996, and for the purposes of emergency fire

suppression and detection costs, as provided in that item, the sum of sixty-nine million dollars ($69,000,000).

(b) The Director of Finance may withhold authorization for the expenditure of funds pursuant to paragraph (3) of subdivision (a) until, and to the extent that, preliminary estimates of potential deficiencies are verified.

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 provide needed funds for fire protection staffing and for emergency fire suppression and detection costs, and to ensure the same intensities of fire protection for lands of the same type, thereby providing critical fire protection for forest resources, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 11

An act to add Section 2248 to the Business and Professions Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 20, 1997. Filed with
Secretary of State May 20, 1997.]

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

SECTION 1. Section 2248 is added to the Business and Professions Code, to read:

2248. This section shall be known as, and may be cited as, the Grant H. Kenyon Prostate Cancer Detection Act.

(a) If a physician and surgeon, during a physical examination, examines a patient's prostate gland, the physician and surgeon shall provide information to the patient about the availability of appropriate diagnostic procedures, including, but not limited to, the prostate antigen (PSA) test, if any of the following conditions are present:

(1) The patient is over 50 years of age.

(2) The patient manifests clinical symptomatology.

(3) The patient is at an increased risk of prostate cancer.

(4) The provision of the information to the patient is medically necessary, in the opinion of the physician and surgeon.

(b) Violation of subdivision (a) constitutes unprofessional conduct and is not subject to Section 2314.

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:

Prostate cancer is currently a leading cause of cancer death in males in this country. In order to save as many people's lives from this deadly disease as soon as possible through public awareness of the availability of early detection procedures, it is necessary that this act take effect immediately.

CHAPTER 12

An act relating to trial court funding, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 20, 1997. Filed with Secretary of State May 20, 1997.]

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

SECTION 1. Notwithstanding Section 68085 of the Government Code, the Controller may not make the next quarterly trial court funding apportionment after the enactment of this measure to any county until that county has certified to the Controller the total amount of compensation, if any, paid by the county to superior court judges, municipal court judges, and subordinate judicial officers.

A county shall be deemed to have complied with this section if it sends to the Controller a copy of the reports submitted to the Judicial Council pursuant to Section 68113 of the Government Code.

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

In order to provide adequate state trial court funding for the 1996–97 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 13

An act to amend Section 377.60 of the Code of Civil Procedure, relating to wrongful death, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 23, 1997. Filed with Secretary of State May 23, 1997.]

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.

(d) This section applies to any cause of action arising on or after January 1, 1993.

(e) The addition of this section by Chapter 178 of the Statutes of 1992 was not intended to adversely affect the standing of any party having standing under prior law, and the standing of parties governed by that version of this section as added by Chapter 178 of the Statutes of 1992 shall be the same as specified herein as amended by Chapter 563 of the Statutes of 1996.

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 clarify the intent of the Legislature with respect to the standing of parties in certain actions for wrongful death, it is necessary that this act take effect immediately.

CHAPTER 14

An act to amend Section 3622 of the Family Code, and to amend Sections 11356 and 11475.1 of the Welfare and Institutions Code, relating to family law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 30, 1997. Filed with Secretary of State May 30, 1997.]

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

SECTION 1. (a) The Legislature finds and declares both of the following:

(1) The forms required by subdivision (c) of Section 10475.1 of the Welfare and Institutions Code cannot be adopted by the Judicial Council and incorporated into the Statewide Automated Child Support System (SACSS) and by the Los Angeles ACSES Replacement System (ARS) by January 1, 1997.

(2) The adoption of the forms specified above and their incorporation into SACSS and ARS are essential to the successful implementation of Chapter 957 of the Statutes of 1996.

(b) Therefore, it is the intent of the Legislature to provide an orderly transition to the procedures set forth in Chapter 957 of the Statutes of 1996 by enabling district attorneys the option of utilizing the procedures in Chapter 957 or the procedures in effect prior to the operative date of Chapter 957.

SEC. 2. Section 3622 of the Family Code is amended to read:

3622. The court shall make an expedited support order upon the filing of all of the following:

(a) An application for an expedited child support order, setting forth the minimum amount the obligated parent or parents are required to pay pursuant to Section 4055 of this code or the minimum basic standards of adequate care for Region 1 as specified in Sections 11452 and 11452.018 of the Welfare and Institutions Code.

(b) An income and expense declaration for both parents, completed by the applicant.

(c) A worksheet setting forth the basis of the amount of support requested.

(d) A proposed expedited child support order.

SEC. 3. Section 11356 of the Welfare and Institutions Code is amended to read:

11356. (a) In any action filed by the district attorney pursuant to Section 11350, 11350.1, or 11475.1, the court may, on any terms that may be just, relieve the defendant from that part of the judgment or order concerning the amount of child support to be paid. This relief may be granted after the six-month time limit of Section 473 of the Code of Civil Procedure has elapsed, based on the grounds, and within the time limits, specified in this section.

(b) This section shall apply only to judgments or orders for support that were based upon presumed income as specified in subdivision (c) of Section 11475.1 and that were entered after the entry of the default of the defendant under Section 11355. This section shall apply only to the amount of support ordered and not that portion of the judgment or order concerning the determination of parentage.

(c) The court may set aside the child support order contained in a judgment described in subdivision (b) if the defendant's income

was substantially different at the time the judgment was entered from the income defendant was presumed to have. A "substantial difference" means that amount of income that would result in an order for support that deviates from the order entered by default by 20 percent or more. If the difference between the defendant's actual income and the presumed income would result in an order for support that deviates from the order entered by default by less than 20 percent, the court may set aside the child support order only if the court states in writing or on the record that the defendant is experiencing an extreme financial hardship due to the circumstances enumerated in Section 4071 of the Family Code and that a set aside of the default judgment is necessary to accommodate those circumstances.

(d) Application for relief under this section shall be accompanied by a copy of the answer or other pleading proposed to be filed together with an income and expense declaration and tax returns for any relevant years. The Judicial Council may combine the application for relief under this section and the proposed answer into a single form.

(e) The burden of proving that the actual income of the defendant deviated substantially from the presumed income shall be on the defendant.

(f) A motion for relief under this section shall be filed within 90 days of the first collection of money by the district attorney or the obligee. The 90-day time period shall run from the date that the district attorney receives the first collection or from the date that the defendant is served with notice of the collection, whichever date occurs first. If service of the notice is by mail, the date of service shall be as specified in Section 1013 of the Code of Civil Procedure.

(g) In all proceedings under this section, before granting relief, the court shall consider the amount of time that has passed since the entry of the order, the circumstances surrounding the defendant's default, the relative hardship on the child or children to whom the duty of support is owed, the caretaker parent, and the defendant, and other equitable factors that the court deems appropriate.

(h) If the court grants the relief requested, the court shall issue a new child support order using the appropriate child support guidelines currently in effect. The new order shall have the same commencement date as the order set aside.

SEC. 4. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. (a) Each county shall maintain a single organizational unit located in the office of the district attorney which shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both

civil and criminal, to establish, modify, and enforce child support and, when appropriate, enforce spousal support orders when the child is receiving public assistance, including Medi-Cal, and, when appropriate, may take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) Actions brought by the district attorney to establish paternity or child support or to enforce child support obligations shall be completed within the time limits set forth by federal law. The district attorney's responsibility applies to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought for modification or revocation of an order that is being enforced under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), the effective date of the modification or revocation shall be as prescribed by federal law (42 U.S.C. Sec. 666(a)(9)), or any subsequent date.

(c) (1) The Judicial Council, in consultation with the department and representatives of the California Family Support Council, the Senate Committee on Judiciary, the Assembly Committee on Judiciary, and a legal services organization providing representation on child support matters, shall develop simplified summons, complaint, and answer forms for any action for support brought pursuant to this section or Section 11350.1. The Judicial Council may combine the summons and complaint in a single form.

(2) The simplified complaint form shall provide the defendant with notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of the Family Code based upon the income or income history of the defendant as known to the district attorney. If the defendant's income or income history is unknown to the district attorney, the complaint shall inform the defendant that income shall be presumed in an amount that results in a court order equal to the minimum basic standard of adequate care for Region 1 as provided in Sections 11452 and 11452.018 unless information concerning the defendant's income is provided to the court. The complaint form shall be accompanied by a proposed judgment. The complaint form shall include a notice to the defendant that the proposed judgment will become effective if he or she fails to file an answer with the court within 30 days of service.

(3) (A) The simplified answer form shall be written in simple English and shall permit a defendant to answer and raise defenses by checking applicable boxes. The answer form shall include instructions for completion of the form and instructions for proper filing of the answer.

(B) The answer form shall be accompanied by a blank income and expense declaration or simplified financial statement and instructions on how to complete the financial forms. The answer form shall direct the defendant to file the completed income and expense declaration or simplified financial statement with the answer, but

shall state that the answer will be accepted by a court without the income and expense declaration or simplified financial statement.

(C) The clerk of the court shall accept and file answers, income and expense declarations, and simplified financial statements that are completed by hand provided they are legible.

(4) (A) The simplified complaint form prepared pursuant to this subdivision shall be used by the district attorney or the Attorney General in all cases brought under this section or Section 11350.1.

(B) The simplified answer form prepared pursuant to this subdivision shall be served on all defendants with the simplified complaint. Failure to serve the simplified answer form on all defendants shall not invalidate any judgment obtained. However, failure to serve the answer form may be used as evidence in any proceeding under Section 11356 of this code or Section 473 of the Code of Civil Procedure.

(C) The Judicial Council shall add language to the governmental summons, for use by the district attorney with the governmental complaint to establish parental relationship and child support, informing defendants that a blank answer form should have been received with the summons and additional copies may be obtained from either the district attorney's office or the superior court clerk.

(5) Notwithstanding the amendments made to this chapter by Chapter 957 of the Statutes of 1996, the district attorney shall continue to use the procedures and forms in effect on December 31, 1996, for establishing paternity and support orders until September 30, 1997, unless the district attorney has implemented the new procedures and forms authorized by Chapter 957 of the Statutes of 1996 prior to the effective date of this paragraph. If the district attorney has implemented the new procedures and forms set forth in the amendments made to this chapter by Chapter 957 of the Statutes of 1996 prior to the effective date of this paragraph, he or she shall utilize the new procedures and forms in all cases. Each district attorney shall attach a notice to the complaint which advises the parties when the action has been filed pursuant to the old or new procedures and forms. This paragraph shall become inoperative and shall have no force or effect after September 30, 1997.

(d) In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority.

(e) The county shall undertake an outreach program to inform the public that the services described in subdivisions (a) to (c), inclusive, are available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and

simple language prescribed by the Director of Social Services, that the services provided in subdivisions (a) to (c), inclusive, are provided to all individuals whether or not they are recipients of public social services.

(f) In any action to establish a child support order brought by the district attorney in the performance of duties under this section, the district attorney may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order shall have the same force and effect as a like or similar order under the Family Code.

The district attorney shall file a motion for an order for temporary support within the following time limits:

(1) If the defendant is the mother, a presumed father under Section 7611 of the Family Code, or any father where the child is at least six months old when the defendant files his answer, the time limit is 90 days after the defendant files an answer.

(2) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

If the district attorney fails to file a motion for an order for temporary support within time limits specified in this section, the district attorney shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no such motion is filed, when a final judgment is entered.

Nothing in this section prohibits the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

(g) As used in this article, "enforcing obligations" includes, but is not limited to, (1) the use of all interception and notification systems operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations, (2) the obtaining by the district attorney of an initial order for child support, which may include medical support or which is for medical support only, by civil or criminal process, (3) the initiation of a motion or order to

show cause to increase an existing child support order, and the response to a motion or order to show cause brought by an obligor parent to decrease an existing child support order, or the initiation of a motion or order to show cause to obtain an order for medical support, and the response to a motion or order to show cause brought by an obligor parent to decrease or terminate an existing medical support order, without regard to whether the child is receiving public assistance, and (4) the response to a notice of motion or order to show cause brought by an obligor parent to decrease an existing spousal support order when the child or children are residing with the obligee parent and the district attorney is also enforcing a related child support obligation owed to the obligee parent by the same obligor.

(h) As used in this section, "out of wedlock" means that the biological parents of the child were not married to each other at the time of the child's conception.

(i) The district attorney is the public agency responsible for administering wage withholding for the purposes of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.). The district attorney shall seek an earnings assignment order for support in any case as soon as the obligor is in arrears in payment of support pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code.

Nothing in this section shall limit the authority of the district attorney granted by other sections of this code or otherwise granted by law.

(j) In the exercise of the authority granted under this article, the district attorney may intervene, pursuant to subdivision (b) of Section 387 of the Code of Civil Procedure, by ex parte application, in any action under the Family Code, or other proceeding wherein child support is an issue or a reduction in spousal support is sought. By notice of motion, order to show cause, or responsive pleading served upon all parties to the action, the district attorney may request such relief as appropriate which the district attorney is authorized to seek.

(k) The district attorney shall comply with any guidelines established by the State Department of Social Services which set time standards for responding to requests for assistance in locating absent parents, establishing paternity, establishing child support awards, and collecting child support payments.

(*l*) As used in this article, medical support activities which the district attorney is authorized to perform are limited to the following:

(1) The obtaining and enforcing of court orders for health insurance coverage.

(2) Any other medical support activity mandated by federal law or regulation.

(m) (1) Notwithstanding any other provision of law, venue for an action or proceeding under this part shall be determined as follows:

(A) Venue shall be in the superior court in the county that is currently expending public assistance.

(B) If public assistance is not currently being expended, venue shall be in the superior court in the county where the child who is entitled to current support resides or is domiciled.

(C) If current support is no longer payable through, or enforceable by, the district attorney, venue shall be in the superior court in the county that last provided public assistance for actions to enforce arrearages assigned pursuant to Section 11477.

(D) If subparagraphs (A), (B), and (C) do not apply, venue shall be in the superior court in the county of residence of the support obligee.

(E) If the support obligee does not reside in California, and subparagraphs (A), (B), (C), and (D) do not apply, venue shall be in the superior court of the county of residence of the obligor.

(2) Notwithstanding paragraph (1), if the child becomes a resident of another county after an action under this part has been filed, venue may remain in the county where the action was filed until the action is completed.

(n) The district attorney of one county may appear on behalf of the district attorney of any other county in an action or proceeding under this part.

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 insure that support orders for children are processed without delay during the transition to new procedures for establishing child support created in Chapter 957 of the Statutes of 1996, it is necessary that this act take effect immediately.

CHAPTER 15

An act to amend Section 18895.2 of the Business and Professions Code, relating to athlete agents, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 30, 1997. Filed with Secretary of State May 30, 1997.]

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

SECTION 1. Section 18895.2 of the Business and Professions Code is amended to read:

18895.2. The following definitions govern the construction of this chapter:

(a) "Agent contract" means any contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of the person with one or more professional sports teams or organizations for the employment of the person by one or more professional sports teams or organizations, or to negotiate or solicit on behalf of the person for the employment of the person as a professional athlete.

(b) (1) "Athlete agent" means any person who, directly or indirectly, recruits or solicits an athlete to enter into any agent contract, endorsement contract, financial services contract, or professional sports services contract, or for compensation procures, offers, promises, attempts, or negotiates to obtain employment for any person with a professional sports team or organization or as a professional athlete.

(2) (A) "Athlete agent" does not include a person licensed as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, or tax consultant, or other professional person, when the professional person offers or provides the type of services customarily provided by that profession, except and solely to the extent that the professional person also recruits or solicits an athlete to enter into any agent contract, endorsement contract, or professional sports services contract, or for compensation procures, offers, promises, attempts, or negotiates to obtain employment for any person with a professional sports team or organization or as a professional athlete.

(B) "Athlete agent" also does not include any person acting solely on behalf of a professional sports team or organization.

(C) "Athlete agent" also does not include a talent agency as defined in subdivision (a) of Section 1700.4 of the Labor Code and licensed by the Labor Commissioner pursuant to Chapter 4 (commencing with Section 1700) of Part 6 of Division 2 of the Labor Code, except as otherwise provided in this paragraph. "Athlete agent" includes a talent agency that (i) directly or indirectly recruits or solicits a student athlete to enter into an agent contract, endorsement contract, financial services contract, or professional sports services contract, or (ii) for compensation, procures, offers, promises, attempts, or negotiates to obtain employment for any person to perform on-field play with a professional sports team or organization.

(3) Sections 18897.6 and 18897.63 do not apply to an individual acting as an athlete agent solely for his or her spouse, child, or grandchild.

(c) "Employment as a professional athlete" includes employment pursuant to an endorsement contract or a professional sports services contract.

(d) "Endorsement contract" means any contract or agreement pursuant to which a person is employed or receives remuneration for any value or utility that the person may have because of publicity,

reputation, fame, or following obtained because of athletic ability or performance.

(e) “Financial services” means the making or execution of an investment or other financial decision, or counseling as to a financial decision.

(f) “Negotiate” includes any contact on behalf of any athlete with a professional sports team or organization or on behalf of any person with any other person who employs or potentially may employ the person as a professional athlete, regardless of whether the contact is made in person, in writing, electronically, through representatives or employees, or in any other manner. “Negotiate” also includes being present during any discussion of an endorsement contract or professional sports services contract with representatives of the professional sports team or organization or potential or actual employer.

(g) “Person” means any individual, company, corporation, association, partnership, limited liability company, or their agents or employees.

(h) “Professional sports services contract” means any contract or agreement pursuant to which a person is employed or agrees to render services as a player on a professional sports team or organization or as a professional athlete.

(i) (1) “Student athlete” means any individual admitted to or enrolled as a student, in an elementary or secondary school, college, university, or other educational institution if the student participates, or has informed the institution of an intention to participate, as an athlete in a sports program where the sports program is engaged in competition with other educational institutions.

(2) “Student athlete” does not include any person who has entered into a valid agent contract, a valid endorsement contract, or a valid professional sports services’ contract. “Student athlete” does not include any student of a college or university whose eligibility to participate in an intercollegiate sport has terminated, as determined by the governing body of the state or national association for the promotion and regulation of intercollegiate athletics of which the student’s college or university is a member.

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 clarify, at the earliest possible time, provisions of the Miller-Ayala Athlete Agents Act relative to the status of talent agencies, it is necessary for this act to take effect immediately.

CHAPTER 16

An act to add Section 22365 to the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 30, 1997. Filed with Secretary of State May 30, 1997.]

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

SECTION 1. Section 22365 is added to the Vehicle Code, to read:

22365. Notwithstanding any other provision of law, any county or city, which is contained, in whole or in part, within the South Coast Air Quality Management District, may, if the county or city determines that it is necessary to achieve or maintain state or federal ambient air quality standards for particulate matter, determine and declare by ordinance a prima facie speed limit that is lower than that which the county or city is otherwise permitted by this code to establish, for any unpaved road under the jurisdiction of the county or city and within the district. That declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected along the road.

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 preserve cost-effective strategies for reducing PM10 emissions from unpaved roads and to avoid the adoption of more onerous requirements, it is necessary that this act take effect immediately.

CHAPTER 17

An act to amend Sections 30, 1680, 2052.5, 2365, 3041.1, 3041.3, 7044.2, 9884, 10250.2, 17206, 24071.2, and 25662 of, and to amend and renumber Section 11018.11 of, the Business and Professions Code, to amend Sections 1365 and 1375 of, and to amend and renumber Sections 1861.607 and 1861.608 of, the Civil Code, to amend Section 1201 of the Commercial Code, to amend Sections 8450, 15301, 15320, 15327, 15356, 15357, 15359, 15359.2, 42238.145, 44254, 52335.9, 52487, and 76002 of, to amend and renumber the heading of Article 6 (commencing with Section 60350) of Chapter 2 of Part 33 of, and to repeal Section 87869 of, the Education Code, to amend Sections 2157 and 12106 of, and to repeal the heading of Division 0.5 of, the Elections Code, to amend and renumber the heading of Division 14 (commencing with Section 10100) of the Family Code, to amend

Sections 17207, 21301, and 21304 of the Financial Code, to amend Sections 3332, 12648, 12815, 13144, and 46003.5 of the Food and Agricultural Code, to amend Sections 951, 8670.7, 8670.13.2, 8670.21, 11504, 15363.7, 15379.28, 30054, 30061, 30064, 50030, and 65850.2 of the Government Code, to amend Sections 1226, 1250.2, 1367, 1585, 11758.46, 13113, 19183, 19825, 19881, 25143.2, 25179.8, 25299.92, 25330.4, 25532, 25534, 25538, 25548.1, 33459.1, 33493.4, 34120, 41751, 44081, 44243.5, and 129885 of, to amend and renumber Sections 11527.3 and 27604 of, and to amend the heading of Article 11 (commencing with Section 25299.90) of Chapter 6.75 of Division 20 of, the Health and Safety Code, to amend Sections 742.33, 10123.13, 10145.3, 10164.2, 10509.963, and 10509.975 of the Insurance Code, to amend Sections 1777.5 and 6500 of the Labor Code, to amend Sections 186.2, 273.1, 290, 290.4, 311, 350, 831.5, 1295, 1529, 4415, 7500, 7501, 7515, 11106, 12033, 12071, 12072, 12078, 12084, and 12403.7 of, to amend the heading of Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4 of, and to repeal Sections 269, 312.6, 312.7, and 667.61 of, the Penal Code, to amend Sections 4576.1, 6817, 42010, 42350, 43210, and 43211 of, and to repeal Section 3493 of, the Public Resources Code, to amend Sections 368, 489.1, 740.4, 5322, and 125105 of the Public Utilities Code, to amend Sections 401.11, 2188.8, 2611.7, 4528, 10753, and 19141.6 of, to amend and renumber Sections 410.10 and 19442 of, to amend, repeal, and add Section 69.5 of, and to repeal Section 401.10 of, the Revenue and Taxation Code, to amend Sections 3016, 22651.2, and 40513 of the Vehicle Code, to amend Section 13399.3 of the Water Code, to amend Sections 207.1, 366.21, 5778, 7325, 11462, and 14490 of, and to repeal Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of, the Welfare and Institutions Code, and to amend Section 6 of Chapter 920 of the Statutes of 1994, Section 5 of Chapter 76 of the Statutes of 1996, Section 1 of Chapter 663 of the Statutes of 1996, and Section 1 of Chapter 947 of the Statutes of 1996, relating to maintenance of the codes.

[Approved by Governor May 30, 1997. Filed with
Secretary of State May 30, 1997.]

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

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

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

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

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

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

(1) Name.

(2) Address or addresses of record.

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

(4) Type of license.

(5) Effective date of license or renewal.

(6) Expiration date of license.

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

(8) Whether license is new or renewal.

(e) For the purposes of this section:

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

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

(3) ‘‘Licensing board’’ means any board, as defined in Section 22, the State Bar, and the Department of Real Estate.

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

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

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

(i) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who, in the course of his or her employment or

duty, has or has had access to the information required to be furnished under this section, may not disclose or make known in any manner that information, except to the Franchise Tax Board as provided in this section, or as provided in subdivision (k).

(j) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 11350.6 of the Welfare and Institutions Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

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

SEC. 2. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, 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 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 does 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 does 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, 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 this chapter or to aid in that compliance.

(r) Suspension or revocation of a license issued, or other discipline imposed, by another state or territory on grounds that 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 that 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 that violate 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 developed 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. 3. Section 2052.5 of the Business and Professions Code is amended to read:

2052.5. (a) The proposed registration program developed pursuant to subdivision (b) shall provide that, for purposes of the proposed registration program:

(1) A physician and surgeon practices medicine in this state across state lines when that person is located outside of this state but, through the use of any medium, including an electronic medium, practices or attempts to practice, or advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person in this state.

(2) A doctor of podiatric medicine practices podiatric medicine in this state across state lines when that person is located outside of this state but, through the use of any medium, including an electronic medium, practices or attempts to practice podiatric medicine, as defined in Section 2472, in this state.

(3) The proposed registration program shall not apply to any consultation described in Section 2060.

(b) The board may, at its discretion, develop a proposed registration program to permit a physician and surgeon, or a doctor of podiatric medicine, located outside this state to register with the board to practice medicine or podiatric medicine in this state across state lines.

(1) The proposed registration program shall include proposed requirements for registration, including, but not limited to, licensure in the state or country where the physician and surgeon, or the doctor of podiatric medicine, resides, and education and training requirements.

(2) The proposed registration program may also include all of the following: (A) standards for confidentiality, format, and retention of medical records, (B) access to medical records by the board, (C) registration fees, renewal fees, delinquency fees, and replacement document fees in an amount not to exceed the actual cost of administering the registration program, and (D) provisions ensuring that enforcement and consumer education shall be integral parts of administering the registration program.

(3) The proposed registration program may also provide all of the following:

(A) All laws, rules, and regulations that govern the practice of medicine or podiatric medicine in this state, including, but not limited to, confidentiality and reporting requirements, shall apply to a physician and surgeon, or a doctor of podiatric medicine, who is registered by the board to practice medicine or podiatric medicine in this state across state lines.

(B) The board may deny an application for registration or may suspend, revoke, or otherwise discipline a registrant for any of the following: (i) on any ground prescribed by this chapter, (ii) failure to possess or to maintain a valid license in the state where the registrant resides, or (iii) if the applicant or registrant is not licensed by the state or country in which he or she resides, and that state or

country prohibits the practice of medicine or podiatric medicine from that state or country into any other state or country without a valid registration or license issued by the state or country in which the applicant or registrant practices. Action to deny or discipline a registrant shall be taken in the manner provided for in this chapter.

(C) Any of the following shall be grounds for discipline of a registrant: (i) to allow any person to engage in the practice of medicine or podiatric medicine in this state across state lines under his or her registration, including, but not limited to, any nurse, physician assistant, medical assistant, or other person, (ii) to fail to include his or her registration number on any invoice or other type of billing statement submitted for care or treatment provided to a patient located in this state, (iii) to practice medicine or podiatric medicine in any other state or country without meeting the legal requirements to practice medicine or podiatric medicine in that state or country, or (iv) to fail to notify the board, in a manner prescribed by the board, of any restrictions placed on his or her medical license, or podiatric medical license, in any state.

(D) A registration issued pursuant to the registration program shall automatically be suspended upon receipt of a copy, from the state that issued the license, of the surrender, revocation, suspension, or other similar type of action taken by another state or country against a medical license, or podiatric medical license, issued to a registrant. The board shall notify the registrant in writing of the suspension and of the registrant's right to a hearing.

(4) Section 2314 shall not apply to the registration program.

(c) This section shall not be construed to authorize the board to implement a registration program for physicians and surgeons or doctors of podiatric medicine located outside this state. This section is intended to authorize the board to develop a proposed registration program to be authorized for implementation by future legislation.

SEC. 4. Section 2365 of the Business and Professions Code is amended to read:

2365. (a) The board shall establish criteria for the acceptance, denial, or termination of participants in the diversion program. Unless ordered by the board as a condition of disciplinary probation, only those participants who have voluntarily requested diversion treatment and supervision by a committee shall participate in the diversion program.

(b) A participant 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 participant 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 participant 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 Medical Practice Act or other violations, to execute a statement of understanding that states that the licentiate understands that his or her violations of the Medical 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 participant are based primarily on the self-administration of any controlled substance or dangerous drugs or alcohol under Section 2239, 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 may 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 participant withdraws or is terminated from the program by a diversion evaluation committee, the investigation may 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 participant for any unprofessional conduct committed before, during, or after participation in the diversion program.

(f) All participants 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 participant 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 participant 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. 5. Section 3041.1 of the Business and Professions Code is amended to read:

3041.1. (a) There shall be the Therapeutic Pharmaceutical Agent Advisory Committee within the State Board of Optometry. The committee shall consist of six members: three board-certified ophthalmologists currently licensed in good standing in California, to be appointed by the Medical Board of California; and three optometrists who have passed the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease"

examination or, in the event it is no longer offered, its equivalent, as determined by the State Board of Optometry, to be appointed by the State Board of Optometry.

(b) The committee shall recommend protocols that the State Board of Optometry may use in its decisionmaking process. These protocols shall include all of the following:

(1) A protocol relating to peripheral infectious corneal ulcers.

(2) A protocol for deciding issues relating to equivalency of education and training of optometrists licensed outside of California. This shall not relieve optometrists licensed outside of California from the requirement of completing a preceptorship pursuant to paragraph (2) of subdivision (b) of Section 3041.3.

(c) The committee shall provide the Medical Board of California with copies of its recommendations.

SEC. 6. Section 3041.3 of the Business and Professions Code is amended to read:

3041.3. (a) In order to be certified to use therapeutic pharmaceutical agents and authorized to diagnose and treat the conditions listed in subdivisions (b), (d), and (e) of Section 3041, an optometrist shall apply for a certificate from the board and meet all requirements imposed by the board.

(b) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who graduated from a California accredited school of optometry prior to January 1, 1996, is licensed as an optometrist in California, and meets all of the following requirements:

(1) Satisfactorily completes a didactic course of no less than 80 classroom hours in the diagnosis, pharmacological, and other treatment and management of ocular disease provided by either an accredited school of optometry in California or a recognized residency review committee in ophthalmology in California.

(2) Completes a preceptorship of no less than 65 hours, during a period of not less than two months nor more than one year, in either an ophthalmologist's office or an optometric clinic. The training received during the preceptorship shall be on the diagnosis, treatment, and management of ocular, systemic disease. The preceptor shall certify completion of the preceptorship. Authorization for the ophthalmologist to serve as a preceptor shall be provided by an accredited school of optometry in California, or by a recognized residency review committee in ophthalmology, and the preceptor shall be licensed as an ophthalmologist in California, board-certified in ophthalmology, and in good standing with the Medical Board of California. The individual serving as the preceptor shall schedule no more than three optometrist applicants for each of the required 65 hours of the preceptorship program. This paragraph shall not be construed to limit the total number of optometrist applicants for whom an individual may serve as a preceptor, and is intended only to ensure the quality of the preceptorship by requiring

that the ophthalmologist preceptor schedule the training so that each applicant optometrist completes each of the 65 hours of the preceptorship while scheduled with no more than two other optometrist applicants.

(3) Successfully completes a minimum of 20 hours of self-directed education.

(4) Passes the National Board of Examiners in Optometry's "Treatment and Management of Ocular Disease" examination or, in the event this examination is no longer offered, its equivalent, as determined by the State Board of Optometry.

(5) Passes the examination issued upon completion of the 80-hour didactic course required under paragraph (1) and provided by the accredited school of optometry or residency program in ophthalmology.

(6) When any or all of the requirements contained in paragraph (1), (4), or (5) have been satisfied on or after July 1, 1992, and before January 1, 1996, an optometrist shall not be required to fulfill the satisfied requirements in order to obtain certification to use therapeutic pharmaceutical agents. In order for this paragraph to apply to the requirement contained in paragraph (5), the didactic examination that the applicant successfully completed shall meet equivalency standards, as determined by the board.

(7) Any optometrist who graduated from an accredited school of optometry on or after January 1, 1992, and before January 1, 1996, shall not be required to fulfill the requirements contained in paragraphs (1), (4), and (5).

(c) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who graduated from a California accredited school of optometry on or after January 1, 1996, who is licensed as an optometrist in California, and who meets all of the following requirements:

(1) Passes the National Board of Examiners in Optometry's national board examination, or its equivalent, as determined by the State Board of Optometry.

(2) Of the total clinical training required by a school of optometry's curriculum, successfully completed at least 65 of those hours on the diagnosis, treatment, and management of ocular, systemic disease.

(3) Is certified by an accredited school of optometry as competent in the diagnosis, treatment, and management of ocular, systemic disease to the extent authorized by this section.

(4) Is certified by an accredited school of optometry as having completed at least 10 hours of experience with a board-certified ophthalmologist.

(d) The board shall grant a certificate to use therapeutic pharmaceutical agents to any applicant who is an optometrist who obtained his or her license outside of California if he or she meets all

of the requirements for an optometrist licensed in California to be certified to use therapeutic pharmaceutical agents.

(1) In order to obtain a certificate to use therapeutic pharmaceutical agents, any optometrist who obtained his or her license outside of California and graduated from an accredited school of optometry prior to January 1, 1996, shall be required to fulfill the requirements set forth in subdivision (b). In order for the applicant to be eligible for the certificate to use therapeutic pharmaceutical agents, the education he or she received at the accredited out-of-state school of optometry shall be equivalent to the education provided by any accredited school of optometry in California for persons who graduate before January 1, 1996. For those out-of-state applicants who request that any of the requirements contained in subdivision (b) be waived based on fulfillment of the requirement in another state, if the board determines that the completed requirement was equivalent to that required in California, the requirement shall be waived.

(2) In order to obtain a certificate to use therapeutic pharmaceutical agents, any optometrist who obtained his or her license outside of California and who graduated from an accredited school of optometry on or after January 1, 1996, shall be required to fulfill the requirements set forth in subdivision (c). In order for the applicant to be eligible for the certificate to use therapeutic pharmaceutical agents, the education he or she received by the accredited out-of-state school of optometry shall be equivalent to the education provided by any accredited school of optometry for persons who graduate on or after January 1, 1996. For those out-of-state applicants who request that any of the requirements contained in subdivision (c) be waived based on fulfillment of the requirement in another state, if the board determines that the completed requirement was equivalent to that required in California, the requirement shall be waived.

(3) The State Board of Optometry shall decide all issues relating to the equivalency of an optometrist's education or training under this subdivision, and the committee established pursuant to Section 3041.1 shall recommend protocols for the board to use in this regard, as described in Section 3041.1.

SEC. 7. Section 7044.2 of the Business and Professions Code is amended to read:

7044.2. 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 performed by duly licensed contractors.

SEC. 8. Section 9884 of the Business and Professions Code is amended to read:

9884. (a) An automotive repair dealer shall pay the fee required by this chapter for each place of business operated by the dealer in this state and shall register with the director upon forms prescribed

by the director. The forms shall contain sufficient information to identify the automotive repair dealer, including name, address of each location, a statement by the dealer that each location is in an area that, pursuant to local zoning ordinances, permits the operation of a facility for the repair of motor vehicles, the dealer's retail seller's permit number, if a permit is required under the Sales and Use Tax Law (Part 1 (commencing with Section 6001), Division 2, Revenue and Taxation Code), and other identifying data that are prescribed by the director. If the business is to be carried on under a fictitious name, the fictitious name shall be stated. If the automotive repair dealer is a partnership, identifying data that are prescribed by the director shall be stated for each partner. If the automotive repair dealer is a corporation, data shall be included for each of the officers and directors of the corporation as well as for the individual in charge of each place of the automotive repair dealer's business in this state. The forms shall include a statement signed by the dealer under penalty of perjury that the information provided is true.

(b) A state agency is not authorized or required by this section to enforce a city, county, regional, air pollution control district, or air quality management district rule or regulation regarding the site or operation of a facility that repairs motor vehicles.

SEC. 9. 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 is governed by this article and Chapter 1 (commencing with Section 11000) of Part 2, insofar as applicable.

(b) Subject to Sections 10250.8, 11018.8, 11018.9, 11018.10, and 11018.11, the commissioner shall apply 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 as reasonably necessary to enforce this article.

SEC. 10. Section 11018.11 of the Business and Professions Code, as added by Chapter 1335 of the Statutes of 1980, is amended and renumbered to read:

11018.14. The commissioner shall not be a responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000), Public Resources Code). Receipt by the commissioner of a copy of an environmental impact report or negative declaration prepared pursuant to the California Environmental Quality Act shall be conclusive evidence of compliance with that act for purposes of issuing a subdivision public report.

SEC. 11. Section 17206 of the Business and Professions Code is amended to read:

17206. (a) Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city, or city and county, having a population in excess of 750,000, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, or, with the consent of the district attorney, by a city attorney in any city and county, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (d), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of any reasonable expenses incurred by the board shall be paid to the state Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the state Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency.

(e) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises that were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

SEC. 12. Section 24071.2 of the Business and Professions Code is amended to read:

24071.2. (a) When the ownership of 50 percent or more of the membership interests in a limited liability company required to report the issuance or transfer of memberships under Section 23405.3 is acquired by or transferred to a person or persons who did not hold the ownership of 50 percent of the membership interests on the date the license was issued to the limited liability company, the license of the limited liability company shall be transferred to the limited liability company as newly constituted. The fee for the transfer shall be equal to 50 percent of the original fee for the license, except that the minimum fee shall be one hundred dollars ($100) and the maximum fee shall be eight hundred dollars ($800). In situations involving the multiple and simultaneous transfer of licenses under this section, the regular transfer fee shall be required for only one of the licenses being transferred and the remainder of the licenses shall be transferred for a fee of one hundred dollars ($100) each. All of the transfer fees collected pursuant to this section shall be deposited in the Alcohol Beverage Control Fund, as provided in Section 25761. Before the license is transferred, the department shall conduct an investigation pursuant to Section 23958. Any person or persons who own 50 percent or more of the membership interests of the limited liability company shall have all the qualifications required of a person holding the same type of license.

(b) No retail license shall be transferred by a limited liability company under this section unless, before the filing of the transfer application with the department, the company initiating the transfer records, in the office of the county recorder of the county or counties in which the premises to which the license has been issued are situated, a notice of the intended transfer, stating all of the following:

(1) The name and address of the limited liability company.

(2) The name and address of the person or persons acquiring ownership of 50 percent or more of the membership interests of the limited liability company.

(3) The amount of the consideration paid for the membership interests.

(4) The kind of license or licenses intended to be transferred.

(5) The address or addresses of the premises to which the license or licenses have been issued.

A copy of the notice of the intended transfer, certified by the county recorder, shall be filed with the department together with the transfer application.

(c) Notwithstanding any other provision of this division to the contrary, a limited liability company as newly constituted by transfer under this section shall not be eligible for any new credit from any person named in Section 25509 until all delinquent payments owed by the limited liability company as formerly constituted are made, nor shall any retail licensee, by transferring its license under this section, avoid the provisions of Section 25509 with regard to 42-day or 30-day periods, percentage charges for unpaid balances, or cash-on-delivery basis.

(d) Nothing in this section shall be deemed to authorize the formation of a limited liability company composed of only one member in violation of subdivision (b) of Section 17050 of the Corporations Code.

SEC. 13. Section 25662 of the Business and Professions Code is amended to read:

25662. (a) Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or her parent, responsible adult relative, or any other adult designated by the parent or legal guardian, or in pursuance of his or her employment. That person shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

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

Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possession of, or provided to, a person under the age of 21 years, and, with respect to

alcoholic beverages in unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within that period, those beverages may be destroyed.

SEC. 14. 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 of 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) equals 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 of 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 practicable, 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, as to 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 that 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."

SEC. 15. Section 1375 of the Civil Code is amended to read:

1375. (a) Before an association commences an action for damages against a builder of a common interest development based upon a claim for defects in the design or construction of the common interest development, all of the requirements of subdivisions (b) to (g), inclusive, shall be met, except as otherwise provided in this section.

(b) (1) The association shall give written notice to the builder against whom the claim is made. This notice shall include all of the following:

(A) A preliminary list of defects.

(B) A summary of the results of a survey or questionnaire distributed to homeowners to determine the nature and extent of defects, if this survey has been conducted or a questionnaire has been distributed.

(C) Either a summary of the results of testing conducted to determine the nature and extent of defects or the actual test results, if this testing has been conducted.

(2) The association's notice shall, upon delivery of the notice to the builder, commence a period of time not to exceed 90 days, unless the association and builder agree to a longer period, during which the association and builder shall either, in accordance with the requirements of this section, attempt to settle the dispute or attempt to agree to submit it to alternative dispute resolution.

(3) (A) Except as provided in this section and notwithstanding any other provision of law, the notice by the association shall, upon mailing, toll all statutory and contractual limitations on actions against all parties who may be responsible for the damages claimed, whether named in the notice or not, including claims for indemnity applicable to the claim, for a period of 150 days or a longer period agreed to in writing by the association and the builder.

(B) At any time, the builder may give written notice to cancel the tolling of the statute of limitations provided in this section. Upon delivery of this written cancellation notice, the association shall be relieved of any further obligations to satisfy the requirements of this subdivision and subdivisions (c) to (e), inclusive. The tolling of all applicable statutes of limitations shall cease 60 days after the written notice of cancellation by the builder is delivered to the association.

(c) (1) Within 25 days of the date the association delivers the notice required by subdivision (b), the builder may request in writing to meet and confer with the board of directors of the association, and to inspect the project and conduct testing, including testing that may cause physical damage to any property in the development, in order to evaluate the claim. If the builder does not make a timely request to meet and confer with the board of directors of the association, or to conduct inspection and testing, the association shall be relieved of any further obligations to satisfy the requirements of this subdivision and subdivisions (d) and (e). Unless the builder and association otherwise agree, the meeting shall take place no later than 10 days from the date of the builder's written request, at a mutually agreeable time and place. The meeting shall be subject to subdivision (g) of Section 1363. The discussions at the meeting are privileged communications and are not admissible in evidence in any civil action, unless the association and builder consent to their admission. The meeting shall be for the purpose of discussing all of the following:

(A) The nature and extent of the claimed defects.

(B) Proposed methods of repair, to the extent there is sufficient information.

(C) Proposals for submitting the dispute to alternative dispute resolution.

(D) Requests from the builder to inspect the project and conduct testing.

(2) If the builder requests in writing to meet and confer with the board of directors of the association pursuant to paragraph (1) of this subdivision, the builder shall deliver the notice provided by the association to the builder pursuant to subdivision (b) to any insurer that has issued a policy to the builder that imposes upon the insurer a duty to defend the insured or indemnify the insured for losses resulting from the defects identified in the notice required by subdivision (b). The notice by the builder shall, upon receipt, impose upon that insurer any obligation that would be imposed under the terms of the policy if the insured had been served with a summons and complaint for damages. The builder shall inform the association when the builder delivers the notice to each insurer pursuant to this paragraph.

(d) (1) If the association conducted inspection and testing prior to the date it sent the written notice pursuant to subdivision (b), the association shall, at the earliest practicable date after the meeting

held pursuant to subdivision (c), make available for inspection and testing at least those areas inspected or tested by the association. The inspection and testing shall be completed within 15 days from the date the association makes these areas available for inspection and testing, unless the association and builder agree to a longer period. If the builder does not timely complete the inspection and testing, the association shall be relieved of any further obligations to satisfy the requirements of this subdivision and subdivision (e). The manner in which the inspection and testing shall be conducted, and the extent of any inspection and testing to be conducted beyond that which was conducted by the association prior to sending the notice, shall be set by agreement of the association and builder.

(2) The builder shall pay all costs of inspection and testing that is requested by the builder, shall restore the property to the condition that existed immediately prior to the testing, and shall indemnify the association and owner of the separate interest for any damages resulting from the testing.

(3) Interior inspections of occupied separate interests and destructive testing of any interior of a separate interest shall be conducted in accordance with the governing documents of the association, unless otherwise agreed to by the owner of the separate interest. If the governing documents of the association do not provide for inspection or testing of separate interests, this inspection or testing shall be conducted in a manner and at a time agreed to by the owner of the separate interest.

(4) The results of the inspection and testing shall not be inadmissible in evidence in any civil action solely because the inspection and testing was conducted pursuant to this section.

(e) (1) Within 30 days of the completion of inspection and testing or within 30 days of a meeting held pursuant to subdivision (c) if no inspection and testing is conducted pursuant to subdivision (d), the builder shall submit to the association all of the following:

(A) A request to meet with the board to discuss a written settlement offer.

(B) A written settlement offer, and a concise explanation of the specific reasons for the terms of the offer. This offer may include an offer to submit the dispute to alternative dispute resolution.

(C) A statement that the builder has access to sufficient funds to satisfy the conditions of the settlement offer.

(D) A summary of the results of testing conducted for the purpose of determining the nature and extent of defects, if this testing has been conducted, unless the association provided the builder with actual test results pursuant to subdivision (b), in which case the builder shall provide the association with actual test results.

(2) If the builder does not timely submit the items required by this subdivision, the association shall be relieved of any further obligations to satisfy the requirements of this subdivision only.

(3) No less than 10 days after the builder submits the items required by this paragraph, the builder and the board of directors of the association shall meet and confer about the builder's settlement offer, including any offer to submit the dispute to alternative dispute resolution.

(f) (1) At any time after the notice required by subdivision (b) is delivered to the builder, the association and builder may agree in writing to modify or excuse any of the time periods or other obligations imposed by this section.

(2) Except for the notice required pursuant to subdivision (g), all notices, requests, statements, or other communications required pursuant to this section shall be delivered by one of the following:

(A) By first-class registered or certified mail, return receipt requested.

(B) In any manner in which it is permissible to serve a summons pursuant to Section 415.10 or 415.20 of the Code of Civil Procedure.

(g) If the board of directors of the association rejects a settlement offer presented at the meeting held pursuant to subdivision (e), the board shall comply with the requirements of paragraph (1) of this subdivision. If the association is relieved of its obligations to satisfy the requirements of subdivisions (a) to (e), inclusive, before all those requirements are satisfied, the association shall comply with the requirements of paragraph (2) of this subdivision. Under no circumstances may the association be required to comply with both paragraph (1) and paragraph (2) of this subdivision.

(1) (A) If the association's board of directors rejects a settlement offer presented at the meeting held pursuant to subdivision (e), the board shall hold a meeting open to each member of the association. The meeting shall be held no less than 15 days before the association commences an action for damages against the builder.

(B) No less than 15 days before this meeting is held, a written notice shall be sent to each member of the association specifying all of the following:

(i) That a meeting will take place to discuss problems that may lead to the filing of a civil action, and the time and place of this meeting.

(ii) The options that are available to address the problems, including the filing of a civil action.

(iii) The complete text of any written settlement offer, and a concise explanation of the specific reasons for the terms of the offer submitted to the board pursuant to paragraph (1) of subdivision (e), received from the builder and of any offer by the builder to submit the dispute to alternative dispute resolution.

(iv) The preliminary list of defects provided by the association to the builder pursuant to subdivision (b) and a list of any other documents provided by the association to the builder pursuant to subdivision (b), and information about where and when members of the association may inspect those documents.

(C) The builder shall pay all expenses attributable to sending the settlement offer and any offer for alternative dispute resolution to all members of the association. The builder shall also pay the expense of holding the meeting, not to exceed three dollars ($3) per association member.

(D) The discussions at the meeting, and the contents of the notice and the items required to be specified in the notice pursuant to subparagraph (B), are privileged communications and are not admissible in evidence in any civil action, unless the association consents to their admission.

(E) Compliance with this paragraph shall excuse the association from satisfying the requirements of Section 1368.4.

(2) If the association is relieved of its obligations to satisfy the requirements of subdivisions (a) to (e), inclusive, before all of those requirements have been satisfied, the association may commence an action for damages against the builder 30 days after sending a written notice to each member specifying all of the following:

(A) The preliminary list of defects provided by the association to the builder pursuant to subdivision (b), a list of any other documents provided by the association to the builder pursuant to subdivision (b), and information about where and when members of the association may inspect those documents.

(B) The options, including civil actions, that are available to address the problems.

(C) A statement that if 5 percent of the members of the association request a special meeting of the members to discuss the matter within 15 days of the date the notice is mailed or delivered to the members of the association, a meeting of the members shall be held, unless governing documents of the association provide for a different procedure for calling a special meeting of the members, in which case the statement shall inform the members of that procedure.

(D) Compliance with this paragraph shall excuse the association from satisfying the requirements of Section 1368.4.

(h) (1) The only method of seeking judicial relief for the failure of the association to comply with this section shall be the assertion, as provided for in this subdivision, of a procedural deficiency to an action for damages by the association against the builder after that action has been filed. A verified application asserting that procedural deficiency shall be filed with the court no later than 90 days after the answer to the plaintiff's complaint has been served, unless the court finds that extraordinary conditions exist.

(2) Upon the verified application of the association or the builder alleging substantial noncompliance with this section, the court shall schedule a hearing within 21 days of the application to determine whether the association or builder has substantially complied with this section. The issue may be determined upon affidavits or upon oral testimony, in the discretion of the court.

(3) (A) If the court finds that the association did not substantially comply with this section, the court shall stay the action for up to 90 days to allow the association to establish substantial compliance. The court shall set a hearing within 90 days to determine substantial compliance by the association. At any time, the court may, for good cause shown, extend the period of the stay upon application of the association.

(B) If, within the time set by the court pursuant to this section, the association has not established that it has substantially complied with this section, the court shall determine if, in the interest of justice, the action should be dismissed without prejudice, or if another remedy should be fashioned. Under no circumstances shall the court dismiss the action with prejudice as a result of the association's failure to substantially comply with this section. In determining the appropriate remedy, the court shall consider the extent to which the builder has complied with this section.

(C) If the alleged noncompliance of either the builder or the association resulted from the unreasonable withholding of consent for inspection or testing by an owner of a separate interest, it shall not be considered substantial noncompliance, provided that the party alleged to be out of compliance did not encourage the withholding of consent.

(4) If the court finds that the builder did not pay all of the costs of inspection and testing pursuant to paragraph (3) of subdivision (a), or that the builder did not pay its required share of the costs of holding the meeting and of all expenses attributable to sending the settlement offer pursuant to subparagraph (C) of paragraph (1) of subdivision (g) of this section, the court shall order the builder to pay any deficiencies within 30 days, with interest, and any additional remedy which the court determines, in the interest of justice, should be fashioned.

(i) As used in this section:

(1) "Association" shall have the same meaning as in subdivision (a) of Section 1351.

(2) "Builder" means the declarant, as defined in subdivision (g) of Section 1351.

(3) "Common interest development" shall have the same meaning as in subdivision (c) of Section 1351, except that it shall not include developments or projects with less than 20 units.

SEC. 16. Section 1861.607 of the Civil Code is amended and renumbered to read:

1812.607. Every auction company and auctioneer shall do all of the following:

(a) Disclose his or her name, trade or business name, telephone number, and bond number in all advertising of auctions. A first violation of this subdivision is an infraction subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine

of one hundred dollars ($100). This section shall not apply to business cards, business stationery, or to any advertisement that does not specify an auction date.

(b) Post a sign, the dimensions of which shall be at least 18 inches by 24 inches, at the main entrance to each auction, stating that the auction is being conducted in compliance with Section 2328 of the Commercial Code, Section 535 of the Penal Code, and the provisions of the California Civil Code. A first violation of this subdivision is an infraction subject to a fine of fifty dollars ($50); a second violation is subject to a fine of seventy-five dollars ($75); and a third or subsequent violation is subject to a fine of one hundred dollars ($100).

(c) Post or distribute to the audience the terms, conditions, restrictions, and procedures whereby goods will be sold at the auction, and announce any changes to those terms, conditions, restrictions, and procedures prior to the beginning of the auction sale. A first violation of this subdivision is an infraction subject to a fine of fifty dollars ($50); a second violation is subject to a fine of one hundred dollars ($100); and a third or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(d) Notify the Secretary of State of any change in address of record within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars ($50).

(e) Notify the Secretary of State of any change in the officers of a corporate license within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars ($50).

(f) Notify the Secretary of State of any change in the business or trade name of the auctioneer or auction company within 30 days of the change. A violation of this subdivision is an infraction subject to a fine of fifty dollars ($50).

(g) Keep and maintain, at the auctioneer's or auction company's address of record, complete and correct records and accounts pertaining to the auctioneer's or auction company's activity for a period of not less than two years. The records shall include the name and address of the owner or consignor and of any buyer of goods at any auction sale engaged in or conducted by the auctioneer or auction company, a description of the goods, the terms and conditions of the acceptance and sale of the goods, all written contracts with owners and consignors, and accounts of all moneys received and paid out, whether on the auctioneer's or auction company's own behalf or as agent, as a result of those activities. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(h) Within 30 working days after the sale transaction, provide, or cause to be provided, an account to the owner or consignor of all goods that are the subject of an auction engaged in or conducted by the auctioneer or auction company. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars

($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(i) Within 30 working days after a sale transaction of goods, pay or cause to be paid all moneys and proceeds due to the owner or the consignor of all goods that were the subject of an auction engaged in or conducted by the auctioneer or auction company, unless delay is compelled by legal proceedings or the inability of the auctioneer or auction company, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, or the Code of Civil Procedure, or with any other applicable provision of law. A first violation of this subdivision is a misdemeanor subject to a fine of one thousand dollars ($1,000); a second violation is subject to a fine of one thousand five hundred dollars ($1,500); and a third or subsequent violation is subject to a fine of two thousand dollars ($2,000).

(j) Maintain the funds of all owners, consignors, buyers, and other clients and customers separate from his or her personal funds and accounts. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars ($250).

(k) Immediately prior to offering any item for sale, disclose to the audience the existence and amount of any liens or other encumbrances on the item, unless the item is sold as free and clear. For the purposes of this subdivision, an item is “free and clear” if all liens and encumbrances on the item are to be paid prior to the transfer of title. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars ($250) in addition to the requirement that the buyer be refunded, upon demand, the amount paid for any item that is the subject of the violation.

(*l*) Within two working days after an auction sale, return the blank check or deposit of each buyer who purchased no goods at the sale. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(m) Within 30 working days of any auction sale, refund that portion of the deposit of each buyer that exceeds the cost of the goods purchased, unless delay is compelled by legal proceedings or the inability of the auctioneer or auction company, through no fault of his or her own, to transfer title to the goods or to comply with any provision of this chapter, the Commercial Code, or the Code of Civil Procedure, or with other applicable provisions of law, or unless the buyer violated the terms of a written agreement that he or she take possession of purchased goods within a specified period of time. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

SEC. 17. Section 1861.608 of the Civil Code is amended and renumbered to read:

1812.608. In addition to other requirements and prohibitions of this title, it is a violation of this title for any person to do any of the following:

(a) Fail to comply with any provision of this code, or with any provision of the Vehicle Code, the Commercial Code, any regulation of the Secretary of State, the Code of Civil Procedure, the Penal Code, or any law administered by the State Board of Equalization, relating to the auctioneering business, including, but not limited to, sales and the transfer of title of goods.

(b) Aid or abet the activity of any other person that violates any provision of this title. A violation of this subdivision is a misdemeanor subject to a fine of one thousand dollars ($1,000).

(c) Place or use any misleading or untruthful advertising or statements or make any substantial misrepresentation in conducting auctioneering business. A first violation of this subdivision is a misdemeanor subject to a fine of five hundred dollars ($500); and a second or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(d) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the owner or consignor of the goods, which contract sets forth the terms and conditions upon which the auctioneer or auction company accepts the goods for sale. The written contract shall include all of the following:

(1) The auctioneer's or auction company's name, trade or business name, business address, and business telephone number.

(2) An inventory of the item or items to be sold at auction.

(3) A description of the services to be provided and the agreed consideration for the services, which description shall explicitly state which party shall be responsible for advertising and other expenses.

(4) The approximate date or dates when the item or items will be sold at auction.

(5) A statement as to which party shall be responsible for insuring the item or items against loss by theft, fire, or other means.

(6) A disclosure that the auctioneer or auction company has a bond on file with the Secretary of State. A first violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars ($250); a second violation is subject to a fine of five hundred dollars ($500); and a third or subsequent violation is subject to a fine of one thousand dollars ($1,000).

(e) Sell goods at auction before the auctioneer or auction company involved has first entered into a written contract with the auctioneer who is to conduct the auction. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(f) Fail to reduce to writing all amendments or addenda to any written contract with an owner or consignor or an auctioneer. A first

violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(g) Fail to abide by the terms of any written contract required by this section. A first violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100); and a second or subsequent violation is subject to a fine of two hundred fifty dollars ($250).

(h) Cause or allow any person to bid at a sale for the sole purpose of increasing the bid on any item or items being sold by the auctioneer, except as authorized by Section 2328 of the Commercial Code or by this title. A violation of this subdivision includes, but is not limited to, either of the following:

(1) Stating any increased bid greater than that offered by the last highest bidder when, in fact, no person has made such a bid.

(2) Allowing the owner, consignor, or agent thereof, of any item or items to bid on the item or items, without disclosing to the audience that the owner, consignor, or agent thereof has reserved the right to so bid.

A violation of this subdivision is an infraction subject to a fine of one hundred dollars ($100).

(i) Knowingly misrepresent the nature of any item or items to be sold at auction, including, but not limited to, age, authenticity, value, condition, or origin. A violation of this subdivision is an infraction subject to a fine of two hundred fifty dollars ($250). In addition, it shall be required that the buyer of the misrepresented item be refunded the purchase price of the item or items within 24 hours of return to the auctioneer or auction company of the item by the buyer, provided that the item is returned within five days after the date of the auction sale.

(j) Misrepresent the terms, conditions, restrictions, or procedures under which goods will be sold at auction. A violation of this subdivision is an infraction subject to a fine of seventy-five dollars ($75).

(k) Sell any item subject to sales tax without possessing a valid and unrevoked seller's permit from the State Board of Equalization. A violation of this subdivision is an infraction subject to a fine of five hundred dollars ($500).

SEC. 18. Section 1201 of the Commercial Code is amended to read:

1201. The following definitions apply for purposes of this code, subject to additional definitions contained in the subsequent divisions of this code that apply to specific divisions or chapters thereof, and unless the context otherwise requires:

(1) "Action," in the sense of a judicial proceeding, includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing, usage of trade, and course of performance as provided in this code (Sections 1205, 2208, and 10207). Whether an agreement has legal consequences is determined by the provisions of this code, if applicable, and otherwise by the law of contracts (Section 1103). (Compare "contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and that, by its terms, evidences the intention of the issuer that the person entitled under the document (Section 7403(4)) has the right to receive, hold, and dispose of the document and the goods it covers. Designation of a document by the issuer as a "bill of lading" is conclusive evidence of that intention. "Bill of lading" includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person who, in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind, but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or mineralhead are deemed to be persons in the business of selling goods of that kind. "Buying" may be for cash, or by exchange of other property or on secured or unsecured credit, and includes receiving goods or documents of title under a preexisting contract for sale, but does not include a transfer in bulk or as security for, or in total or partial satisfaction of, a money debt.

(10) "Conspicuous." A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color, except that in a telegram any stated term is "conspicuous." Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation that results from the parties' agreement as affected by this code and any other applicable rules of law. (Compare "agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery," with respect to instruments, documents of title, chattel paper, or certificated securities, means the voluntary transfer of possession.

(15) "Document of title" includes a bill of lading, dock warrant, dock receipt, warehouse receipt, gin ticket, or compress receipt, and any other document that, in the regular course of business or financing, is treated as adequately evidencing that the person entitled under the document (Section 7403(4)) has the right to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document shall purport to be issued by a bailee and purport to cover goods in the bailee's possession that either are identified as or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission, or breach.

(17) "Fungible," with respect to goods or securities, means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods that are not fungible shall be deemed fungible for the purposes of this code to the extent that, under a particular agreement or document, unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder," with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder," with respect to a document of title, means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay or, where a credit so engages, to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his or her debts in the ordinary course of business, cannot pay his or her debts as they become due, or is insolvent within the meaning of the federal bankruptcy law.

(24) “Money” means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

(25) A person has “notice” of a fact when any of the following occurs:

(a) He or she has actual knowledge of it.

(b) He or she has received a notice or notification of it.

(c) From all the facts and circumstances known to him or her at the time in question, he or she has reason to know that it exists. A person “knows” or has “knowledge” of a fact when he or she has actual knowledge of it. “Discover” or “learn,” or a word or phrase of similar import, refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this code.

(26) A person “notifies” or “gives” a notice or notification to another by taking those steps that may be reasonably required to inform the other in ordinary course whether or not the other actually comes to know of it. A person “receives” a notice or notification when any of the following occurs:

(a) It comes to his or her attention.

(b) It is duly delivered at the place of business through which the contract was made or at any other place held out by him or her as the place for receipt of these communications.

(27) Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction and, in any event, from the time it would have been brought to his or her attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of his or her regular duties, or unless he or she has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) “Organization” includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) “Party,” as distinct from “third party,” means a person who has engaged in a transaction or made an agreement within this division.

(30) “Person” includes an individual or an organization. (See Section 1102.)

(31) “Purchase” includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(32) “Purchaser” means a person who takes by purchase.

(33) “Remedy” means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(34) “Representative” includes an agent, an officer of a corporation or association, a trustee, executor, or administrator of an estate, or any other person empowered to act for another.

(35) “Rights” includes remedies.

(36) (a) “Security interest” means an interest in personal property or fixtures that secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2401) is limited in effect to a reservation of a “security interest.” The term also includes any interest of a buyer of accounts or chattel paper that is subject to Division 9 (commencing with Section 9101). The special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 2401 is not a “security interest,” but a buyer may also acquire a “security interest” by complying with Division 9 (commencing with Section 9101). Unless a consignment is intended as security, reservation of title thereunder is not a “security interest,” but a consignment in any event is subject to the provisions on consignment sales (Section 2326).

(b) Whether a transaction creates a lease or security interest is determined by the facts of each case. However, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and any of the following conditions applies:

(i) The original term of the lease is equal to or greater than the remaining economic life of the goods.

(ii) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods.

(iii) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(iv) The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(c) A transaction does not create a security interest merely because it provides one or more of the following:

(i) That the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or greater than the fair market value of the goods at the time the lease is entered into.

(ii) That the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods.

(iii) That the lessee has an option to renew the lease or to become the owner of the goods.

(iv) That the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed.

(v) That the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(vi) In the case of a motor vehicle, as defined in Section 415 of the Vehicle Code, or a trailer, as defined in Section 630 of that code, that is not to be used primarily for personal, family, or household purposes, that the amount of rental payments may be increased or decreased by reference to the amount realized by the lessor upon sale or disposition of the vehicle or trailer. Nothing in this subparagraph affects the application or administration of the Sales and Use Tax Law (Part 1 (commencing with Section 6001), Division 2, Revenue and Taxation Code).

(d) For purposes of this subdivision (36), all of the following apply:

(i) Additional consideration is not nominal if (A) when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (B) when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

(ii) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into.

(iii) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(37) "Send," in connection with any writing or notice, means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed or,

if there be none, to any address reasonable under the circumstances. The receipt of any writing or notice within the time in which it would have arrived if properly sent has the effect of a proper sending. When a writing or notice is required to be sent by registered or certified mail, proof of mailing is sufficient, and proof of receipt by the addressee is not required unless the words "with return receipt requested" are also used.

(38) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(39) "Surety" includes guarantor.

(40) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(41) "Term" means that portion of an agreement that relates to a particular matter.

(42) "Unauthorized" signature means one made without actual, implied, or apparent authority, and includes a forgery.

(43) "Value." Except as otherwise provided with respect to negotiable instruments and bank collections (Sections 3303, 4210, and 4211), a person gives "value" for rights if he or she acquires them in any of the following ways:

(a) In return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection.

(b) As security for, or in total or partial satisfaction of, a preexisting claim.

(c) By accepting delivery pursuant to a preexisting contract for purchase.

(d) Generally, in return for any consideration sufficient to support a simple contract.

(44) "Warehouse receipt" means a document evidencing the receipt of goods for storage issued by a warehouseman (Section 7102), and that, by its terms, evidences the intention of the issuer that the person entitled under the document (Section 7403(4)) has the right to receive, hold, and dispose of the document and the goods it covers. Designation of a document by the issuer as a "warehouse receipt" is conclusive evidence of that intention.

(45) "Written" or "writing" includes printing, typewriting, or any other intentional reduction to tangible form.

SEC. 19. 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 unexpended 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 State Department of Education.

(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 may be expended only by resource and referral programs that are funded under contract with the State Department of Education.

(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 may be expended only by alternative payment model and certificate child care programs that are funded under contract with the State Department of Education. 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 may 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. 20. Section 15301 of the Education Code is amended to read:

15301. (a) Any school district or community college 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 or community college 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 or community college district that is not located within the boundaries of the community facilities district as described in subdivision (a).

(c) A school district or community college district may proceed under this chapter without meeting the requirements of subdivisions (a) and (b) if the governing board of the school district or community college district determines that it is necessary and in the best interest of the school district or community college district, respectively, to form a school facilities improvement district pursuant to this chapter to finance any or all of the improvements described in Section 15302. As a part of that determination, the governing board of the school district or community college district shall make a finding that the overall cost of financing the bonds issued pursuant to this chapter would be less than the overall cost of other school facilities financing options available to the school district or community college district, including, but not limited to, issuing bonds pursuant to the Mello-Roos Community Facilities Act of 1982. The governing board of the school district or community college district proceeding under this subdivision shall define the boundaries of the school facilities improvement district to include any portion of territory within the jurisdiction of the school district or community college district, except that the boundaries may not include all or a portion of the territory of the community facilities district described in subdivision (a).

SEC. 21. Section 15320 of the Education Code is amended to read:

15320. Whenever the governing board of a school district or community college 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 or community college 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.

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

SEC. 22. Section 15327 of the Education Code is amended to read:

15327. The governing board of the school district or community college 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 the school facilities improvement district as the governing board has with respect to the school district or community college district.

SEC. 23. Section 15356 of the Education Code is amended to read:

15356. (a) (1) The board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district or community college district in which the school facilities improvement district is located shall prescribe the form of the bonds by an order entered upon its minutes.

(2) 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).

(3) 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.

SEC. 24. Section 15357 of the Education Code is amended to read:

15357. The board of supervisors shall establish within the county treasury a school facilities improvement fund for each school facilities improvement district for 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.

SEC. 25. Section 15359 of the Education Code is amended to read:

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 a 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 or community college 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 another county in the state having a general circulation in the county.

SEC. 26. Section 15359.2 of the Education Code is amended to read:

15359.2. (a) The issuing school facilities improvement district, by action of the governing board of the school district or community college 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).

(b) 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.

SEC. 27. 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. 28. Section 44254 of the Education Code is amended to read:

44254. (a) The commission shall establish standards for a restricted reading certificate to enable holders of a teaching credential to provide the early and continuing development of reading and language arts skills and the earliest possible correction of a pupil's reading difficulties.

(b) The standards and qualifications for the restricted reading certificate shall include, but not be limited to, demonstrated knowledge of the following:

(1) Current and confirmed research in the teaching of basic reading skills, including research in ongoing, diagnostic techniques that inform teaching and assessment.

(2) Techniques for teaching basic reading skills that include direct instruction in phonemic awareness, direct systematic, explicit phonics, and comprehension skills.

(3) Early intervention techniques.

(c) A candidate for a restricted reading certificate shall receive, within a clinical setting, guided practice in all of the skills described in subdivision (b).

(d) The commission may issue a restricted reading certificate to a holder of a teaching credential who meets the commission's standards.

(e) For purposes of this section, "direct systematic, explicit phonics" means spelling patterns, the direct instruction of sound and symbol relationships, and practice in reading connected, decodable text.

SEC. 29. Section 52335.9 of the Education Code is amended to read:

52335.9. For the 1996–97 fiscal year only, the Superintendent of Public Instruction shall recalculate the base revenue limit for each ROC/P for the purposes of subdivision (a) of Section 52335.2 to reflect the actual amount received by each ROC/P in the 1995–96 fiscal year, including funding received pursuant to the Budget Act of 1996 (Ch. 162, Stats. 1996) for the cost-of-living adjustment for the 1996–97 fiscal year and for growth in average daily attendance, but excluding the following:

(a) Any state funds made available as a result of local property tax revenues deducted pursuant to Section 52335.3.

(b) Funding allocated pursuant to Provision 7 of Item 6110-105-0001 of Section 2.00 of the Budget Act of 1996 (Ch. 162, Stats. 1996).

SEC. 30. Section 52487 of the Education Code is amended to read:

52487. (a) There is hereby created within the State Department of Education the Home Economics Careers and Technology Vocational Education Unit, to be staffed by qualified home economics education-trained personnel, to assist school districts in the establishment and maintenance of the educational programs provided for by this article.

(b) The staffing of the unit shall be at least 3.3 personnel-years.

(c) The State Supervisor of the Home Economics Careers and Technology Vocational Education Unit, under the direction of the Superintendent of Public Instruction, shall have responsibility for the administration of the program set forth in this article, as well as for the articulation of the program to the requirements and mandates of federally assisted vocational education.

(d) An appropriate number of employees shall serve as program consultants in the Home Economics Careers and Technology Vocational Education Unit, and shall be available to provide assistance to school districts. To the extent possible, the program consultants shall be geographically located in areas that are most readily accessible to the school districts they assist. At least one consultant shall be responsible for the coordination of the leadership development activities of pupil home economics careers and technology organizations and associations.

(e) The State Department of Education shall accomplish the staffing of the Home Economics Careers and Technology Vocational Education Unit in compliance with this article by reassigning priorities in staff assignments within the department so that the staffing results in no new costs to the state.

SEC. 31. The heading of Article 6 (commencing with Section 60350) of Chapter 2 of Part 33 of the Education Code is amended and renumbered to read:

Article 7. Core Reading Program Instructional Materials

SEC. 32. Section 76002 of the Education Code is amended to read:

76002. For the purposes of receiving state apportionments, a community college district may include high school pupils who attend a community college within the district pursuant to Sections 48800 and 76001 in the district's report of full-time equivalent students (FTES) only if those pupils are enrolled in community college classes that are open to the general public.

SEC. 33. Section 87869 of the Education Code, as added by Section 2 of Chapter 943 of the Statutes of 1996, is repealed.

SEC. 34. The heading of Division 0.5 of the Elections Code, as added by Chapter 91 of the Statutes of 1995, is repealed.

SEC. 35. Section 2157 of the Elections Code is amended to read:

2157. Subject to this chapter, the affidavit of registration shall be in a form prescribed by regulations adopted by the Secretary of State. The affidavit shall:

(a) Contain the information prescribed in Section 2150.

(b) Be sufficiently uniform among the separate counties to allow for the processing and use by one county of an affidavit completed in another county.

(c) Allow for the inclusion of informational language to meet the specific needs of that county, including but not limited to, the return address of the elections official in that county, and a phone number at which a voter can obtain elections information in that county.

(d) Be included on one portion of a multipart card, to be known as a voter registration card, the other portions of which shall include information sufficient to facilitate completion and mailing of the affidavit. The affidavit portion of the multipart card shall be numbered according to regulations adopted by the Secretary of State. For purposes of facilitating the distribution of voter registration cards as provided in Section 2158, there shall be attached to the affidavit portion a receipt. The receipt shall be separated from the body of the affidavit by a perforated line.

(e) Be returnable to the county elections official as a self-enclosed mailer with postage prepaid by the Secretary of State.

Nothing contained in this division shall prevent the use of voter registration cards and affidavits of registration in existence on the effective date of this section and produced pursuant to regulations of the Secretary of State, and all references to voter registration cards and affidavits in this division shall be applied to the existing voter registration cards and affidavits of registration.

SEC. 36. Section 12106 of the Elections Code is amended to read:

12106. (a) In each jurisdiction where the elections official determines that the public interest, convenience, and necessity require the local publication of the list of the names of precinct board members appointed and polling places designated for each election precinct in order to afford adequate notice of this subject to the electorate, publication of this list shall be made as provided in this section and Section 12105.

(b) After making a determination pursuant to subdivision (a), the elections official shall divide and distribute the list of precinct board members and polling places and cause the same to be published at least one week before the election in newspapers of general circulation published in different places in the jurisdiction. The list of precinct board members appointed need not be in precinct order for purposes of publication, at the discretion of the elections official.

(c) Divisions of the list of names of the precinct board members and polling places may be published in that daily newspaper of general circulation published or circulated in one or more cities in the county, with the exception of the county seat, that is determined will give to the electorate in each city adequate notice of the election. If there is no daily newspaper, publication may be made in a semiweekly newspaper, a biweekly newspaper, or a weekly newspaper of general circulation that is determined will give the electorate in the city adequate notice of the election.

(d) The list of names of the precinct board members appointed and polling places designated for various portions of the unincorporated area of the county and of the county seat may be published in those daily, semiweekly, biweekly, or weekly newspapers of general circulation published or circulated within the various portions of the unincorporated area and the county seat, deemed by the county elections official to be those newspapers that will give adequate notice of the election to the voters of the respective portions of the unincorporated area and the county seat.

SEC. 37. The heading of Division 14 (commencing with Section 10100) of the Family Code is amended and renumbered to read:

DIVISION 15. FRIEND OF THE COURT ACT

SEC. 38. Section 17207 of the Financial Code is amended to read:

17207. The commissioner shall charge and collect the following fees and assessments:

(a) For filing an application for an escrow agent’s license, six hundred twenty-five dollars ($625) for the first office or location and four hundred twenty-five dollars ($425) for each additional office or location.

(b) For filing an application for a duplicate of an escrow agent’s license lost, stolen, or destroyed, or for replacement, upon a satisfactory showing of such loss, theft, destruction, or surrender of certificate for replacement, two dollars ($2).

(c) For investigation services in connection with each application, one hundred dollars ($100), and for investigation services in connection with each additional office application, one hundred dollars ($100).

(d) For holding a hearing in connection with the application, as set forth under Section 17209.2, the actual costs experienced in each particular instance.

(e) (1) Each escrow agent shall pay to the commissioner for the support of this division for the ensuing year an annual license fee of two thousand dollars ($2,000) for each office or location.

(2) On or before May 30 in each year, the commissioner shall notify each escrow agent by mail of the amount of the annual license fee levied against it, and that the payment of the invoice is payable by the escrow agent within 30 days after receipt of notification by the commissioner.

(3) If payment is not made within 30 days, the commissioner may assess and collect a penalty, in addition to the annual license fee, of 10 percent of the fee for each month or part of a month that the payment is delayed or withheld.

(4) If an escrow agent fails to pay the amount due on or before the June 30 following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the company.

(5) If, after an order is made pursuant to paragraph (4), a request for a 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 company shall not conduct business pursuant to this division, except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

(f) Fifty dollars ($50) for investigation services in connection with each application for qualification of any person under Section 17200.8, other than investigation services under subdivision (c) of this section.

(g) A fee not to exceed twenty-five dollars ($25) for the filing of a notice or report required by rules adopted pursuant to subdivision (a) or Section 17203.1.

(h) (1) If costs and expenses associated with the enforcement of this division, including overhead, are or will be incurred by the commissioner during the year for which the annual license fee is levied, and that will or could result in the commissioner's incurring of costs and expenses, including overhead, in excess of the costs and expenses, including overhead, budgeted for expenditure for the year in which the annual license fee is levied, then the commissioner may levy a special assessment on each escrow agent for each office or location in an amount estimated to pay for the actual costs and expenses, including overhead, in an amount not to exceed five

hundred dollars ($500) for each office or location. The commissioner shall notify each escrow agent by mail of the amount of the special assessment levied against it, and that payment of the special assessment is payable by the escrow agent within 30 days of receipt of notification by the commissioner. The funds received from the special assessment shall be deposited into the State Corporations Fund and shall be used only for the purposes for which the special assessment is made.

(2) If payment is not made within 30 days, the commissioner may assess and collect a penalty, in addition to the special assessment, of 10 percent of the special assessment for each month or part of a month that the payment is delayed or withheld. If an escrow agent fails to pay the special assessment on or before 30 days following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the company. If an order is made under this subdivision, the provisions of paragraph (5) of subdivision (e) of this section shall apply.

(3) If the amount collected pursuant to this subdivision exceeds the actual costs and expenses, including overhead, incurred in the administration and enforcement of this division and any deficit incurred, the excess shall be credited to each escrow agent on a pro rata basis.

(i) 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. 39. Section 21301 of the Financial Code is amended to read:

21301. (a) A license granted pursuant to Section 21300 shall be renewable the second year from the date of issue, and every other year thereafter, upon the filing of a renewal application and compliance with the requirements of Section 21303. The Department of Justice and the chief of police, the sheriff, or, where appropriate, the police commission may charge a fee for the license renewal not to exceed the actual processing costs. The licensing authority shall collect the fee and transmit the fee and a copy of the renewed license to the Department of Justice.

(b) The license shall be subject to forfeiture by the licensing authority, and the licensee's activities as a pawnbroker shall be subject to being enjoined pursuant to Section 21302, for breach of any of the following conditions:

(1) The business shall be carried on only at the location designated on the license. The license shall designate all locations where property belonging to the business is stored. Property of the business may be stored at locations not designated on the license only with the written consent of the local licensing authority.

(2) The license or a copy thereof, certified by the licensing authority, shall be displayed on the premises in plain view of the public.

(3) The licensee shall not engage in any act that the licensee knows to be in violation of this article.

(4) The licensee shall not be convicted of an attempt to receive stolen property or other offense involving stolen property. For the purposes of this paragraph, "convicted" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the chief of police, the sheriff, or, where appropriate, the police commission, is permitted to take following that conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(c) Notwithstanding subdivisions (a) and (b), no renewal application for a pawnbroker's license may be denied, nor may his or her pawnbroker's license be forfeited, solely on the grounds that the applicant violated any provision contained in Chapter 1 (commencing with Section 21000), Chapter 2 (commencing with Section 21200) of this division, or Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of Chapter 9 of Division 8, of the Business and Professions Code unless the violation demonstrates a pattern of conduct.

SEC. 40. Section 21304 of the Financial Code is amended to read:

21304. (a) As a condition precedent to the issuing of a pawnbroker's license, the applicant shall file with the issuing authority a financial statement confirming that the applicant has at least one hundred thousand dollars ($100,000) in the form of liquid assets readily available for use in each licensed business for which the application is made, not including real property, or, in the absence of one hundred thousand dollars ($100,000), an applicant may post a nonrevocable surety bond in the amount of one hundred thousand dollars ($100,000) or the applicant may, in lieu of posting a surety bond, deposit money, certificates, accounts, bonds, or notes, as provided in Section 995.710 of the Code of Civil Procedure. The financial statement shall be filed by the applicant under penalty of perjury and signed by a California certified public accountant verifying that he or she has reviewed the financial statement.

(b) This section does not apply to any person holding a secondhand dealer's license pursuant to Section 21641 or 21642 of the Business and Professions Code who is actively engaged as a pawnbroker on the effective date of this section.

SEC. 41. Section 3332 of the Food and Agricultural Code is amended to read:

3332. The board may 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 Section 19623 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 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 Officer 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. 42. 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 loss of control by the director 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 request of the owner or person 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 pesticide 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. 43. 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 pesticides 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. 44. 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 pesticide 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. 45. 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 110815 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 110815 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. 46. Section 951 of the Government Code is amended to read:

951. Notwithstanding Section 425.10 of the Code of Civil Procedure, 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.

SEC. 47. Section 8670.7 of the Government Code is amended to read:

8670.7. (a) The administrator, subject to the Governor, has the primary authority to direct prevention, removal, abatement, response, containment, and cleanup efforts with regard to all aspects of any oil spill in the marine waters of the state, in accordance with any applicable marine facility or vessel contingency plan and the state oil spill contingency plan. The administrator shall cooperate with any federal on-scene coordinator, as specified in the National Contingency Plan.

(b) The administrator shall implement the state oil spill contingency plan, required pursuant to Section 8574.1, to the fullest extent possible.

(c) The administrator shall do both of the following:

(1) Be present at the location of any oil spill of more than 100,000 gallons in marine waters, as soon as possible after notice of the discharge.

(2) Ensure that persons trained in oil spill response and cleanup, whether employed by the responsible party, the state, or another private or public person or entity, are onsite to respond to, contain, and clean up any oil spill in marine waters, as soon as possible after notice of the discharge.

(d) Throughout the response and cleanup process, the administrator shall apprise the members of the State Interagency Oil Spill Committee, the air quality management district or air pollution control district having jurisdiction over the area in which the oil spill occurred, and the local government entities that are affected by the spill.

(e) The administrator, with the assistance of the State Fire Marshal, the State Lands Commission, and the federal on-scene coordinator, shall determine the cause and amount of the discharge.

(f) The administrator shall have the state authority over the use of all response methods, including, but not limited to, in situ burning, dispersants, and any oil spill cleanup agents in connection with an oil discharge. The administrator shall consult with the federal on-scene coordinator prior to exercising authority under this subdivision.

(g) (1) The administrator shall conduct workshops, consistent with the intent of this chapter, with the participation of appropriate local, state, and federal agencies, including the State Air Resources Board, air pollution control districts, and air quality management districts, and affected private organizations, on the subject of oil spill response technologies, including in situ burning. The workshops shall review the latest research and findings regarding the efficacy and toxicity of oil spill cleanup agents and other technologies, their potential public health and safety and environmental impacts, and any other relevant factors concerning their use in oil spill response. In conducting these workshops, the administrator shall solicit the views of all participating parties concerning the use of these technologies, with particular attention to any special considerations that apply to coastal areas and marine waters of the state.

(2) Within 90 days following the conclusion of the workshops, or by June 30, 1996, whichever occurs first, the administrator shall publish decision guidelines on the policies, procedures, and parameters for the use of in situ burning, which may be implemented in the event of an oil spill. The administrator shall, by whichever of those dates occurs first, additionally publish a schedule for future workshops to be held to develop guidelines for the use of other identified technologies.

(h) (1) The administrator shall ensure that, as part of the response to any significant spill, biologists or other personnel are present and provided any support and funding necessary and appropriate for the assessment of damages to natural resources and for the collection of data and other evidence that may help in determining and recovering damages.

(2) (A) The administrator shall coordinate all actions required by state or local agencies to assess injury to, and provide full mitigation for injury to, or to restore, rehabilitate, or replace, natural resources, including wildlife, fisheries, wildlife or fisheries habitat, and beaches and other coastal areas, that are damaged by an oil spill. For purposes of this subparagraph, "actions required by state or local agencies"

include, but are not limited to, actions required by state trustees under Section 1006 of the Oil Pollution Act of 1990 (33 U.S.C. Sec. 2706) and actions required pursuant to Section 8670.61.5.

(B) The responsible party shall be liable for all coordination costs incurred by the administrator.

(3) Nothing in this subdivision shall be construed to give the administrator any authority to administer state or local laws or to limit the authority of another state or local agency to implement and enforce state or local laws under its jurisdiction, nor does this subdivision limit the authority or duties of the administrator under this chapter or limit the authority of an agency to enforce existing permits or permit conditions.

(i) (1) The administrator shall enter into a memorandum of understanding with the executive director of the State Water Resources Control Board, acting for the State Water Resources Control Board and the California regional water quality control boards, and with the approval of the State Water Resources Control Board, to address discharges, other than dispersants, that are incidental to, or directly associated with, the response, containment, and cleanup of an existing or threatened oil spill conducted pursuant to this chapter.

(2) The memorandum of understanding entered into pursuant to paragraph (1) shall address any permits, requirements, or authorizations that are required for the specified discharges. The memorandum of understanding shall be consistent with requirements that protect state water quality and beneficial uses and with any applicable provisions of the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000), Water Code) or the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), and shall expedite efficient oil spill response.

(3) The memorandum of understanding shall be completed by May 15, 1994.

SEC. 48. Section 8670.13.2 of the Government Code is amended 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 8670.13.1 are filed with the Secretary of State, whichever date occurs earlier.

SEC. 49. 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, the Santa Barbara Channel, and 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, and 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 is 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 Corporations 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 affects 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 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. 50. Section 11504 of the Government Code is amended to read:

11504. A hearing to determine whether a right, authority, license, or privilege should be granted, issued, or renewed shall be initiated by filing a statement of issues. The statement of issues shall be a written statement specifying the statutes and rules with which the respondent must show compliance by producing proof at the hearing and, in addition, any particular matters that have come to the attention of the initiating party and that would authorize a denial of the agency action sought. The statement of issues shall be verified unless made by a public officer acting in his or her official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief. The statement of issues shall be served in the same manner as an accusation, except that, if the hearing is held at the request of the respondent, Sections 11505 and 11506 shall not apply and the statement of issues together with the notice of hearing shall be delivered or mailed to the parties as provided in Section 11509. Unless a statement to respondent is served pursuant to Section 11505, a copy of Sections 11507.5, 11507.6, and 11507.7, and the name and address of the person to whom requests permitted by Section 11505 may be made, shall be served with the statement of issues.

SEC. 51. Section 15363.7 of the Government Code is amended to read:

15363.7. The secretary shall include, as part of the annual report required pursuant to subdivision (c) of Section 15363.6, a report on the foreign and domestic business development marketing programs administered by the agency.

SEC. 52. Section 15379.28 of the Government Code is amended to read:

15379.28. (a) The chancellor's office shall oversee auditing, and provide systemwide oversight, for the economic development program. In carrying out these functions, the board of governors and the chancellor's office shall perform both of the following activities:

(1) Review and assess whether competitive awards were utilized for economic development grants and contracts in accordance with board policy.

(2) Review economic development program expenditures to determine the extent to which regional economic development and training needs are being met, including the needs of emerging industries.

(b) (1) As a condition of receiving economic development funds, each community college or community college district shall agree to complete an audit of the funds received.

(2) An audit performed pursuant to this section shall adhere to generally accepted accounting principles, and shall include, but not necessarily be limited to, activities to ensure compliance with all state laws and regulations concerning each of the following:

(A) Procedures for subcontracts or grant amendments, including appropriate authorization by the chancellor's office.

(B) Procurement procedures.

(C) Travel authorization.

(D) Hiring procedures.

(E) Appropriate use of fiscal agents.

(c) An audit performed pursuant to this section may be completed either by the chancellor's office or by a certified public accountant.

(d) (1) Notwithstanding any other provision of law, the Director of Finance is authorized to increase the reimbursement authority of Schedule (e) of Item 6870-001-0001 of Section 2.00 of the Budget Act of 1996 (Ch. 162, Stats. 1996) by up to two hundred fifty thousand dollars ($250,000) to allow the chancellor's office to contract with community colleges or community college districts for the performance of audits pursuant to this section.

(2) Audits may not be conducted nor staff hired by the chancellor's office pursuant to this section unless and until the Director of Finance certifies that a sufficient number of community colleges or community college districts have entered into service agreements with the chancellor's office to fully offset the estimated cost of conducting audits of the economic development program pursuant to this section.

SEC. 53. Section 30054 of the Government Code is amended to read:

30054. (a) For the 1993–94, 1994–95, and 1995–96 fiscal years only, the amounts allocated pursuant to Sections 30052 and 30053 shall be available only for public safety services, and shall be allocated in each qualified county to local agencies as provided in subdivision (b).

(b) (1) Each county shall create a Public Safety Augmentation Fund that shall consist of all revenues received by the county as a result of the allocations pursuant to Sections 30052 and 30053.

(2) Except as provided in paragraph (3) or (4), for each of the 1993–94, 1994–95, and 1995–96 fiscal years only, the augmentation fund described in paragraph (1) shall be allocated among the cities in the county that provide public safety services as follows:

(A) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of revenue shifted from that city to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, less the amount of vehicle license fee revenues allocated to the city pursuant to Section 11005.4 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of which shall be the amount of revenue shifted from all cities in the county and from the county to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, less the amount of vehicle license fee revenues allocated to the county and all cities in the county pursuant to Section 11005.4 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(B) The auditor shall multiply the amount in the augmentation fund by the allocation factor determined in subparagraph (A) for each city.

(C) The allocation factor to be used for each city for the 1993–94 fiscal year may not result in an allocation that exceeds 50 percent of the difference between the following amounts:

(i) The amount by which the city's allocation of property tax revenues was reduced pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(ii) The amount of vehicle license fee revenues allocated to the city pursuant to Section 11005.4 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(D) The allocation factor determined pursuant to this paragraph for the 1993–94 fiscal year shall also be applied in each fiscal year thereafter.

(3) Notwithstanding paragraph (2), for each of the 1993–94, 1994–95, and 1995–96 fiscal years only, the amount in the augmentation fund established pursuant to paragraph (1) of each county described in subparagraph (C) shall be allocated to the cities in the county that provide public safety services as follows:

(A) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of the revenue shifted from that city to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of which shall be the amount of revenue shifted from all cities in the county to the Educational Revenue Augmentation Fund pursuant to

Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(B) The auditor shall multiply 5 percent of the amount in the augmentation fund established pursuant to paragraph (1) by the allocation factor determined for each city in subparagraph (A). The amount so computed for each city shall be allocated to that city.

(C) This paragraph applies only to the Counties of Fresno, Kings, Merced, San Bernardino, San Diego, San Joaquin, Solano, and Yolo.

(D) This paragraph shall apply to a particular county described in subparagraph (C) only if the total amount allocated under this paragraph to all of the cities therein that provide public safety services is less than the amount that would otherwise be allocated to all of those cities pursuant to paragraph (2).

(4) Notwithstanding paragraph (2), for each of the 1993–94, 1994–95, and 1995–96 fiscal years only, the amount in the augmentation fund established pursuant to paragraph (1) for the County of Alameda shall be allocated to the cities in the County of Alameda that provide public safety services as follows:

(A) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of the revenue shifted from that city to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of which shall be the amount of revenue shifted from all cities in the County of Alameda to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(B) The auditor shall multiply 6.1 percent of the amount in the augmentation fund established pursuant to paragraph (1) by the allocation factor determined for each city in subparagraph (A). The amount so computed for each city shall be allocated to that city.

(5) All moneys in the Public Safety Augmentation Fund not allocated to any city within the county pursuant to paragraph (2), (3), or (4) shall be allocated to the county.

SEC. 54. Section 30061 of the Government Code is amended to read:

30061. (a) There shall be established in each county treasury a Supplemental Law Enforcement Services Fund (SLESF), to receive all amounts allocated to a county for purposes of implementing this chapter.

(b) In any fiscal year for which a county receives money to be expended for the implementation of this chapter, the county auditor shall allocate moneys in the county's Supplemental Law Enforcement Services Fund (SLESF), including any interest or other return earned on the investment of those moneys, within 30 days of the deposit of those moneys into the fund, and shall allocate those moneys in accordance with the following requirements:

(1) Twelve and one-half percent to the county sheriff for county jail construction and operation. In the case of Madera, Napa, and Santa Clara Counties, this allocation shall be made to the county director or chief of corrections.

(2) Twelve and one-half percent to the district attorney for criminal prosecution.

(3) Seventy-five percent to the county and the cities within the county, and, in the case of the San Mateo, Kern, Siskiyou, and Contra Costa Counties, also to the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, in accordance with the relative population of the cities within the county and the unincorporated area of the county, and the Broadmoor Police Protection District in the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District in Kern County, the Lake Shastina Community Services District in Siskiyou County, and the Kensington Police Protection and Community Services District in Contra Costa County, as specified in the most recent January estimate by the population research unit of the Department of Finance. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESF, and moneys allocated to a city pursuant to this subdivision shall be deposited in a SLESF established in the city treasury.

(c) Subject to subdivision (d), for each fiscal year in which the county and each city, and the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, receive moneys pursuant to paragraph (3) of subdivision (b), the county, each city, and each district specified in this subdivision shall appropriate those moneys in accordance with the following procedures:

(1) In the case of the county, the county board of supervisors shall appropriate existing and anticipated moneys exclusively to provide front line law enforcement services, other than those services specified in paragraphs (1) and (2) of subdivision (b), in the unincorporated areas of the county, in response to written requests submitted to the board by the county sheriff and the district attorney. Any request submitted pursuant to this paragraph shall specify the

front line law enforcement needs of the requesting entity, and those personnel, equipment, and programs that are necessary to meet those needs. The board shall, at a public hearing held in September in each year that the Legislature appropriates funds for purposes of this chapter, consider and determine each submitted request within 60 days of receipt, pursuant to the decision of a majority of a quorum present. The board shall consider these written requests separate and apart from the process applicable to proposed allocations of the county general fund.

(2) In the case of a city, the city council shall appropriate existing and anticipated moneys exclusively to fund front line municipal police services, in accordance with written requests submitted by the chief of police of that city or the chief administrator of the law enforcement agency that provides police services for that city. These written requests shall be acted upon by the city council in the same manner as specified in paragraph (1) for county appropriations.

(3) In the case of the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County, the legislative body of that special district shall appropriate existing and anticipated moneys exclusively to fund front line municipal police services, in accordance with written requests submitted by the chief administrator of the law enforcement agency that provides police services for that special district. These written requests shall be acted upon by the legislative body in the same manner specified in paragraph (1) for county appropriations.

(d) For each fiscal year in which the county, a city, or the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County receives any moneys pursuant to this chapter, in no event shall the governing body of any of those recipient agencies subsequently alter any previous, valid appropriation by that body, for that same fiscal year, of moneys allocated to the county or city pursuant to paragraph (3) of subdivision (b).

SEC. 55. Section 30064 of the Government Code is amended to read:

30064. (a) There is in each county a Supplemental Law Enforcement Oversight Committee (SLEOC), consisting of five members as follows:

(1) One municipal police chief.

(2) The county sheriff.

(3) The district attorney.

(4) The county's executive officer.

(5) One city manager.

(b) (1) The cities in each county shall organize as a city selection committee for the purposes of appointing a city manager and a municipal police chief to the SLEOC. Each appointment shall be made by not less than a majority of all the cities in the county having not less than a majority of the population of all the cities in the county. For purposes of this paragraph, population figures shall be determined on the basis of the most recent census data developed by the Department of Finance.

(2) The SLEOC shall determine whether recipient entities have expended moneys received from the Supplemental Law Enforcement Services Fund (SLESF) in compliance with this chapter. For this purpose, the SLEOC shall at least annually review the expenditure of SLESF funds by city police departments, the county sheriff, and the district attorney, and shall make its annual review report available to the public.

SEC. 56. Section 50030 of the Government Code is amended 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.

SEC. 57. Section 65850.2 of the Government Code is amended to read:

65850.2. (a) Each city and each county shall include, in its information list compiled pursuant to Section 65940 for development projects, or application form for projects that do not require a development permit other than a building permit, both of the following:

(1) The requirement that the owner or authorized agent shall indicate whether the owner or authorized agent will need to comply with the applicable requirements of Section 25505 and Article 2 (commencing with Section 25531) of Chapter 6.95 of Division 20 of the Health and Safety Code or the requirements for a permit for construction or modification from the air pollution control district or air quality management district exercising jurisdiction in the area governed by the city or county.

(2) The requirement that the owner or authorized agent certify whether or not the proposed project will have more than a threshold quantity of a regulated substance in a process or will contain a source or modified source of hazardous air emissions.

(b) A city or county shall not find the application complete pursuant to Section 65943 or approve a development project or a building permit for a project that does not require a development permit other than a building permit, in which a regulated substance will be present in a process in quantities greater than the applicable threshold quantity, unless the owner or authorized agent for the project first obtains, from the administering agency with jurisdiction over the facility, a notice of requirement to comply with, or determination of exemption from, the requirement to prepare and submit an RMP. Within five days of submitting the project application to the city or county, the applicant shall submit the information required pursuant to paragraph (2) of subdivision (a) to the administering agency. This notice of requirement to comply with, or determination of exemption from, the requirement for an RMP shall be provided by the administering agency to the applicant, and the applicant shall provide the notice to the city or county within 25 days of the administering agency receiving adequate information from the applicant to make a determination as to the requirement for an RMP. The requirement to submit an RMP to the administering agency shall be met prior to the issuance of a certificate of occupancy or its substantial equivalent. The owner or authorized agent shall submit, to the city or county, certification from the air pollution control officer that the owner or authorized agent has provided the disclosures required pursuant to Section 42303 of the Health and Safety Code.

(c) A city or county shall not issue a final certificate of occupancy or its substantial equivalent unless there is verification from the administering agency, if required by law, that the owner or authorized agent has met, or is meeting, the applicable requirements of Section 25505 and Article 2 (commencing with Section 25531) of Chapter 6.95 of Division 20 of the Health and Safety Code, and the requirements for a permit, if required by law, from the air pollution control district or air quality management district exercising jurisdiction in the area governed by the city or county or has provided proof from the appropriate district that the permit requirements do not apply to the owner or authorized agent.

(d) The city or county, after considering the recommendations of the administering agency or air pollution control district or air quality management district, shall decide whether, and under what conditions, to allow construction of the site.

(e) Nothing in this section limits any existing authority of a district to require compliance with its rules and regulations.

(f) Counties and cities may adopt a schedule of fees for applications for compliance with this section sufficient to recover their reasonable costs of carrying out this section. Those fees shall be used only for the implementation of this section.

(g) As used in this section, the following terms have the following meaning:

(1) “Administering agency,” “process,” “regulated substance,” “RMP,” and “threshold quantity” have the same meaning as set forth for those terms in Section 25532 of the Health and Safety Code.

(2) “Hazardous air emissions” means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, “hazardous air emissions” also means emissions into the ambient air of any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(h) Any misrepresentation of information required by this section shall be grounds for denial, suspension, or revocation of project approval or permit issuance. The owner or authorized agent required to comply with this section shall notify all future occupants of their potential duty to comply with the requirements of Section 25505 and Article 2 (commencing with Section 25531) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(i) This section does not apply to applications solely for residential construction.

SEC. 58. Section 1226 of the Health and Safety Code is amended to read:

1226. (a) The regulations shall prescribe the kinds of services that may be provided by clinics in each category of licensure and shall prescribe minimum standards of adequacy, safety, and sanitation of the physical plant and equipment, minimum standards for staffing with duly qualified personnel, and minimum standards for providing the services offered. These minimum standards shall be based on the type of facility, the needs of the patients served, and the types and levels of services provided.

(b) The Office of Statewide Health Planning and Development, in consultation with the Community Clinics Advisory Committee, shall prescribe minimum construction standards of adequacy and safety for the physical plant of clinics as found in the California Building Standards Code.

(c) A city or county, as applicable, shall have plan review and building inspection responsibilities for the construction or alteration of buildings described in paragraph (1) and paragraph (2) of subdivision (b) of Section 1204 and shall apply the provisions of the latest edition of the California Building Standards Code in conducting these plan review responsibilities.

Upon the initial submittal to a city or county by the governing authority or owner of these clinics for plan review and building inspection services, the city or county shall reply in writing to the clinic whether or not the plan review by the city or county will include a certification that the clinic project submitted for plan review meets the clinic standards set forth in the California Building Standards Code.

If the city or county indicates that its review will include this certification, it shall do all of the following:

(1) Apply the applicable clinic provisions of the latest edition of the California Building Standards Code.

(2) Certify in writing to the applicant, within 30 days of completion of construction, whether or not these standards have been met.

(d) If, upon initial submittal, the city or county indicates that its plan review will not include this certification, the governing authority or owner of the clinic shall submit the plans to the Office of Statewide Health Planning and Development, which shall review the plans for certification whether or not the clinic project meets the standards, as propounded by the office, in the California Building Standards Code.

(e) When the office performs review for certification, the office shall charge a fee in an amount that does not exceed its actual costs.

(f) The office of the State Fire Marshal shall prescribe minimum safety standards for fire and life safety in surgical clinics.

(g) Notwithstanding subdivision (c), the governing authority or owner of a clinic may request the office to perform plan review services for buildings described in subdivision (c). If the office agrees to perform these services, after consultation with the local building official, the office shall charge an amount not to exceed its actual costs. The construction or alteration of these buildings shall conform to the applicable provisions of the latest edition of the California Building Standards Code for purposes of the plan review by the office pursuant to this subdivision.

(h) Regulations adopted pursuant to this chapter establishing standards for laboratory services shall not apply to any clinic that operates a clinical laboratory licensed pursuant to Section 1265 of the Business and Professions Code.

SEC. 59. Section 1250.2 of the Health and Safety Code is amended to read:

1250.2. (a) As defined in Section 1250, "health facility" includes a "psychiatric health facility," defined to mean a health facility, licensed by the State Department of Mental Health, that 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 stay 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, for 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 of the Health and Safety Code 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 Section 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. Sec. 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. 60. Section 1367 of the Health and Safety Code is amended to read:

1367. Each health care service plan and, where applicable, each specialized health care service plan, shall meet the following requirements:

(a) All facilities located in this state, including, but not limited to, clinics, hospitals, and skilled nursing facilities to be utilized by the plan, shall be licensed by the State Department of Health Services, where licensure is required by law. Facilities not located in this state shall conform to all licensing and other requirements of the jurisdiction in which they are located.

(b) All personnel employed by or under contract to the plan shall be licensed or certified by their respective board or agency, where licensure or certification is required by law.

(c) All equipment required to be licensed or registered by law shall be so licensed or registered and the personnel operating that equipment shall be licensed or certified as required by law.

(d) The plan shall furnish services in a manner providing continuity of care and ready referral of patients to other providers at times as may be appropriate, consistent with good professional practice.

(e) (1) All services shall be readily available at reasonable times to all enrollees. To the extent feasible, the plan shall make all services readily accessible to all enrollees.

(2) To the extent that telemedicine services are appropriately provided through telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, these services shall be considered in determining compliance with Section 1300.67.2 of Title 10 of the California Code of Regulations.

(f) The plan shall employ and utilize allied health manpower for the furnishing of services to the extent permitted by law and consistent with good medical practice.

(g) The plan shall have the organizational and administrative capacity to provide services to subscribers and enrollees. The plan shall be able to demonstrate to the department that medical decisions are rendered by qualified medical providers, unhindered by fiscal and administrative management.

(h) All contracts with subscribers and enrollees, including group contracts, and all contracts with providers, and other persons furnishing services, equipment, or facilities to or in connection with the plan, shall be fair, reasonable, and consistent with the objectives of this chapter. All contracts with providers shall contain provisions requiring a dispute resolution mechanism under which providers may submit disputes to the plan, and requiring the plan to inform its providers upon contracting with the plan, or upon change to these provisions, of the procedures for processing and resolving disputes, including the location and telephone number where information regarding disputes may be submitted.

(i) Each health care service plan contract shall provide to subscribers and enrollees all of the basic health care services included

in subdivision (b) of Section 1345, except that the commissioner may, for good cause, by rule or order exempt a plan contract or any class of plan contracts from that requirement. The commissioner shall by rule define the scope of each basic health care service required to be provided by a health care service plan as a minimum for licensure under this chapter. Nothing in this chapter prohibits a health care service plan from charging subscribers or enrollees a copayment or a deductible for a basic health care service or from setting forth, by contract, limitations on maximum coverage of basic health care services, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

Nothing in this section shall be construed to permit the commissioner to establish the rates charged subscribers and enrollees for contractual health care services.

The enforcement by the commissioner of Article 3.1 (commencing with Section 1357) shall not be deemed to establish the rates charged subscribers and enrollees for contractual health care services.

SEC. 61. Section 1585 of the Health and Safety Code is amended to read:

1585. (a) The governing board of an adult day health center having final authority and responsibility for conduct of the center shall be comprised of four or more persons, at least one-half of whom shall be recipients of the services of the adult day health center, relatives of the recipients, or representatives of community organizations with particular interest in programs for the elderly.

(b) The director shall, in individual cases, grant exceptions from the requirements of this section for applicants if both of the following conditions are met:

(1) The applicant delegates primary responsibility for supervision of its adult day health program to a special board meeting the compositional requirements of this section.

(2) The special board reviews and recommends to the governing board of the applicant the budget, personnel, and subcontractors of the adult day health care program.

(c) No member of the governing board or a special board described in subdivision (b), nor any member of the immediate family of that board member, may have any direct or indirect interest in any contract for supplying services to the adult day health center.

SEC. 62. Section 11527.3 of the Health and Safety Code is amended and renumbered to read:

115271.3. If the state receives federal approval to implement and enforce emission standards for radionuclides pursuant to Section 115271.2, the department shall be responsible for the control of emissions of radionuclides into the air. However, nothing in this article shall be construed in any way to give the department any authority to regulate, or be construed to apply to, air emissions from

nuclear powerplants that are licensed and regulated by the United States Nuclear Regulatory Commission.

SEC. 63. Section 11758.46 of the Health and Safety Code is amended to read:

11758.46. (a) For purposes of this section, "drug-Medi-Cal services" means all of the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Narcotic treatment program services, as set forth in Section 11758.42.

(2) Day care habilitative services.

(3) Perinatal residential services for pregnant women and women in the postpartum period.

(4) Naltrexone services.

(5) Outpatient drug-free services.

(b) (1) By July 1, 1997, and annually thereafter, the department shall publish procedures for contracting for drug-Medi-Cal services with certified providers and for claiming payments, including procedures and specifications for electronic data submission for services rendered.

(2) By July 1, 1997, the department, county alcohol and drug program administrators, and alcohol and drug service providers shall automate the claiming process and the process for the submission of specific data required in connection with reimbursement for drug-Medi-Cal services, except that this requirement applies only if funding is available from sources other than those made available for treatment or other services.

(c) A county or a contractor for the provision of drug-Medi-Cal services shall notify the department, within 30 days of the receipt of the county allocation, of its intent to contract, as a component of the single state-county contract, for and provide certified services pursuant to Section 11758.42 for the proposed budget year. The notification shall include an accurate and complete budget proposal, the structure of which shall be mutually agreed to by county alcohol and drug program administrators and the department, in the format provided by the department, for specific services, for a specific time period, estimated units of service, estimated rate per unit consistent with law and regulations, and total estimated cost for appropriate services.

(d) (1) Within 30 days of receipt of the proposal described in subdivision (c), the department shall provide, to counties and contractors proposing to provide drug-Medi-Cal services in the proposed budget year, a proposed multiple-year contract, as a component of the single state-county contract, for these services, a current utilization control plan, and appropriate administrative procedures.

(2) A county contracting for alcohol and drug services shall receive a single state-county contract for the net negotiated amount and drug-Medi-Cal services.

(3) Contractors contracting for drug-Medi-Cal services shall receive a drug-Medi-Cal contract.

(e) (1) Upon receipt of a contract proposal pursuant to subdivision (c), a county and a contractor seeking to provide reimbursable drug-Medi-Cal services and the department may begin negotiations and the process for contract approval.

(2) If a county does not approve a contract by July 1 of the appropriate fiscal year, in accordance with subdivisions (b) to (d), inclusive, the county shall have 30 additional days in which to approve a contract. If the county has not approved the contract by the end of that 30-day period, the department shall contract directly for services within 30 days.

(3) Counties shall negotiate contracts only with providers certified to provide reimbursable drug-Medi-Cal services and that elect to participate in this program. Upon contract approval by the department, a county shall establish approved contracts with certified providers within 30 days following enactment of the annual Budget Act. A county may establish contract provisions to ensure interim funding pending the execution of final contracts, multiple-year contracts pending final annual approval by the department, and, to the extent allowable under the annual Budget Act, other procedures to ensure timely payment for services.

(f) (1) For counties and contractors providing drug-Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from state General Fund moneys shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(2) For counties and contractors providing drug-Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from federal medicaid funds shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(3) By July 1, 1997, the State Department of Health Services and the department shall develop methods to ensure timely payment of drug-Medi-Cal claims.

(4) The State Department of Health Services, in cooperation with the department, shall take steps necessary to streamline the billing system for reimbursable drug-Medi-Cal services, to assist the department in meeting the billing provisions set forth in this subdivision.

(g) The department shall submit a proposed interagency agreement to the State Department of Health Services by May 1 for the following fiscal year. Review and interim approval of all contractual and programmatic requirements, except final fiscal estimates, shall be completed by the State Department of Health Services by July 1. The interagency agreement shall not take effect until the annual Budget Act is enacted and fiscal estimates are

approved by the State Department of Health Services. Final approval shall be completed within 45 days of enactment of the Budget Act.

(h) (1) A county or a provider certified to provide reimbursable drug-Medi-Cal services, that is contracting with the department, shall estimate the cost of those services by April 1 of the fiscal year covered by the contract, and shall amend current contracts, as necessary, by the following July 1.

(2) A county or a provider, except for a provider to whom subdivision (i) applies, shall submit accurate and complete cost reports for the previous state fiscal year by November 1, following the end of the state fiscal year. The department may settle cost for drug-Medi-Cal services, based on the cost report as the final amendment to the approved single state-county contract.

(i) Certified narcotic treatment program providers, that are exclusively billing the state or the county for services under Section 11758.42, shall submit accurate and complete performance reports for the previous state fiscal year by November 1 following the end of that state fiscal year. A provider to which this subdivision applies shall estimate its budgets using the uniform state monthly reimbursement rate. The format and content of the performance reports shall be mutually agreed to by the department, the County Alcohol and Drug Program Administrators Association of California, and representatives of the narcotic treatment providers.

SEC. 64. 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, home or institution for the care of aged or senile persons, sanitarium or institution for insane or mentally retarded persons, or 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 does 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 does 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 the 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 does 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. 65. Section 19183 of the Health and Safety Code is amended to read:

19183. Manufacturers of earthquake sensitive gas shutoff devices or other devices required by an ordinance adopted pursuant to Section 19182 shall first obtain certification, pursuant to Article 7 (commencing with Section 19200), that the device meets the standards established pursuant to Section 19182.

SEC. 66. Section 19825 of the Health and Safety Code is amended to read:

19825. (a) Every city or county that requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure shall, in addition to any other requirements, require the following declarations in substantially the following form upon the issuance of any building permit:

BUILDING PROJECT IDENTIFICATION

Applicant's Mailing Address ______________________________

____

Address of Building ______________________________

____

Owner's Name if known ______________________________

Telephone No. ______________________________

Contractor's Name ______________________
Contractor's Mailing Address ______________________

____

Lic. No. ______________

Architect or Engineer ______________________
Architect's or Engineer's Address ______________________

____

Lic. No. ______________

In addition the city or county may require that there be included, in the building project identification portion of a building permit, the following:

Assessor's Parcel Number* ______________________
Permit date ______________________
Permit number ______________________
Description of work ______________________
Building permit valuation ______________________

*To be entered by issuing agency.

LICENSED CONTRACTOR'S DECLARATION

I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class ______________ Lic. No. ______________
Date ______________________ Contractor ______________

OWNER–BUILDER DECLARATION

I hereby affirm under penalty of perjury that I am exempt from the Contractors License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county that requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for the permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors License Law (Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars ($500).):

☐ I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The Contractors License Law does not apply to an owner of property who builds or improves thereon, and who does the work himself or herself or through his or her own employees, provided that the improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he or she did not build or improve for the purpose of sale.).

☐ I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractors License Law does not apply to an owner of property who builds or improves thereon, and who contracts for the projects with a contractor(s) licensed pursuant to the Contractors License Law.).

☐ I am exempt under Sec. ________, B.& P.C. for this reason

____

Date ____________________________ Owner ____________________

WORKERS' COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declarations:

____ I have and will maintain a certificate of consent toself-insure for workers' compensation, as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

____ I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier ______________________________

Policy Number ______________________________

(This section need not be completed if the permit is for one hundred dollars ($100) or less).

____ I certify that, in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that, if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Date: ____________________ Applicant: ____________________

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS ($100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

CONSTRUCTION LENDING AGENCY

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Civ. C.).

Lender's Name ____

Lender's Address ______________________________________

I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above-mentioned property for inspection purposes.

______________________________ ______________

Signature of Applicant or Agent Date

(b) The Contractors' State License Board shall semiannually compile and distribute to city, county, and city and county building departments a list of all contractors who did not secure payment of compensation in compliance with Article 1 (commencing with Section 3700) of Chapter 4 of Part 1 of Division 4 of the Labor Code during any period for which workers were employed during the preceding six months.

SEC. 67. Section 19881 of the Health and Safety Code is amended to read:

19881. (a) No person shall sell, or offer for sale, any new or used unvented heater that is designed to be used inside any dwelling house or unit, with the exception of an electric heater, or decorative gas logs for use in a vented fireplace.

(b) Notwithstanding subdivision (a), natural-gas-fueled unvented decorative gas logs and fireplaces may be sold if the Department of Housing and Community Development and the State Department of Health Services approve of their use, and all of the following are satisfied:

(1) The Department of Housing and Community Development and the State Department of Health Services consider and develop recommended standards for their use. The cost of developing these standards may not exceed one hundred forty-five thousand dollars ($145,000).

(2) Natural-gas-fueled unvented decorative gas logs and fireplaces meet the standards developed in accordance with paragraph (1) by the Department of Housing and Community Development and the State Department of Health Services.

(3) The California Building Standards Commission adopts the standards developed in accordance with paragraph (1) and pursuant to Section 18930.

(4) Natural-gas-fueled unvented decorative gas logs and fireplaces are listed by an agency approved by the Department of Housing and Community Development.

(c) Installation of natural-gas-fueled unvented decorative gas logs and fireplaces sold under standards developed pursuant to subdivision (b) shall be in accordance with the California Building Standards Code.

SEC. 68. 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 that 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 limits 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 that has been processed from a hazardous waste, or 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 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.

(C) The material is oily waste, used oil, or spent nonhalogenated solvent that is managed by the owner or operator of a refinery that is processing primarily crude oil and is not subject to permit requirements for the recycling of used oil, of a public utility, or of a corporate subsidiary, corporate parent, or subsidiary of the same corporate parent of the refinery or public utility, and 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 that 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 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 regulations of the department 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 regulations of the department 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), and even if the recycling involves activities or materials described in subdivisions (c) and (d):

(1) Materials that 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 that 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 either of the following applies:

(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), 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 the management by that person 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. 69. Section 25179.8 of the Health and Safety Code is amended to read:

25179.8. (a) Except as provided in subdivision (d), the department may grant a variance from the requirements of Sections 25179.5 and 25179.6 for a hazardous waste, consistent with Section 25143.

(b) The department may grant a variance from the requirements of Section 25179.6 for agricultural drainage waters that meet the criteria established by the department pursuant to Section 25141 if a person demonstrates, to the satisfaction of the department, that all of the following conditions apply to the waste:

(1) There are no technically and economically feasible treatment, reuse, or recycling alternatives available to render the agricultural drainage water nonhazardous.

(2) The applicant can demonstrate that the continued disposal of agricultural drainage waters does not pose an immediate or significant long-term risk to public health or the environment.

(3) The disposal of the agricultural drainage waters is in compliance with the requirements of Section 25179.3.

(c) A variance granted by the department pursuant to subdivision (b) shall remain in effect for a period not longer than three years and may be renewed for additional three-year periods.

(d) When granting a variance pursuant to this section, the department may specify, where appropriate, any treatment that shall be required prior to land disposal of the waste, and may impose requirements that may be necessary to protect the public health and the environment.

(e) The department shall not grant a variance pursuant to subdivision (a) for hazardous waste that is restricted or prohibited by the Environmental Protection Agency pursuant to the federal act, unless either of the following applies:

(1) The waste has been granted a variance by the Administrator of the Environmental Protection Agency and the variance granted by the department does not permit less stringent management than that required pursuant to the federal variance.

(2) The Environmental Protection Agency has delegated the authority to grant variances to the department pursuant to the federal act.

SEC. 70. The heading of Article 11 (commencing with Section 25299.90) of Chapter 6.75 of Division 20 of the Health and Safety Code is amended to read:

Article 11. Commingled Plume Account

SEC. 71. Section 25299.92 of the Health and Safety Code is amended to read:

25299.92. A sum not to exceed ten million dollars ($10,000,000) from Item 3940-001-0439 of Section 2.00 of the Budget Act of 1996 (Ch. 162, Stats. 1996) shall be available for expenditure for the 1996–97 fiscal year for the purposes of this article. In subsequent fiscal years, it is the intent of the Legislature that an appropriation be made in the annual Budget Act to carry out this article.

SEC. 72. Section 25330.4 of the Health and Safety Code is amended 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 a subaccount established pursuant to subdivision (a) 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 a subaccount for 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 for that specific site.

(e) At the conclusion of all removal or remedial actions at the specific site, any unexpended funds in any subaccount 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. 73. Section 25532 of the Health and Safety Code is amended to read:

25532. Unless the context indicates otherwise, the following definitions govern the construction of this article:

(a) “Accidental release” means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(b) “Administering agency” means the local agency authorized, pursuant to Section 25502, to implement and enforce this article.

(c) "Covered process" means a process that has a regulated substance present in more than a threshold quantity.

(d) "Modified stationary source" means an addition or change to a stationary source that qualifies as a "major change," as defined in Subpart A of Part 68 of Title 40 of the Code of Federal Regulations. "Modified stationary source" does not include an increase in production up to the source's existing operational capacity or an increase in production level, up to the production levels authorized in a permit granted pursuant to Section 42300.

(e) "Process" means any activity involving a regulated substance, including any use, storage, manufacturing, handling, or onsite movement of the regulated substance or any combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located so that a regulated substance could be involved in a potential release, shall be considered a single process.

(f) "Qualified person" means a person who is qualified to attest, at a minimum, to the completeness of an RMP.

(g) "Regulated substance" means any substance that is either of the following:

(1) A regulated substance listed in Section 68.130 of Title 40 of the Code of Federal Regulations pursuant to paragraph (3) of subsection (r) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(r)(3)).

(2) (A) An extremely hazardous substance listed in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations that is any of the following:

(i) A gas at standard temperature and pressure.

(ii) A liquid with a vapor pressure at standard temperature and pressure equal to or greater than ten millimeters mercury.

(iii) A solid that is one of the following:

(I) In solution or in molten form.

(II) In powder form with a particle size less than 100 microns.

(III) Reactive with a National Fire Protection Association rating of 2, 3, or 4.

(iv) A substance that the office determines may pose a regulated substances accident risk pursuant to subclause (II) of clause (i) of subparagraph (B) or pursuant to Section 25543.3.

(B) (i) On or before June 30, 1997, the office shall, in consultation with the Office of Environmental Health Hazard Assessment, determine which of the extremely hazardous substances listed in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations do either of the following:

(I) Meet one or more of the criteria specified in clauses (i), (ii), or (iii) of subparagraph (A).

(II) May pose a regulated substances accident risk, in consideration of the factors specified in subdivision (g) of Section 25543.1, and, therefore, should remain on the list of regulated

substances until completion of the review conducted pursuant to subdivision (a) of Section 25543.3.

(ii) The office shall adopt, by regulation, a list of the extremely hazardous substances identified pursuant to clause (i). Extremely hazardous substances placed on the list are regulated substances for the purposes of this article. Until the list is adopted, the administering agency shall determine which extremely hazardous substances should remain on the list of regulated substances pursuant to the standards specified in clause (i).

(h) "Regulated substances accident risk" means a potential for the accidental release of a regulated substance into the environment that could produce a significant likelihood that persons exposed may suffer acute health effects resulting in significant injury or death.

(i) "RMP" means the risk management plan required under Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and by this article.

(j) "State threshold quantity" means the quantity of a regulated substance described in subparagraph (A) of paragraph (2) of subdivision (g), as adopted by the office pursuant to Section 25543.1 or 25543.3. Until the office adopts a state threshold quantity for a regulated substance, the state threshold quantity shall be the threshold planning quantity for the regulated substance specified in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.

(k) "Stationary source" means any stationary source, as defined in Section 68.3 of Title 40 of the Code of Federal Regulations.

(*l*) "Threshold quantity" means the quantity of a regulated substance that is determined to be present at a stationary source in the manner specified in Section 68.115 of Title 40 of the Code of Federal Regulations and that is the lesser of either of the following:

(1) The threshold quantity for the regulated substance specified in Section 68.130 of Title 40 of the Code of Federal Regulations.

(2) The state threshold quantity.

SEC. 74. Section 25534 of the Health and Safety Code is amended to read:

25534. (a) For any stationary source with one or more covered processes, the administering agency shall make a preliminary determination as to whether there is a significant likelihood that the use of regulated substances by a stationary source may pose a regulated substances accident risk.

(b) (1) If the administering agency determines that there is a significant likelihood of a regulated substances accident risk pursuant to this subdivision, it shall require the stationary source to prepare and submit an RMP, or may reclassify the covered process from program 2 to program 3, as specified in Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations.

(2) If the administering agency determines that there is not a significant likelihood of a regulated substances accident risk pursuant to this subdivision, it may do either of the following:

(A) Require the preparation and submission of an RMP, but need not do so if it determines that the likelihood of a regulated substances accident risk is remote, unless otherwise required by federal law.

(B) Reclassify a covered process from program 3 to program 2 or from program 2 to program 1, as specified in Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations, unless the classification of the covered process is specified in those regulations.

(3) If the administering agency determines that an economic poison, as defined in Section 12753 of the Food and Agricultural Code, used on a farm or nursery may pose a regulated substances accident risk pursuant to this article, the administering agency shall first consult with the Department of Food and Agriculture or the county agricultural commissioner to evaluate whether the current RMP is adequate in relation to the regulated substances accident risk. This paragraph does not limit the authority of an administering agency to conduct its duties under this article, or prohibit the exercise of that authority.

(c) The requirements of this section apply to a stationary source that is not otherwise required to submit an RMP pursuant to Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations.

SEC. 75. Section 25538 of the Health and Safety Code is amended to read:

25538. (a) If a stationary source believes that any information required to be reported, submitted, or otherwise provided to the administering agency pursuant to this article involves the release of a trade secret, the stationary source shall provide the information to the administering agency and shall notify the administering agency in writing of that belief. Upon receipt of a claim of trade secret related to an RMP, the administering agency shall review the claim and shall segregate properly substantiated trade secret information from information that shall be made available to the public upon request in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250), Division 7, Title 1, Government Code). As used in this section, "trade secret" has the same meaning as in subdivision (d) of Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.

(b) Except as otherwise specified in this section, the administering agency may not disclose any properly substantiated trade secret that is so designated by the owner or operator of a stationary source.

(c) The administering agency may disclose trade secrets received by the administering agency pursuant to this article to authorized officers or employees of other governmental agencies only in

connection with the official duties of that officer or employee pursuant to any law for the protection of health and safety.

(d) Any officer or employee or former officer or employee of the administering agency or any other government agency who, because of that employment or official position, has possession of or access to information designated as a trade secret pursuant to this section shall not knowingly and willfully disclose the information in any manner to any person not authorized to receive the information pursuant to this section. Notwithstanding Section 25515, any person who violates this subdivision, and who knows that disclosure of this information to the general public is prohibited by the section, shall, upon conviction, be punished by imprisonment in the county jail for not more than six months or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(e) Any information prohibited from disclosure pursuant to any federal statute or regulation shall not be disclosed.

(f) This section does not authorize any stationary source to refuse to disclose to the administering agency any information required pursuant to this article.

(g) (1) Upon receipt of a request for the release of information to the public that includes information that the stationary source has notified the administering agency is a trade secret pursuant to subdivision (a), the administering agency shall notify the stationary source in writing of the request by certified mail, return receipt requested. The owner or operator of the stationary source shall have 30 days from receipt of the notification to provide the administering agency with any materials or information intended to supplement the information submitted pursuant to subdivision (a) and needed to substantiate the claim of trade secret. The administering agency shall review the claim of trade secret and shall determine whether the claim is properly substantiated.

(2) The administering agency shall inform the stationary source in writing, by certified mail, return receipt requested, of any determination by the administering agency that some, or all, of a claim of trade secret has not been substantiated. Not earlier than 30 days after the receipt by a stationary source of notice of the determination, the administering agency shall release the information to the public, unless, prior to the expiration of the 30-day period, the stationary source files an action in an appropriate court for a declaratory judgment that the information is subject to protection under subdivision (b) or for an injunction prohibiting disclosure of the information to the public, and promptly notifies the administering agency of that action.

SEC. 76. Section 25548.1 of the Health and Safety Code is amended to read:

25548.1. As used in this chapter, the following terms have the following meaning:

(a) "Actual benefit" means the amount, if any, realized by the lender upon the disposition of property acquired through foreclosure or its equivalent as a direct result of a removal or remedial action undertaken by another person, not to exceed the amount, if any, by which the disposition proceeds exceed the sum of the balance of all of the following:

(1) The loan or obligation or the amount of the lien, evidenced by the loan or obligation outstanding at foreclosure or its equivalent.

(2) The costs, including attorneys' fees, incurred by the lender in connection with the foreclosure or its equivalent, subsequent ownership, any removal or remedial action, and disposition of the property.

(b) "Borrower, debtor or obligor" means a person who is obligated to a lender under a loan or obligation, whether or not the lender maintains a security interest in that person's property.

(c) "Damages" includes compensatory damages, exemplary damages, punitive damages, and costs of every kind and nature, including, but not limited to, costs of a removal or remedial action.

(d) "Fiduciary" means a person who is acting in any of the following capacities:

(1) As trustee for a trust described in paragraph (1) or (2) of subdivision (a) of Section 82 of the Probate Code.

(2) As a fiduciary in any arrangement described in paragraphs (1) to (3), inclusive, or paragraphs (5) to (14), inclusive, of subdivision (b) of Section 82 of the Probate Code.

(3) A trustee appointed in proceedings under any state or federal bankruptcy law.

(4) An assignee or a trustee acting under an assignment made for the benefit of creditors.

(5) A court-appointed receiver.

(e) "Finance lease" means a transaction with respect to which both of the following apply:

(1) The lessor does not select or manufacture the goods or does not supply the goods, except in the case of a re-lease, whether it is created by a new transaction or substitution of the lessee.

(2) The lessor acquires the goods or right to possession and use of the goods in connection with the lease or a prior lease transaction.

(f) "Foreclosure or its equivalent" means the acquisition of property by a lender through any of the following:

(1) Judicial or nonjudicial foreclosure of the lender's security interest in the property or acceptance of a deed or other conveyance in satisfaction thereto.

(2) Acceptance of a deed in lieu or other conveyance in satisfaction of a loan or obligation previously contracted.

(3) Termination of a finance lease by consent or default.

(4) Any other formal or informal manner, whether pursuant to law or under warranties, covenants, conditions, representations or promises from the borrower, by which the lender acquires, for

subsequent disposition, actual possession of the property subject to a security interest.

(g) "Hazardous material" has the same meaning as defined in subdivision (d) of Section 25260.

(h) (1) "Indicia of ownership" means evidence of a security interest, evidence of an interest in a security interest, or evidence of an interest in real or personal property securing a loan or other obligation, including any legal or equitable title to real or personal property acquired incident to foreclosure or its equivalent.

(2) "Evidence of an interest" includes, but is not limited to, all of the following:

(A) Mortgages.

(B) Deeds of trust.

(C) Liens.

(D) Surety bonds and guarantees of obligations.

(E) Title held pursuant to a finance lease in which the lessor does not select initially the leased property.

(F) Legal or equitable title obtained pursuant to foreclosure or its equivalent.

(G) Assignments, pledges, or other rights to, or other forms of, encumbrance against property that are held primarily to protect a security interest.

(3) A person is not required to hold title or a security interest to maintain indicia of ownership.

(i) "Lender" means a person to the extent of the capacity in which that person maintains indicia of ownership primarily to protect a security interest or makes, acquires, renews, modifies, or holds a loan or obligation from a borrower. "Lender" includes either of the following persons:

(1) Any person who acts as, or on behalf of, a lender in connection with any aspect of the solicitation, negotiation, consummation, disbursement, administration, servicing, collection, enforcement, or foreclosure or its equivalent of a loan or obligation or security interest in property.

(2) Any person who makes, secures, acquires, or holds a loan or obligation or security interest by assignment, sale, pledge, subrogation, succession, or operation of law, or becomes the receiver for the holder of a loan or obligation or security interest.

(j) "Loan or obligation" means a loan, revolving or nonrevolving line of credit, finance lease, sale-leaseback that provides for a purchase option in favor of the lessee, installment sale contract, sale on account, or other credit sale, letter of credit, forbearance or guaranty, collateral pledge, or other suretyship obligation, and any extension, renewal, or modification thereof. A loan or obligation may or may not involve a security interest in property.

(k) (1) Except as provided in paragraphs (3) and (4), "participate (or participation) in the management of the property" means actual participation in the management or operational affairs

of the property by the lender while the borrower, under the loan or obligation, is in possession of the property, and the lender exercises decisionmaking control over the environmental compliance by the borrower, so that the lender assumes responsibility for the hazardous material handling or disposal practices of the borrower, or exercises control at a level comparable to that of a manager of the enterprise of the borrower, so that the lender assumes or manifests responsibility for the overall management of the enterprise encompassing the day-to-day decisionmaking of the enterprise with respect to either of the following:

(A) Environmental compliance.

(B) All, or substantially all, of the operational, as opposed to financial or administrative, aspects of the enterprise other than environmental compliance.

(2) For purposes of paragraph (1), the following terms have the following meaning:

(A) "Operational aspects of the enterprise" include functions such as that of facility or plant manager, operations manager, chief operating officer, or chief executive officer.

(B) "Financial or administrative aspects" include functions such as that of a credit manager, accounts payable/receivable manager, personnel manager, controller, or chief financial officer.

(3) Notwithstanding paragraph (1), "participation in the management of the property" does not include an act or omission by a prospective lender prior to making, acquiring, or holding a loan or obligation. "Participation in the management of the property" also does not include the actions taken by a prospective lender who undertakes or requires an environmental inspection of property prior to making, acquiring, or holding a loan or obligation. A lender or prospective lender does not "participate in the management of the property" if the lender or prospective lender requires the borrower to clean up the property or requires the borrower to comply or come into compliance with any applicable law or regulation. This chapter does not require a lender to conduct or require an inspection prior to foreclosure or its equivalent to qualify for the exemption provided by this chapter, and the liability of a lender shall not be based on or affected by whether the lender conducts or requires an inspection prior to foreclosure or its equivalent.

(4) Loan policing and work out activities, as specified in paragraphs (5) and (6), that are consistent with holding ownership indicia primarily to protect a security interest and consistent with a loan or obligation made, acquired, or held primarily for purposes other than investment purposes, do not constitute participation in the management of the property. The authority for the lender to take those actions may, but are not required to, be contained in contractual or other documents specifying requirements for financial, environmental, and other warranties, covenants, conditions, representations, or promises from the borrower. Loan

policing and work out activities include all activities up to foreclosure or its equivalent.

(5) A lender who engages in loan policing activities prior to foreclosure or its equivalent is exempt from liability pursuant to this chapter if the lender does not, by those actions, participate in the management of the property. Those actions include, but are not limited to, all of the following:

(A) Requiring the borrower to conduct a removal or remedial action during the term of the security interest or loan or obligation.

(B) Requiring the borrower to comply or come into compliance with applicable federal, state, and local environmental and other laws during the term of the security interest or loan or obligation.

(C) Securing or exercising authority to monitor or inspect the property, including onsite inspections, or the business or financial condition of the borrower during the term of the security interest or loan or obligation.

(D) Taking other actions to adequately police the loan, obligation, or security interest, such as requiring the borrower to comply with any warranties, covenants, conditions, representations, or promises in connection with the security interest or loan or obligation.

(6) (A) A lender who engages in work out activities prior to foreclosure or its equivalents is exempt from liability pursuant to this chapter if the lender does not, by those actions, participate in the management of the property.

(B) "Work out" means those actions by which a lender, at any time prior to foreclosure or its equivalent, seeks to prevent, cure, or mitigate a default by the borrower, or to preserve or prevent the diminution of the value of the property, security interest, or loan or obligation.

(C) Work out activities include, but are not limited to, all of the following:

(i) Restructuring or renegotiating the terms of the loan, obligation, or security interest.

(ii) Requiring payment of additional rent or interest.

(iii) Exercising rights pursuant to an assignment of accounts or other amounts owing to a lender.

(iv) Requiring or exercising rights pursuant to an escrow agreement pertaining to amounts owing to a lender.

(v) Exercising forbearance.

(vi) Providing specific or general financial or other advice, suggestions, counseling, or guidance.

(vii) Exercising any right or remedy the lender is entitled to by law or under any warranties, covenants, conditions, representations, or promises from the borrower.

(7) A lender does not participate in the management of the property by taking any response action under Section 107(d)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Sec. 9607(d)(1)). However, the

lender may be liable for damages, as defined by this chapter, that occur as a result of the gross negligence or willful misconduct of the lender in his or her performance of a response action under Section 107 (d)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Sec. 9607(d)(1)).

(*l*) "Person" means any entity, including an individual, estate, trust, firm, business trust, joint stock company, corporation, partnership, joint venture, limited liability company, association, or government. "Person" includes any city, county, district, or the state or any department, subdivision, or agency thereof.

(m) "Primarily to protect a security interest" means that the indicia of ownership of a lender are held primarily for the purpose of securing payment or performance of an obligation. "Primarily to protect a security interest" does not include indicia of ownership held primarily for investment purposes or indicia of ownership held primarily for purposes other than as protection for a security interest. A lender may have other, secondary reasons for maintaining indicia of ownership, but the primary reason that any indicia of ownership are held shall be as protection for a security interest.

(n) "Property" means any real or personal property where hazardous materials are or were generated, handled, managed, deposited, stored, disposed of, placed, released, or otherwise have come to be located. In the context of a loan or obligation, "property" includes any real or personal property in which the obligor has or had an ownership, leasehold, or possessory interest, whether or not it was the subject of a security interest for the loan or obligation.

(o) "Release" has the same meaning as defined in Section 25320.

(p) "Remedial action" has the same meaning as defined in subdivision (g) of Section 25260.

(q) "Removal" means the cleanup or removal of released hazardous materials from the environment or the taking of other actions that may be necessary to prevent, minimize, or mitigate damages that may otherwise result from a release or threatened release, as further defined in Section 101(23) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Sec. 9601(23)).

(r) "Security interest" means an interest in a property created or established for the purpose of securing a loan or obligation. Security interests include, but are not limited to, mortgages, deeds of trust, liens, and title pursuant to a finance lease. Security interests may also arise from transactions such as sale and leasebacks, conditional sales, installment sales, trust receipt transactions, certain assignments, factoring agreements, and accounts receivable financing arrangements and consignments if the transaction creates or establishes an interest in a property for the purpose of securing a loan or other obligation.

SEC. 77. Section 27604 of the Health and Safety Code is amended and renumbered to read:

114015. (a) (1) No unpackaged food that has been served to any person or returned from any eating area shall be served again or used in the preparation of other food.

(2) No food prepared or stored in a private home shall be used, stored, served, offered for sale, sold, or given away in a food facility.

(3) Except as provided in paragraph (4), a private home shall not be used for the purpose of giving away, selling, or handling food at retail, as defined in Section 113875.

(4) Nonperishable, prepackaged food may be given away, sold, or handled from a private home. For purposes of this paragraph only: (A) "nonperishable food" means a food that is not a potentially hazardous food, and does not show signs of spoiling, becoming rancid, or developing objectable odors during storage at ambient temperatures; and (B) no food that has exceeded the labeled shelf life date recommended by the manufacturer shall be deemed to be "nonperishable."

(b) Except as provided in subdivision (c) of Section 114080, every bakery product shall have a protective wrapping that bears a label that complies with the labeling requirements prescribed by the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)). Bakery products sold directly to a restaurant, catering service, or retail bakery, or sold over the counter directly to the consumer by the manufacturer or bakery distributor shall be exempt from this subdivision. French style, hearth-baked, or hard-crusted loaves and rolls shall be considered properly wrapped if contained in an open-end bag of sufficient size to enclose the loaves or rolls.

SEC. 78. Section 33459.1 of the Health and Safety Code is amended to read:

33459.1. (a) An agency may take any actions that the agency determines are necessary and that are consistent with other state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, subject to the conditions specified in subdivision (b). Unless an administering agency has been designated under Section 25262, the agency shall request cleanup guidelines from the department or the California regional water quality control board. The agency shall provide the department and local health and building departments, the California regional water quality control board, with notification of any cleanup activity pursuant to this section at least 30 days before the commencement of the activity. If an action taken by an agency to remedy or remove a release of a hazardous substance is not satisfactory to the department or the California regional water quality control board, the department or the California regional water quality control board may require the agency to take, or cause the taking of, additional action to remedy or remove the release, as provided by applicable law. If an administering agency for the site has been designated under Section 25262, any requirement for

additional action may be imposed only as provided in Sections 25263 and 25265. If methane or landfill gas is present, the agency shall obtain written approval from the California Integrated Waste Management Board prior to taking that action.

(b) Except as provided in subdivision (c), an agency may take the actions specified in subdivision (a) only under one of the following conditions:

(1) There is no responsible party for the release identified by the agency.

(2) The party determined to be responsible for the release by the agency has been notified by the agency or has received adequate notice from the department, a California regional water quality control board, the Environmental Protection Agency, or other governmental agency with relevant authority and has been given 60 days to respond and to propose a remedial action plan, and the responsible party has not agreed within an additional 60 days to implement a plan to remedy or remove the release that has been found by the agency to be consistent, to the maximum extent possible, with the priorities, guidelines, criteria, and regulations contained in the National Contingency Plan and published pursuant to Section 9605 of Title 42 of the United States Code for similar releases, situations, or events.

(3) The party determined to be responsible for the release has entered into the agreement specified in paragraph (2), but the legislative body of the agency subsequently determines that the plan is not being carried out in an appropriate and timely manner by the responsible party.

(c) Subdivision (b) does not apply to either of the following agencies:

(1) An agency taking actions to investigate or conduct feasibility studies concerning a release.

(2) An agency taking the actions specified in subdivision (a) if the agency determines that conditions require immediate action.

(d) An agency may designate a local agency in lieu of the department or the California regional water quality control board to oversee the remediation or removal of hazardous substances from a specific hazardous substance release site in accordance with all of the following conditions:

(1) The local agency may be so designated if it is designated as the administering agency under Section 25262. In that event, the local agency, as the administering agency, shall conduct the oversight of the remedial action in accordance with Chapter 6.65 (commencing with Section 25260) and all provisions of that chapter shall apply to the remedial action.

(2) The local agency may be so designated if the site is an underground storage tank site subject to Chapter 6.7 (commencing with Section 25280) of Division 20, the local agency has been certified as a certified unified program agency pursuant to Section 25404.1, the

State Water Resources Control Board has entered into an agreement with the local agency for oversight of those sites pursuant to Section 25297.1, the local agency determines that the site is within the guidelines and protocols established in, and pursuant to, that agreement, and the local agency consents to the designation.

(3) A local agency may not consent to the designation by an agency unless the local agency determines that it has adequate staff resources and the requisite technical expertise and capabilities available to adequately supervise the remedial action.

(4) (A) Where a local agency has been designated pursuant to paragraph (2), the department or a California regional water quality control board may require that a local agency withdraw from the designation, after providing the agency with adequate notice, if both of the following conditions are met:

(i) The department or a California regional water quality control board determines that an agency's designation of a local agency was not consistent with paragraph (2), or makes one of the findings specified in subdivision (d) of Section 512.

(ii) The department or a California regional water quality control board determines that it has adequate staff resources and capabilities available to adequately supervise the remedial action, and assumes that responsibility.

(B) Nothing in this paragraph prevents a California regional water quality control board from taking any action pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(5) Where a local agency has been designated pursuant to paragraph (2), the local agency may, after providing the agency with adequate notice, withdraw from its designation after making one of the findings specified in subdivision (d) of Section 512.

(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. 79. Section 33493.4 of the Health and Safety Code is amended to read:

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. 80. Section 34120 of the Health and Safety Code is amended to read:

34120. (a) The legislative body may, at the time of the adoption of an ordinance declaring that there is a need for a commission to function in the community or at any time thereafter, by adoption of an ordinance, declare itself to be the commission, in which case all of the rights, powers, duties, privileges, and immunities vested by this part in a commission, except as otherwise provided in this part, shall be vested in the legislative body of the community.

However, in any community in San Bernardino County that is a charter city, the adoption of any order or resolution by the legislative body acting as the commission shall be governed by the same procedures as are set forth in the provisions of the charter, and the mayor shall be chairperson of the commission, having the same power and authority in the conduct of the commission and the meetings of the legislative body acting as the commission that the mayor has in the conduct of the affairs of the city.

(b) If the legislative body has declared itself to be the commission, the legislative body shall appoint two additional commissioners who are tenants of the housing authority if the housing authority has tenants. One tenant commissioner shall be over 62 years of age if the housing authority has tenants of that age. If the housing authority does not have tenants, the legislative body shall, by ordinance, provide for the appointment to the commission of two tenants of the housing authority, one of whom shall be over 62 years of age if the housing authority has tenants of that age, within one year after the housing authority first has tenants. The term of any tenant appointed pursuant to this subdivision shall be two years from the date of appointment. If a tenant commissioner ceases to be a tenant of the housing authority, he or she shall be disqualified from serving as a commissioner and another tenant of the housing authority shall be appointed to the remainder of the unexpired term. A tenant commissioner shall have all the powers, duties, privileges, and immunities of any other commissioner.

(c) As an alternative to the appointment of tenants of the housing authority as commissioners pursuant to subdivision (b), if a community development committee is created as provided in Section 34120.5, the governing body may make tenant appointments pursuant to subdivision (b) to the committee, rather than to the commission.

SEC. 81. Section 41751 of the Health and Safety Code is amended to read:

41751. (a) (1) As used in this article, "portable equipment" includes any portable internal combustion engine and equipment

that is associated with, and driven by, any portable internal combustion engine.

(2) (A) As used in this article, and except as provided in subdivision (b), a "portable internal combustion engine" is any internal combustion engine that, by itself, or contained within or attached to a piece of equipment, is portable or transportable.

(B) As used in this paragraph, "portable or transportable" means designed to be, and capable of being, carried or moved from one location to another. Indicia of portability or transportability include, but are not limited to, wheels, skids, carrying handles, or a dolly, trailer, or platform.

(b) Any engine otherwise included in this section is not a portable internal combustion engine if either of the following applies:

(1) The engine remains, or will remain, at a fixed location for more than 12 consecutive months. For purposes of this paragraph, a "fixed location" is any single site at a building, structure, facility, or installation.

(2) The engine is used to propel nonroad equipment or a motor vehicle of any kind, including, but not limited to, a heavy-duty vehicle.

(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 or equipment:

(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. 82. Section 44081 of the Health and Safety Code is amended to read:

44081. (a) (1) The department, in cooperation with the state board, shall institute procedures for auditing the emissions of vehicles while actually being driven on the streets and highways of the state. The department may undertake those procedures itself or seek a qualified vendor of these services. The primary object of the procedures shall be the detection of gross polluters. The procedures shall consist of techniques and technologies determined by the

department to be effective for that purpose, including, but not limited to, remote sensing. The procedures may include pullovers for roadside emissions testing and inspection. The department shall consider the recommendations of the review committee based on the outcome of the pilot demonstration program conducted pursuant to Section 44081.6.

(2) The department may additionally use other methods to identify gross polluting vehicles for out-of-cycle testing and repair.

(b) The department shall, by regulation, establish a program for the out-of-cycle testing and repair of vehicles found, through roadside auditing, to be emitting at levels that exceed specified standards. The program shall include all of the following elements:

(1) Emission standards, and test and inspection procedures and regulations, adopted in coordination with the state board, applicable to vehicles tested during roadside auditing. Emission standards for issuance of a notice of noncompliance to a gross polluter shall be designed to maximize the identification of vehicles with substantial excess emissions.

(2) Procedures for issuing notices of noncompliance to owners of gross polluters, either at the time of the roadside audit, or subsequently by certified mail, or by obtaining a certificate of mailing as evidence of service, using technologies for recording license plate numbers. The notice of noncompliance shall provide that, unless the vehicle is brought to a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph (B) of paragraph (3) of subdivision (g) of Section 44014.5, for emissions testing within 30 days, the owner will be required to pay an administrative fee of five hundred dollars ($500) to be collected by the Department of Motor Vehicles at the next annual registration renewal or the next change of ownership of the vehicle, whichever occurs first. Commencing on the 31st day after issuance of the notice of noncompliance, the fee shall accrue at the rate of five dollars ($5) per day up to the maximum of five hundred dollars ($500).

(3) Procedures for the testing of vehicles identified as gross polluters by a designated test-only facility, or a test-and-repair station that is both licensed and certified pursuant to Sections 44014 and 44014.2 and is participating in the pilot program pursuant to subparagraph (B) of paragraph (3) of subdivision (g) of Section 44014.5, to confirm that the vehicle exceeds the minimum emission standard for gross polluters set by the department.

(4) Procedures requiring owners of vehicles confirmed as gross polluters to have the vehicle repaired and resubmitted for testing, and to obtain a certificate of compliance from a designated test-only facility or removed from service as attested by a certificate of nonoperation from the Department of Motor Vehicles, within 30 days or be required to pay an administrative fee of not more than five

hundred dollars ($500), to be collected by the Department of Motor Vehicles at the next annual registration renewal or the next change of ownership, whichever occurs first. Commencing on the 31st day after issuance of the notice of noncompliance, the fee shall accrue at the rate of five dollars ($5) per day up to the maximum of five hundred dollars ($500). The registration of a vehicle shall not be issued or renewed if that vehicle has been identified as a gross polluter and has not been issued a certificate of compliance. Except as provided in subdivision (b) of Section 9250.18 of the Vehicle Code, any revenues collected by the Department of Motor Vehicles pursuant to this subdivision and Section 9250.18 of the Vehicle Code shall be deposited in the Vehicle Inspection and Repair Fund. If the ownership of the vehicle is transferred, the administrative fee provided for in this subdivision shall be waived if the vehicle is brought into compliance.

(5) A procedure for notifying the Department of Motor Vehicles of notices of noncompliance issued, so that the Department of Motor Vehicles may provide effective collection of the administrative fee. The Department of Motor Vehicles shall cooperate with, and implement the requirements of, the department in that regard.

(6) The department may adopt any other regulations necessary for the effective implementation of this section, as determined by the department.

(c) Upon the request of the department, the Department of the California Highway Patrol shall provide assistance in conducting roadside auditing, to consist of (1) the stopping of vehicles and traffic management, and (2) the issuance of notices of noncompliance to gross polluters. The department shall reimburse the Department of the California Highway Patrol for its costs of providing those services. The Department of Transportation and affected local agencies shall provide necessary assistance and cooperation to the department in the operation of the program.

(d) There shall be no repair cost limit imposed pursuant to Section 44017 for any repairs that are required to be made under the roadside auditing program, except as provided in subdivision (d) of Section 44017.

SEC. 83. Section 44243.5 of the Health and Safety Code is amended to read:

44243.5. (a) The south coast district shall provide one million five hundred thousand dollars ($1,500,000) annually on or before January 15 of each year to the Regional Transportation Agencies Coalition or its successor agency subject to the following conditions:

(1) The south coast district may, until January 1, 1999, utilize revenues from the fund established pursuant to subdivision (b) of Section 40448.7 for the purpose of this section. Notwithstanding paragraph (1) of subdivision (a) of Section 40448.7, the south coast district shall not be required to annually allocate one million dollars

($1,000,000) to the Air Quality Assistance Fund to replace revenues allocated pursuant to this section.

(2) On and after January 1, 1999, the south coast district may utilize revenues received from civil and criminal penalties, out-of-court settlements, or other sources for the purpose of this section.

(3) On and after January 1, 1999, the south coast district may utilize revenues generated pursuant to Section 44243 for the purposes of this section.

(b) The Regional Transportation Agencies Coalition shall fully allocate the revenues pursuant to subdivision (a) as expeditiously as possible to regional or county rideshare agencies for the purpose of providing marketing and client services to maximize voluntary ridesharing, including carpools, vanpools, transit, bicycling, telecommuting, and other alternative methods of commuting by employees at worksites in the South Coast Air Basin who commute during the peak period to worksites not regulated by south coast district Rule 2202. These funds are intended to supplement and not replace existing rideshare program funding.

SEC. 84. Section 129885 of the Health and Safety Code is amended to read:

129885. (a) A city or county, as applicable, shall have plan review and building inspection responsibilities for the construction or alteration of buildings described in paragraph (1) of subdivision (b) of Section 129725. The building standards for the construction or alteration of buildings specified in paragraph (1) of subdivision (b) of Section 129725 established or applied by a city or county, shall not be more restrictive or comprehensive than comparable building standards established, or otherwise applied, to clinics licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(b) Upon the initial submittal to a city or county by the governing authority or owner of a hospital for plan review and building inspection services for buildings described in paragraph (1) of subdivision (b) of Section 129725, the city or county shall reply in writing to the hospital as to whether or not the plan review by the city or county will include a certification that the clinic project submitted for plan review meets the clinic standards propounded by the office in the California Building Standards Code.

If the city or county indicates that its review will include this certification, it shall do all of the following:

(1) Apply the applicable clinic provisions of the latest edition of the California Building Standards Code.

(2) Certify in writing to the applicant within 30 days of completion of construction whether or not the standards have been met.

(c) If, upon initial submittal, the city or county indicates that its plan review will not include this certification, the governing authority or owner shall submit the plans to the Office of Statewide

Health Planning and Development and the office shall review the plans for certification to determine whether or not the clinic project meets the standards propounded by the office in the California Building Standards Code.

(d) When the office performs the certification review, the office shall charge a fee in an amount not to exceed its actual cost.

(e) Notwithstanding subdivision (a), the governing authority of a hospital may request the Office of Statewide Health Planning and Development to perform plan review and building inspection services for buildings described in paragraph (1) of subdivision (b) of Section 129725. If the office agrees to perform these services, the office shall charge an amount equal to its standard fee for the construction and alteration of hospital buildings. The construction or alteration of these buildings shall conform to the applicable provisions of the latest edition of the California Building Standards Code for purposes of the plan review and building inspection of the office pursuant to this subdivision.

(f) A building described in paragraph (1) of subdivision (b) of Section 129725 that is subject to the plan review and building inspection of the office pursuant to subdivision (e) may be designated by the governing authority or owner of the hospital as a "hospital building" as long as the building remains under the jurisdiction of the office. This hospital building shall be reviewed and inspected according to the standards and requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Chapter 1 (commencing with Section 129675)).

(g) When a building is accepted for review by the office pursuant to subdivision (e), the governing authority of the hospital shall not request the city or county, as applicable, to conduct plan review and building inspection for any subsequent alteration of the same building, unless written notification is submitted to the office by the governing authority or owner of the hospital.

SEC. 85. Section 742.33 of the Insurance Code is amended to read:

742.33. Books, records, and documents pertaining to the business of the multiple employer welfare arrangement shall be maintained by the administrator for a period of five years. "Administrator," as used in this section, has the same meaning as that contained in Section 1002(16)(A) of Title 29 of the United States Code.

SEC. 86. Section 10123.13 of the Insurance Code is amended to read:

10123.13. Every insurer issuing group or individual policies of disability insurance that covers hospital, medical, or surgical expenses, including those telemedicine services covered by the insurer as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, shall reimburse claims or any portion of any claim, whether in state or out of state, for those expenses as soon as practical, but no later than 30 working days after receipt of the claim by the insurer unless the claim or portion thereof is contested by the

insurer, in which case the claimant shall be notified, in writing, that the claim is contested or denied, within 30 working days after receipt of the claim by the insurer. The notice that a claim is being contested shall identify the portion of the claim that is contested and the specific reasons for contesting the claim.

If an uncontested claim is not reimbursed by delivery to the claimant's address of record within 30 working days after receipt, interest shall accrue at the rate of 10 percent per annum beginning with the first calendar day after the 30-working-day period.

For purposes of this section, a claim, or portion thereof, is reasonably contested when the insurer has not received a completed claim and all information necessary to determine payer liability for the claim, or has not been granted reasonable access to information concerning provider services. Information necessary to determine liability for the claims includes, but is not limited to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, a claim on appeal, or other information necessary for the insurer to determine the medical necessity for the health care services provided to the claimant.

The obligation of the insurer to comply with this section shall not be deemed to be waived when the insurer requires its contracting entities to pay claims for covered services.

SEC. 87. Section 10145.3 of the Insurance Code is amended to read:

10145.3. (a) Every disability insurer that covers hospital, medical, or surgical benefits shall provide an external, independent review process to examine the insurer's coverage decisions regarding experimental or investigational therapies for individual insureds who meet all of the following criteria:

(1) The insured has a terminal condition that, according to the insured's physician's current diagnosis, has a high probability of causing death within two years from the date of the request for an independent medical review.

(2) The insured's physician certifies that the insured has a condition, as defined in paragraph (1), for which standard therapies have not been effective in improving the condition of the insured, or for which standard therapies would not be medically appropriate for the insured, or for which there is no more beneficial standard therapy covered by the insurer than the therapy proposed pursuant to paragraph (3).

(3) Either (A) the insured's contracting physician has recommended a drug, device, procedure, or other therapy that the physician certifies in writing is likely to be more beneficial to the insured than any available standard therapies, or (B) the insured, or the insured's physician who is a licensed, board-certified or board-eligible physician qualified to practice in the area of practice appropriate to treat the insured's condition, has requested a therapy that, based on two documents from the medical and scientific

evidence, as defined in subdivision (d), is likely to be more beneficial for the insured than any available standard therapy. The physician certification pursuant to this subdivision shall include a statement of the evidence relied upon by the physician in certifying his or her recommendation. Nothing in this subdivision shall be construed to require the insurer to pay for the services of a noncontracting physician, provided pursuant to this subdivision, that are not otherwise covered pursuant to the contract.

(4) The insured has been denied coverage by the insurer for a drug, device, procedure, or other therapy recommended or requested pursuant to paragraph (3), unless coverage for the specific therapy has been excluded by the plan contract.

(5) This section does not apply to any Medi-Cal beneficiary enrolled with an insurer under the insurer's contract with the Medi-Cal program.

(6) The specific drug, device, procedure, or other therapy recommended pursuant to paragraph (3) would be a covered service except for the plan's determination that the therapy is experimental or under investigation.

(b) The insurer's external, independent review shall meet the following criteria:

(1) The insurer shall offer all insureds who meet the criteria in subdivision (a) the opportunity to have the requested therapy reviewed under the external, independent review process. The insurer shall notify eligible insureds in writing of the opportunity to request the external independent review within five business days of the decision to deny coverage.

(2) The insurer shall contract with one or more impartial, independent entities that are accredited pursuant to subdivision (c). The entity shall arrange for review of the coverage decision by selecting an independent panel of at least three physicians or other providers who are experts in the treatment of the insured's medical condition and knowledgeable about the recommended therapy. If the entity is an academic medical center accredited in accordance with subdivision (e), the independent panel may include experts affiliated with or employed by the entity. A panel of two experts may be arranged at the insurer's request, provided the insured consents in writing. The independent entity may arrange for a panel of one expert only if the independent entity certifies in writing that there is only one expert qualified and able to review the recommended therapy. Neither the insurer nor the insured shall choose or control the choice of the physician or other provider experts.

(3) Neither the expert, nor the independent entity, nor any officer, director, or management employee of the independent entity may have any material professional, familial, or financial affiliation, as defined in paragraph (4), with any of the following:

(A) The insurer.

(B) Any officer, director, or management employee of the insurer.

(C) The physician, the physician's medical group, or the independent practice association (IPA) proposing the therapy.

(D) The institution at which the therapy would be provided.

(E) The development or manufacture of the principal drug, device, procedure, or other therapy proposed for the insured whose treatment is under review.

(4) For purposes of this section, the following terms have the following meanings:

(A) "Material familial affiliation" means any relationship as a spouse, child, parent, sibling, spouse's parent, or child's spouse.

(B) "Material professional affiliation" means any physician-patient relationship, any partnership or employment relationship, a shareholder or similar ownership interest in a professional corporation, or any independent contractor arrangement that constitutes a material financial affiliation with any expert or any officer or director of the independent entity. The term "material professional affiliation" does not include affiliations that are limited to staff privileges at a health facility.

(C) "Material financial affiliation" means any financial interest of more than 5 percent of total annual revenue or total annual income of an entity or individual to which this subdivision applies. "Material financial affiliation" does not include payment by the insurer to the independent entity for the services required by this section, nor does "material financial affiliation" include an expert's participation as a contracting provider for the insurer where the expert is affiliated with an academic medical center or a National Cancer Institute-designated clinical cancer research center.

(5) The insured shall not be required to pay for the external independent review. The costs of the review shall be borne by the insurer.

(6) The insurer shall provide to the independent entity arranging for the panel of experts a copy of the following documents within five business days of the insurer's receipt of a request by an insured or insured's physician for an external independent review.

(A) The medical records relevant to the patient's condition for which the proposed therapy has been recommended, provided the documents are within the insurer's possession. Any medical records provided to the insurer after the initial documents are provided to the independent entity shall be forwarded by the insurer to the independent entity within five business days. The confidentiality of the medical records shall be maintained pursuant to Section 56.10 of the Civil Code.

(B) A copy of any relevant documents used by the insurer in determining whether the proposed therapy should be covered, and any statement by the insurer explaining the reasons for the insurer's decision not to provide coverage for the proposed therapy. The

insurer shall provide, upon request, a copy of the documents required by this paragraph, except for the documents described in paragraphs (A) and (C), to the insured and the insured's physician.

(C) Any information submitted by the insured or the insured's physician to the insurer in support of the insured's request for coverage of the proposed drug, device, procedure, or other therapy.

(7) The experts on the panel shall render their analyses and recommendations within 30 days of the receipt of the insured's request for review. If the insured's physician determines that the proposed therapy would be significantly less effective if not promptly initiated, the analyses and recommendations of the experts on the panel shall be rendered within seven days of the request for expedited review. At the request of the expert, the deadline shall be extended by up to three days for a delay in providing the documents required by paragraph (6) of subdivision (b).

(8) Each expert's analysis and recommendation shall be in written form and state the reasons the requested therapy is or is not likely to be more beneficial for the insured than any available standard therapy, and the reasons that the expert recommends that the therapy should or should not be covered by the insurer, citing the insured's specific medical condition, the relevant documents provided pursuant to paragraph (6), and the relevant medical and scientific evidence, including, but not limited to, the medical and scientific evidence as defined in subdivision (d), to support the expert's recommendation.

(9) The independent entity shall provide the insurer and the insured's physician with the expert's analyses and recommendations, a description of the qualifications of each expert, and any other information that it chooses to provide to the insurer and the insured's physician, including, but not limited to, the names of the expert reviewers. The independent entity shall not be required to disclose the names of the expert reviewers to the insurer or to the insured's physician, except pursuant to a properly made request for discovery. If the independent entity chooses to disclose the names of the experts on the panel to the insurer, the independent entity must also disclose the names of the experts to the insured's physician. The insured's physician may provide these documents and information to the enrollee.

(10) If the majority of experts on the panel recommend providing the proposed therapy, pursuant to paragraph (8), the recommendation shall be binding on the insurer. If the recommendations of the experts on the panel are evenly divided as to whether the therapy should be provided, then the panel's decision shall be deemed to be in favor of coverage. If less than a majority of the experts on the panel recommend providing the therapy, the insurer is not required to provide the therapy. Coverage for the services required under this section shall be provided subject to the

terms and conditions generally applicable to other benefits under the contract.

(11) The insurer shall have written policies describing the external, independent review process. The insurer shall disclose the availability of the external, independent review process and how insureds may access the review process in the insurer's evidence of coverage and disclosure forms.

(c) The Commissioner of Corporations, in consultation with the Insurance Commissioner, shall, by January 1, 1998, contract with a private, nonprofit accrediting organization to accredit the independent review entities specified in subdivision (b). The accrediting organization shall have the power to grant and revoke accreditation, and shall develop, apply, and enforce accreditation standards, including those required in subdivision (e), that ensure the independence of the independent review entity, the confidentiality of the medical records, and the qualifications and independence of the health care professionals providing the analyses and recommendations requested of them. The accrediting organization shall demonstrate the ability to objectively evaluate the performance of independent entities and shall demonstrate that it has no conflict of interest, including any material professional, familial, or financial affiliation as defined in paragraph (4) of subdivision (b) with any independent entity or disability insurer, in accrediting entities for the purpose of reviewing medical treatments, treatment recommendations, and coverage decisions by disability insurers.

(d) For the purposes of paragraph (3) of subdivision (a), "medical and scientific evidence" means the following sources:

(1) Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff.

(2) Peer-reviewed literature, biomedical compendia and other medical literature that meet the criteria of the National Institute of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline and MEDLARS data base Health Services Technology Assessment Research (HSTAR).

(3) Medical journals recognized by the Secretary of Health and Human Services, under Section 1861(t)(2) of the Social Security Act.

(4) The following standard reference compendia: The American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics and The United States Pharmacopoeia-Drug Information.

(5) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including the Federal Agency for Health

Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, Congressional Office of Technology Assessment, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services.

(6) Peer-reviewed abstracts accepted for presentation at major medical association meetings.

(e) In order to receive accreditation for the purposes of this section, an independent entity shall meet all of the following requirements:

(1) The independent entity must be an organization that has as its primary function the provision of expert reviews and related services and receives a majority of its revenues from these services, except that an academic medical center may qualify as an independent entity for purposes of this act without meeting either of these criteria. An independent entity may not be a subsidiary of, nor in any way owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care providers.

(2) The independent entity must submit to the accrediting organization and to the Department of Corporations the following information upon initial application for accreditation and annually thereafter upon any change to any of the following information:

(A) The names of all stockholders and owners of more than 5 percent of any stock or options, if a publicly held organization.

(B) The names of all holders of bonds or notes in excess of one hundred thousand dollars ($100,000), if any.

(C) The names of all corporations and organizations that the independent entity controls or is affiliated with, and the nature and extent of any ownership or control, including the affiliated organization's type of business.

(D) The names and biographical sketches of all directors, officers, and executives of the independent entity, as well as a statement regarding any relationships the directors, officers, and executives may have with any health care service plan, disability insurer, managed care organization, provider group or board or committee.

(E) The percentage of revenue the independent entity receives from expert reviews.

(F) A description of the review process, including, but limited not to, the method of selecting expert reviewers and matching the expert reviewers to specific cases.

(G) A description of the system the independent entity uses to identify and recruit expert reviewers, the number of expert reviewers credentialed, and the types of cases the experts are credentialed to review.

(H) Documentation regarding the medical institutions from which the independent entity has selected the experts during the

previous 12 months, and the percentage of opinions obtained from each institution.

(I) A description of the areas of expertise available from expert reviewers retained by the independent entity.

(J) A description of how the independent entity ensures compliance with the conflict-of-interest provisions of this section.

(3) The independent entity must demonstrate that it has a quality assurance mechanism in place that does the following:

(A) Ensures that the experts retained are appropriately credentialed and privileged.

(B) Ensures that the reviews provided by the experts are timely, clear and credible, and that reviews are monitored for quality on an ongoing basis.

(C) Ensures that the method of selecting expert reviewers for individual cases achieves a fair and impartial panel of experts who are qualified to render recommendations regarding the clinical conditions and therapies in question.

(D) Ensures the confidentiality of medical records and the review materials, consistent with the requirements of this section.

(E) Ensures the independence of the experts retained to perform the reviews through conflict-of-interest policies and prohibitions and adequate screening for conflicts of interest, pursuant to paragraph (3) of subdivision (b).

(f) (1) The Department of Corporations shall receive the information filed by independent entities pursuant to paragraph (2) of subdivision (e) for the purpose of creating a file of public records. The Department of Corporations shall not be responsible for accrediting independent entities.

(2) The accrediting organization shall provide, upon the request of any interested person, a copy of all nonproprietary information filed with it by the independent entity under paragraph (2) of subdivision (e). The accrediting organization may charge a reasonable fee to the interested person for photocopying the requested information.

(g) The independent review process established by this section shall be required on and after July 1, 1998.

SEC. 88. Section 10164.2 of the Insurance Code is amended to read:

10164.2. (a) For a policy of individual life insurance that is surrendered by the policy owner, the insurer shall return to the owner all moneys due in relation to that policy as expeditiously as possible, but in no event more than 45 days from the date the surrender is effective as provided in subdivision (b). However, this section does not supersede the provisions of subdivision (f) of Section 10160 empowering an insurer to defer payment of cash surrender value for up to six months, to the extent that deferral is necessary to assure the solvency of the insurer.

(b) Unless a later date permitted by the policy (but not later than 45 days after the request is received) is requested by the policy owner, a surrender of a life insurance policy is effective on the date the request is received, if the request is made to the insurer or servicing agent authorized by the insurer in writing to receive these requests on the insurer's behalf and contains the elements specified by the insurer in the contract. The insurer may require the request be in writing. The insurer may require some or all of the following elements, but shall not require more:

(1) A statement that makes it clear that the policy owner intends to surrender, in whole or in part, the contract in question.

(2) The policy number of the policy to be surrendered.

(3) The name of the insured on the policy to be surrendered.

(4) The signature of the owner of the policy and, if required by the policy or by a legally binding document of which the insurer has actual notice, the signature of a collateral assignee, irrevocable beneficiary, or other person having an interest in the policy through the legally binding document.

(5) Either the policy itself, or, in lieu of the policy, a statement that the policy has been lost or destroyed.

(c) When the policy owner requests of an insurer or servicing agent information about surrendering a policy, the insurer or servicing agent shall provide, as expeditiously as possible, a written notice setting forth either the requirements of this section or the insurer's requirements, if less.

(d) A policy subject to this section issued on or after January 1, 1997, shall either include language, which may be included by endorsement, or be accompanied by a notice setting forth the elements necessary to surrender the policy as required by this section or by the insurer, if less.

(e) Nothing in this section shall be construed to limit an existing statutory right to return a policy for surrender, nor shall it limit a contractual provision that provides a greater right or option to the policy owner.

(f) For a written request, for purposes of this section, "received" means the first day that the written notice is delivered to the address of the insurer or servicing agent authorized by the insurer in writing to receive these requests on the insurer's behalf. An insurer or servicing agent shall maintain a procedure for ensuring that requests for surrender are logged or stamped on the date received, and not on a later date due to the insurer's or servicing agent's internal routing or delivery procedures. If this procedure is not maintained, it shall be conclusively presumed that a request was received on the delivery date shown on an express, certified, or registered mail receipt form of the United States Postal Service or by a commercial carrier, if delivered by commercial carrier, or the earlier of (1) two business days after the request was postmarked by the United States Postal Service or (2) one business day before the date stamped

received by the insurer or servicing agent. For purposes of this subdivision, "business day" has the meaning set forth in subdivision (g) of Section 1215. Postmarks generated by postage meters not located at an office of the United States Postal Service are to be disregarded.

(g) This section does not alter a contractual provision governing calculation of cash or surrender or other values. The effective date established by subdivision (b) is intended to establish a date certain on which a policyholder may rely in determining when the 45-day period specified in subdivision (a) begins to run. Subdivision (b) is not intended to advance a date otherwise provided by contract that is triggered by a request to surrender. An insurer may request information in addition to that listed in subdivision (b). However, an insurer's request for additional information does not delay an effective date established by a policyholder's compliance with subdivision (b).

SEC. 89. Section 10509.963 of the Insurance Code is amended to read:

10509.963. If the commissioner has reason to believe that any insurer has violated this chapter, the commissioner may request and the insurer shall file both of the following:

(a) An example of the annual report to the policy owner with notice of adverse change in nonguaranteed elements.

(b) An example of an illustration.

SEC. 90. Section 10509.975 of the Insurance Code is amended to read:

10509.975. (a) A life insurer shall provide to all prospective insureds a buyer's guide prior to accepting the applicant's initial premium or premium deposit. However, if the policy for which application is made contains an unconditional refund provision of at least 10 days, the buyer's guide shall be delivered with the policy or prior to delivery of the policy.

(b) For the purposes of this chapter, a buyer's guide is a document that contains, and is limited to, the current buyer's guide recommended for use by the National Association of Insurance Commissioners.

SEC. 91. Section 1777.5 of the Labor Code is amended to read:

1777.5. Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

Every apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and shall be employed only at the work of the craft or trade to which he or she is registered.

Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed on public works. The employment and training of each apprentice shall be in accordance with the

apprenticeship standards and apprentice agreements under which he or she is training.

When the contractor to whom the contract is awarded by the state or any political subdivision, or any subcontractor under him or her, in performing any of the work under the contract or subcontract, employs workers in any apprenticeable craft or trade, the contractor and subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work for a certificate approving the contractor or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to the approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject contractor or subcontractor, shall arrange for the dispatch of apprentices to the contractor or subcontractor in order to comply with this section. Every contractor and subcontractor shall submit contract award information to the applicable joint apprenticeship committee that includes an estimate of journeyman hours to be performed under the contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. There is an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the craft or trade in the area of the site of the public work to ensure equal employment and affirmative action in apprenticeship for women and minorities. Contractors or subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen who shall be employed in the craft or trade on the public work may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentices work for every five hours of labor performed by a journeyman. However, the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen.

Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the joint apprenticeship committee, is employed at the job site and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the

same craft or trade are employed at the job site. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

The contractor or subcontractor, if he or she is covered by this section, upon the issuance of the approval certificate, or if he or she has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the contractor that he or she employs apprentices in the craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by a journeyman or, in the land surveyor classification, one apprentice for each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the contractor from the 1-to-5 hourly ratio as set forth in this section. This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars ($30,000) or 20 working days. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the hourly ratio required by this section.

"Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. The joint apprenticeship committee has the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(a) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(b) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(c) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(d) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

When exemptions are granted to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or

statewide basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

A contractor to whom the contract is awarded, or any subcontractor under him or her, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any craft or trade in the area of the site of the public work, to which fund or funds other contractors in the area of the site of the public work are contributing, shall contribute to the fund or funds in each craft or trade in which he or she employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as the other contractors do, but, where the trust fund administrators are unable to accept the funds, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. The contractor or subcontractor may add the amount of the contributions in computing his or her bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in Section 227.

The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

All decisions of the joint apprenticeship committee under this section are subject to Section 3081.

SEC. 92. Section 6500 of the Labor Code is amended to read:

6500. (a) For those employments or places of employment that by their nature involve a substantial risk of injury, the division shall require the issuance of a permit prior to the initiation of any practices, work, method, operation, or process of employment. The permit requirement of this section is limited to employment or places of employment that are any of the following:

(1) Construction of trenches or excavations that are five feet or deeper and into which a person is required to descend.

(2) The construction of any building, structure, falsework, or scaffolding more than three stories high or the equivalent height.

(3) The demolition of any building, structure, falsework, or scaffold more than three stories high or the equivalent height.

(4) The underground use of diesel engines in work in mines and tunnels.

This subdivision does not apply to motion picture, television, or theater stages or sets, including, but not limited to, scenery, props, backdrops, flats, greenbeds, and grids.

(b) On or after January 1, 2000, this subdivision shall apply to motion picture, television, or theater stages or sets, if there has

occurred within any one prior calendar year in any combination at separate locations three serious injuries, fatalities, or serious violations related to the construction or demolition of sets more than 36 feet in height for the motion picture, television, and theatrical production industry.

An annual permit shall be required for employers who construct or dismantle motion picture, television, or theater stages or sets that are more than three stories or the equivalent height. A single permit shall be required under this subdivision for each employer, regardless of the number of locations where the stages or sets are located. An employer with a currently valid annual permit issued under this subdivision shall not be required to provide notice to the division prior to commencement of any work activity authorized by the permit. The division may adopt procedures to permit employers to renew by mail the permits issued under this subdivision. For purposes of this subdivision, “motion picture, television, or theater stages or sets” include, but are not limited to, scenery, props, backdrops, flats, greenbeds, and grids.

SEC. 93. Section 186.2 of the Penal Code is amended to read:

186.2. For purposes of this chapter, the following definitions apply:

(a) “Criminal profiteering activity” means any act committed or attempted or any threat made for financial gain or advantage, which act or threat may be charged as a crime under any of the following sections:

(1) Arson, as defined in Section 451.

(2) Bribery, as defined in Sections 67, 67.5, and 68.

(3) Child pornography or exploitation, as defined in subdivision (b) of Section 311.2, or Section 311.3 or 311.4, which may be prosecuted as a felony.

(4) Felonious assault, as defined in Section 245.

(5) Embezzlement, as defined in Sections 424 and 503.

(6) Extortion, as defined in Section 518.

(7) Forgery, as defined in Section 470.

(8) Gambling, as defined in Sections 337a to 337f, inclusive, and Section 337i, except the activities of a person who participates solely as an individual bettor.

(9) Kidnapping, as defined in Section 207.

(10) Mayhem, as defined in Section 203.

(11) Murder, as defined in Section 187.

(12) Pimping and pandering, as defined in Section 266.

(13) Receiving stolen property, as defined in Section 496.

(14) Robbery, as defined in Section 211.

(15) Solicitation of crimes, as defined in Section 653f.

(16) Grand theft, as defined in Section 487.

(17) Trafficking in controlled substances, as defined in Sections 11351, 11352, and 11353 of the Health and Safety Code.

(18) Violation of the laws governing corporate securities, as defined in Section 25541 of the Corporations Code.

(19) Any of the offenses contained in Chapter 7.5 (commencing with Section 311) of Title 9, relating to obscene matter, or in Chapter 7.6 (commencing with Section 313) of Title 9, relating to harmful matter that may be prosecuted as a felony.

(20) Presentation of a false or fraudulent claim, as defined in Section 550.

(21) Money laundering, as defined in Section 186.10.

(22) Offenses relating to the counterfeit of a registered mark, as specified in Section 350.

(23) Offenses relating to the unauthorized access to computers, computer systems, and computer data, as specified in Section 502.

(24) Conspiracy to commit any of the crimes listed above, as defined in Section 182.

(25) Engaging in a pattern of criminal gang activity, as defined in subdivision (e) of Section 186.22.

(b) "Pattern of criminal profiteering activity" means engaging in at least two incidents of criminal profiteering, as defined by this act, that meet the following requirements:

(1) Have the same or a similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics.

(2) Are not isolated events.

(3) Were committed as a criminal activity of organized crime.

Acts that would constitute a "pattern of criminal profiteering activity" may not be used by a prosecuting agency to seek the remedies provided by this chapter unless the underlying offense occurred after the effective date of this chapter and the prior act occurred within 10 years, excluding any period of imprisonment, of the commission of the underlying offense. A prior act may not be used by a prosecuting agency to seek remedies provided by this chapter if a prosecution for that act resulted in an acquittal.

(c) "Prosecuting agency" means the Attorney General or the district attorney of any county.

(d) "Organized crime" means crime that is of a conspiratorial nature and that is either of an organized nature and seeks to supply illegal goods and services such as narcotics, prostitution, loan sharking, gambling, and pornography, or that, through planning and coordination of individual efforts, seeks to conduct the illegal activities of arson for profit, hijacking, insurance fraud, smuggling, operating vehicle theft rings, or systematically encumbering the assets of a business for the purpose of defrauding creditors. "Organized crime" also means crime committed by a criminal street gang, as defined in subdivision (f) of Section 186.22.

(e) "Underlying offense" means an offense enumerated in subdivision (a) for which the defendant is being prosecuted.

SEC. 94. Section 269 of the Penal Code, as added by Chapter 878 of the Statutes of 1994, is repealed.

SEC. 95. Section 273.1 of the Penal Code is amended to read:

273.1. (a) Any treatment program to which a child abuser convicted of a violation of Section 273a or 273d is referred as a condition of probation shall meet the following criteria:

(1) Substantial expertise and experience in the treatment of victims of child abuse and the families in which abuse and violence have occurred.

(2) Staff providing direct service are therapists licensed to practice in this state or are under the direct supervision of a therapist licensed to practice in this state.

(3) Utilization of a treatment regimen designed to specifically address the offense, including methods of preventing and breaking the cycle of family violence, anger management, and parenting education that focuses, among other things, on means of identifying the developmental and emotional needs of the child.

(4) Utilization of group and individual therapy and counseling, with groups no larger than 12 persons.

(5) Capability of identifying substance abuse and either treating the abuse or referring the offender to a substance abuse program, to the extent that the court has not already done so.

(6) Entry into a written agreement with the defendant that includes an outline of the components of the program, the attendance requirements, a requirement to attend group session free of chemical influence, and a statement that the defendant may be removed from the program if it is determined that the defendant is not benefiting from the program or is disruptive to the program.

(7) The program may include, on the recommendation of the treatment counselor, family counseling. However, no child victim shall be compelled or required to participate in the program, including family counseling, and no program may condition a defendant's enrollment on participation by the child victim. The treatment counselor shall privately advise the child victim that his or her participation is voluntary.

(b) If the program finds that the defendant is unsuitable, the program shall immediately contact the probation department or the court. The probation department or court shall either recalendar the case for hearing or refer the defendant to an appropriate alternative child abuser's treatment counseling program.

(c) Upon request by the child abuser's treatment counseling program, the court shall provide the defendant's arrest report, prior incidents of violence, and treatment history to the program.

(d) The child abuser's treatment counseling program shall provide the probation department and the court with periodic progress reports at least every three months that include attendance, fee payment history, and program compliance. The program shall submit a final evaluation that includes the program's evaluation of

the defendant's progress, and recommendation for either successful or unsuccessful termination of the program.

(e) The defendant shall pay for the full costs of the treatment program, including any drug testing. However, the court may waive any portion or all of that financial responsibility upon a finding of an inability to pay. Upon the request of the defendant, the court shall hold a hearing to determine the defendant's ability to pay for the treatment program. At the hearing the court may consider all relevant information, but shall consider the impact of the costs of the treatment program on the defendant's ability to provide food, clothing, and shelter for the child injured by a violation of Section 273a or 273d. If the court finds that the defendant is unable to pay for any portion of the costs of the treatment program, its reasons for that finding shall be stated on the record. In the event of this finding, the program fees or a portion thereof shall be waived.

(f) All programs accepting referrals of child abusers pursuant to this section shall accept offenders for whom fees have been partially or fully waived. However, the court shall require each qualifying program to serve no more than its proportionate share of those offenders who have been granted fee waivers, and require all qualifying programs to share equally in the cost of serving those offenders with fee waivers.

SEC. 96. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within five working days of coming into any city, county, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within five working days of his or her birthday, to update his or her registration with the entities described in this paragraph, including verifying his or her name and address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, kidnapping, as punishable pursuant to subdivision (d) of Section 208, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b),

(c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (d) of Section 647, subdivision 1 or 2 of Section 314, any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any federal or military court, of any offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a), or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction that makes the person subject to this section is a felony conviction, the official in

charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, subdivision (a) of Section 289, subdivision (b) of Section 207, or kidnapping, as punishable pursuant to subdivision (d) of Section 208.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of all of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her name or residence address, the person shall inform, in writing within five working days, the law enforcement agency or agencies with whom he or she last registered of the new name or address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section

is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, subdivision (b) of Section 207, or kidnapping, as punishable pursuant to subdivision (d) of Section 208, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in subdivisions (m) and (n) and Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision does not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision that, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) (1) Every person who, prior to January 1, 1985, is required to register under this section shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification is a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

(2) Every person who, prior to January 1, 1997, is required to register under this section shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to five working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification is a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(m) (1) When a peace officer reasonably suspects, based on information that has come to his or her attention through information provided by any peace officer or member of the public, that a child or other person may be at risk from a sex offender convicted of a crime listed in paragraph (1) of subdivision (a) of Section 290.4, a law enforcement agency may, notwithstanding any other provision of law, provide any of the information specified in paragraph (2) of this subdivision about that registered sex offender that the agency deems relevant and necessary to protect the public, to the following persons, agencies, or organizations the offender is likely to encounter, including, but not limited to, the following:

(A) Public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender.

(B) Other community members at risk.

(2) The information that may be disclosed pursuant to this section includes the following:

(A) The offender's full name.

(B) The offender's known aliases.

(C) The offender's gender.

(D) The offender's race.

(E) The offender's physical description.

(F) The offender's photograph.

(G) The offender's date of birth.

(H) Crimes resulting in registration under this section.

(I) The offender's address, which must be verified prior to publication.

(J) Description and license plate number of offender's vehicles or vehicles the offender is known to drive.

(K) Type of victim targeted by the offender.

(L) Relevant parole or probation conditions, such as one prohibiting contact with children.

(M) Dates of crimes resulting in classification under this section.

(N) Date of release from confinement.

However, information disclosed pursuant to this subdivision shall not include information that would identify the victim.

(3) If a law enforcement agency discloses information pursuant to this subdivision, it shall include, with the disclosure, a statement that the purpose of the release of the information is to allow members of the public to protect themselves and their children from sex offenders.

(4) For purposes of this section, "likely to encounter" means both of the following:

(A) The agencies, organizations, or other community members are in a location or in close proximity to a location where the offender lives or is employed, or that the offender visits or is likely to visit on a regular basis.

(B) The types of interaction that ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably probable.

(5) For purposes of this section, "reasonably suspects" means that it is objectively reasonable for a peace officer to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect that a child or other person is at risk.

(6) For purposes of this section, "at risk" means a person is or may be exposed to a risk of becoming a victim of a sex offense committed by the offender.

(7) A law enforcement agency may continue to disclose information on an offender under this subdivision for as long as the offender is included in Section 290.4.

(n) In addition to the procedures set forth elsewhere in this section, a law enforcement agency may advise the public of the presence of high-risk sex offenders in its community pursuant to this subdivision.

(1) For purposes of this subdivision:

(A) A high-risk sex offender is a person who has been convicted of an offense for which registration is required under paragraph (2) of subdivision (a) and also meets one of the following criteria:

(i) Has been convicted of three or more violent sex offenses, at least two of which were brought and tried separately.

(ii) Has been convicted of two violent sex offenses and one or more violent nonsex offenses, at least two of which were brought and tried separately.

(iii) Has been convicted of one violent sex offense and two or more violent nonsex offenses, at least two of which were brought and tried separately.

(iv) Has been convicted of either two violent sex offenses or one violent sex offense and one violent nonsex offense, at least two of which were brought and tried separately, and has been arrested on separate occasions for three or more violent sex offenses, violent nonsex offenses, or associated offenses.

(B) A violent sex offense means any offense defined in Section 220, except attempt to commit mayhem, 261, 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or infliction of great bodily injury during the commission of a sex offense, as provided in Section 12022.8.

(C) A violent nonsex offense means any offense defined in Section 187, subdivision (a) of Section 192, 203, 206, 207, 236, provided that the offense is a felony, subdivision (a) of Section 273a, 273d, or 451, or attempted murder, as defined in Sections 187 and 664.

(D) An associated offense means any offense defined in Section 243.4, provided that the offense is a felony, Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, 314, 459, provided the offense is of the first degree, 597, 646.9, subdivision (d), (h), or (i) of Section 647, 653m, or infliction of great bodily injury during the commission of a felony, as defined in Section 12022.7.

(E) For purposes of subparagraphs (B) to (D), inclusive, an arrest or conviction for the statutory predecessor of any of the enumerated offenses, or an arrest or conviction in any other jurisdiction for any offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for

any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "Law enforcement agency" means any of the following: municipal police department; sheriff's department; district attorney's office; county probation department; Department of Justice; Department of Corrections; Department of the Youth Authority; Department of the California Highway Patrol; or the police department of any state university, state college, or community college.

(2) The Department of Justice shall continually search the records provided to it pursuant to subdivision (b) and identify, on the basis of those records, high-risk sex offenders. Four times each year, the department shall provide to each chief of police and sheriff in the state, and to any other law enforcement agency upon request, the following information regarding each identified high-risk sexual offender: full name; known aliases; gender; race; physical description; photograph; date of birth; and crimes resulting in classification under this section.

(3) The Department of Justice and any law enforcement agency to which notice has been given pursuant to paragraph (2) may cause to be made public, by whatever means the agency deems necessary to ensure the public safety, based upon information available to the agency, information concerning a specific person, including, but not limited to: the information described in paragraph (2); the offender's

address, which shall be verified prior to publication; description and license plate number of the vehicles or vehicles the offender is known to drive; type of victim targeted by the offender; relevant parole or probation conditions, such as one prohibiting contact with children; dates of crimes resulting in classification under this section; and date of release from confinement; but excluding information that would identify the victim.

(o) Agencies disseminating information to the public pursuant to subdivision (m) shall maintain records of the offender and the means and dates of dissemination for a minimum of five years.

(p) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(q) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison. Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000).

(r) The registration and public notification provisions of this section apply to every person described in these sections without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

SEC. 97. Section 290.4 of the Penal Code is amended to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of subdivision (b) of Section 207; kidnapping, as punishable pursuant to subdivision (d) of Section 208; Section 220, except assault to commit mayhem; Section 243.4, provided that the offense is a felony; paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261; Section 264.1; Section 266, provided that the offense is a felony; Section 266c, provided that the offense is a felony; Section 267; paragraph (2) of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of Section 286; Section 288; paragraph (2) of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a; Section 288.5; subdivision (a), (b), (d), (e), (f), (g), or (h) of Section 289, provided that the offense is a felony; subdivision (i) or (j) of Section 289; Section 647.6; or the statutory predecessor of any of these offenses. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraphs (6) and (7) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall be categorized by community of residence and ZIP Code. The information shall include the names

and known aliases of the person, photograph, a physical description, gender, race, date of birth, the criminal history, the address, including ZIP Code, in which the person resides, and any other information that the Department of Justice deems relevant, not including information that would identify the victim.

(3) The department shall operate a "900" telephone number that members of the public may call to inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the street address or criminal history of a person listed, except to disclose the ZIP Code area in which the person resides and to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) On or before July 1, 1997, the department shall provide a CD-ROM or other electronic medium containing the information described in paragraph (2), except the person's street address and criminal history other than the specific crimes for which the person was required to register, for all persons described in paragraph (1) of subdivision (a), and shall distribute the CD-ROM or other electronic medium on a quarterly basis to the sheriff's department in each county, the municipal police department of each city with a population of more than 200,000, and each law enforcement agency listed in subparagraph (I) of paragraph (1) of subdivision (n) of Section 290. These law enforcement agencies may obtain additional copies by purchasing a yearly subscription to the CD-ROM or other electronic medium from the Department of Justice for a yearly subscription fee. The Department of Justice, the sheriff's departments, and the municipal police department of each city with a population of more than 200,000 shall make, and the other law enforcement agencies may make, the CD-ROM or other electronic medium available for viewing by the public in accordance with the following. The agency may require that a person applying to view the

CD-ROM or other electronic medium express an articulable purpose in order to have access thereto. The applicant shall provide identification in the form of a California driver's license or California identification card showing the applicant to be at least 18 years of age, shall sign a register, which the law enforcement agency is required to maintain, of persons applying to view the CD-ROM or other electronic medium, and shall sign a statement, on a form provided by the Department of Justice, stating that the applicant is not a registered sex offender, that he or she understands that the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders, and that he or she understands it is unlawful to use information obtained from the CD-ROM or other electronic medium to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the law enforcement agency's office.

(B) The records of persons requesting to view the CD-ROM or other electronic medium are confidential, except that a copy of the applications requesting to view the CD-ROM or other electronic medium may be disclosed to law enforcement agencies for law enforcement purposes.

(C) Any information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the CD-ROM or other electronic medium.

(5) (A) The income from the operation of the "900" number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the CD-ROM or other electronic medium described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the "900" telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the "900" number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

(i) Notice that the caller's telephone number will be recorded.

(ii) The charges for use of the "900" number.

(iii) Notice that the caller is required to identify himself or herself to the operator.

(iv) Notice that the caller is required to be 18 years of age or older.

(v) A warning that it is illegal to use information obtained through the "900" number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.

(vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, address, or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.

(vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.

(viii) A statement that the caller should have a reasonable suspicion that a person is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars ($600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000).

(c) The record of the compilation of offender information on each CD-ROM or other electronic medium distributed pursuant to this section shall be used only for law enforcement purposes and the public safety purposes specified in this section and Section 290. This record shall not be distributed or removed from the custody of the law enforcement agency that is authorized to retain it. Information obtained from this record shall be disclosed to a member of the public only as provided in this section, Section 290, or any other statute expressly authorizing that disclosure.

Any person who copies, distributes, discloses, or receives this record or information from it, except as authorized by law, is guilty of a misdemeanor, punishable by imprisonment in the county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision does not apply to a law enforcement officer who makes a copy as part of his or her official duties in the course of a criminal investigation or court case, or as otherwise authorized by subdivision (n) of Section 290.

Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(d) Unauthorized removal or destruction of the CD-ROM or other electronic medium from the offices of any law enforcement agency is a misdemeanor, punishable by imprisonment in a county jail not to exceed one year or by a fine not exceeding one thousand dollars ($1,000), or both.

(e) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk.

This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any of the following information disclosed pursuant to this section is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment.

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (e) or in violation of paragraph (2) of subdivision (e) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the "900" number in violation of paragraph (2) of subdivision (e), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies are independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(f) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom

information can be published, distributed, or disclosed pursuant to this section.

(g) Community notification shall be governed by subdivisions (m) and (n) of Section 290.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the "900" telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

(1) Number of calls received.

(2) Amount of income earned per year through operation of the "900" telephone number.

(3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.

(4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(5) Number of persons listed pursuant to subdivision (a).

(6) A summary of the success of the "900" telephone number program based upon selected factors.

(i) The "900" telephone number program authorized by this section shall terminate operation on January 1, 1998.

(j) Law enforcement agencies, employees of law enforcement agencies, and state officials are immune from liability for good faith conduct under this section.

(k) On or before July 1, 2000, the Department of Justice shall make a report to the Legislature concerning the changes to the operation of the "900" telephone number program made by the amendments to this section by Chapter 908 of the Statutes of 1996. The report shall include all of the following:

(1) Number of calls received by county.

(2) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(3) Number of persons listed pursuant to subdivision (a).

(4) Statistical information concerning prosecutions of persons for misuse of the "900" telephone number program, including the outcomes of those prosecutions.

(5) A summary of the success of the "900" telephone number based upon selected factors.

(*l*) The registration and public notification provisions of this section apply to every person described in these sections without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

(m) This section shall become operative on July 1, 1995, and shall become inoperative on January 1, 1999, and as of that date is repealed unless a later enacted statute, which becomes effective on or before

January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 98. Section 311 of the Penal Code is amended to read:

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

(a) "Obscene matter" means matter, taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest, that, taken as a whole, depicts or describes sexual conduct in a patently offensive way, and that, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(1) If it appears from the nature of the matter or the circumstances of its dissemination, distribution, or exhibition that it is designed for clearly defined deviant sexual groups, the appeal of the matter shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, if circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that matter is being commercially exploited by the defendant for the sake of its prurient appeal, this evidence is probative with respect to the nature of the matter and may justify the conclusion that the matter lacks serious literary, artistic, political, or scientific value.

(3) In determining whether the matter taken as a whole lacks serious literary, artistic, political, or scientific value in description or representation of those matters, the fact that the defendant knew that the matter depicts persons under the age of 16 years engaged in sexual conduct, as defined in subdivision (c) of Section 311.4, is a factor that may be considered in making that determination.

(b) "Matter" means any book, magazine, newspaper, or other printed or written material, or any picture, drawing, photograph, motion picture, or other pictorial representation, or any statue or other figure, or any recording, transcription, or mechanical, chemical, or electrical reproduction, or any other article, equipment, machine, or material. "Matter" also means live or recorded telephone messages if transmitted, disseminated, or distributed as part of a commercial transaction.

(c) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

(d) "Distribute" means transfer possession of, whether with or without consideration.

(e) "Knowingly" means being aware of the character of the matter or live conduct.

(f) "Exhibit" means show.

(g) "Obscene live conduct" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, taken as a whole, that to the average person, applying contemporary statewide standards, appeals to the prurient interest and is conduct that, taken as a whole, depicts

or describes sexual conduct in a patently offensive way and that, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(1) If it appears from the nature of the conduct or the circumstances of its production, presentation, or exhibition that it is designed for clearly defined deviant sexual groups, the appeal of the conduct shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, if circumstances of production, presentation, advertising, or exhibition indicate that live conduct is being commercially exploited by the defendant for the sake of its prurient appeal, that evidence is probative with respect to the nature of the conduct and may justify the conclusion that the conduct lacks serious literary, artistic, political, or scientific value.

(3) In determining whether the live conduct taken as a whole lacks serious literary, artistic, political, or scientific value in description or representation of those matters, the fact that the defendant knew that the live conduct depicts persons under the age of 16 years engaged in sexual conduct, as defined in subdivision (c) of Section 311.4, is a factor that may be considered in making that determination.

(h) The Legislature expresses its approval of the holding of People v. Cantrell, 7 Cal. App. 4th 523, that, for the purposes of this chapter, matter that "depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct" is limited to visual works that depict that conduct.

SEC. 99. Section 312.6 of the Penal Code, as added by Chapter 1079 of the Statutes of 1996, is repealed.

SEC. 100. Section 312.7 of the Penal Code, as added by Chapter 1079 of the Statutes of 1996, is repealed.

SEC. 101. Section 350 of the Penal Code is amended to read:

350. (a) Any person who, without the consent of the registrant, willfully manufactures, intentionally sells, or knowingly possesses for sale at the point of sale any counterfeit of a mark registered with the Secretary of State or registered on the Principal Register of the United States Patent and Trademark Office, shall upon conviction, be punishable as follows:

(1) Where the offense involves less than 1,000 of the articles described in this subdivision, and if the person is an individual, he or she shall be punished by a fine of not more than five thousand dollars ($5,000), by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment; or, if the person is a corporation, by a fine of not more than one hundred thousand dollars ($100,000).

(2) Where the offense involves 1,000 or more of the articles described in this subdivision, and if the person is an individual, he or she shall be punished by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months, or two or three years,

by a fine not to exceed two hundred fifty thousand dollars ($250,000), or by both that imprisonment and fine; or, if the person is a corporation, by a fine not to exceed five hundred thousand dollars ($500,000).

(b) Any person who has been convicted of a violation of either paragraph (1) or (2) of subdivision (a) shall, upon a subsequent conviction of paragraph (1) of subdivision (a), if the person is an individual, be punished by a fine of not more than fifty thousand dollars ($50,000), by imprisonment in a county jail for not more than one year, or in the state prison for 16 months, or two or three years, or by both that fine and imprisonment; or, if the person is a corporation, by a fine of not more than two hundred thousand dollars ($200,000).

(c) Any person who has been convicted of a violation of subdivision (a) and who, by virtue of the conduct that was the basis of the conviction, has directly and foreseeably caused death or great bodily injury to another through reliance on the counterfeited item for its intended purpose shall, if the person is an individual, be punished by a fine of not more than fifty thousand dollars ($50,000), by imprisonment in the state prison for two, three, or four years, or by both that fine and imprisonment; or, if that person is a corporation, by a fine of not more than two hundred thousand dollars ($200,000).

(d) Any person who knowingly possesses for sale, at a location other than the point of sale, any article described in subdivision (a) is guilty of a public offense.

(1) A violation of this subdivision involving less than 100 of these articles shall be punishable by imprisonment in a county jail for not more than six months, by a fine not to exceed five thousand dollars ($5,000), or by both that imprisonment and fine. Any person who previously has been convicted of a violation of any paragraph of this subdivision shall, upon a new conviction of violating this subdivision arising from conduct described in this paragraph, be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine. Any person who has been convicted of a violation of any paragraph of this subdivision on two or more previous occasions shall, upon a new conviction of violating this paragraph, be punished by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months, or two or three years, by a fine not to exceed twenty-five thousand dollars ($25,000), or by both that imprisonment and fine.

(2) A violation of this subdivision involving 100 or more of these articles, but less than 1,000, shall be punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine. Any person who previously has been convicted of a violation of any paragraph of this subdivision on one or more occasions shall, upon a new conviction of violating this subdivision arising from conduct

described in this paragraph, be punished by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months, or two or three years, by a fine not to exceed twenty-five thousand dollars ($25,000), or by both that imprisonment and fine.

(3) A violation of this subdivision involving 1,000 or more of these articles shall be punishable by imprisonment in a county jail not to exceed one year, or in the state prison for 16 months, or two or three years, by a fine not to exceed one hundred thousand dollars ($100,000), or by both that imprisonment and fine.

(e) In any action brought under this section resulting in a conviction or a plea of nolo contendere, the court shall order the forfeiture and destruction of all of those marks and of all goods, articles, or other matter bearing the marks, and the forfeiture and destruction or other disposition of all means of making the marks, and any and all electrical, mechanical, or other devices for manufacturing, reproducing, transporting, or assembling these marks, that were used in connection with, or were part of, any violation of this section. However, no vehicle shall be forfeited under this section that may be lawfully driven on the highway with a class 3 or 4 license, as prescribed in Section 12804 of the Vehicle Code, and that is any of the following:

(1) A community property asset of a person other than the defendant.

(2) The sole class 3 or 4 vehicle available to the immediate family of that person or of the defendant.

(3) Reasonably necessary to be retained by the defendant for the purpose of lawfully earning a living, or for any other reasonable and lawful purpose.

(f) As used in this section, the following definitions shall apply:

(1) When counterfeited but unassembled components of computer software packages are recovered, including, but not limited to, counterfeited computer diskettes, instruction manuals, or licensing envelopes, the number of "articles" shall be equivalent to the number of completed computer software packages that could have been made from those components.

(2) "At the point of sale" includes the entire building, structure, container, or vehicle in which the sale or attempted sale of an article has occurred.

(3) "Counterfeit mark" means a spurious mark that is identical with, or substantially indistinguishable from, a registered mark and is used on or in connection with the same type of goods or services for which the genuine mark is registered.

(4) "Knowingly possess" means that the person possessing an article actually knew that the article was not genuine.

(5) "Sale" includes resale.

(6) "Value" has the following meanings:

(A) When counterfeit items of computer software are manufactured or possessed for sale, the "value" of those items shall

be equivalent to the retail price or fair market price of the true items that are counterfeited.

(B) When counterfeited but unassembled components of computer software packages are recovered, including, but not limited to, counterfeited computer diskettes, instruction manuals, or licensing envelopes, the "value" of those components of computer software packages shall be equivalent to the retail price or fair market price of the number of completed computer software packages that could have been made from those components.

(g) This section shall not be enforced against any party who has adopted and lawfully used the same or confusingly similar mark in the rendition of like services or the manufacture or sale of like goods in this state from a date prior to the effective date of registration of the service mark or trademark pursuant to Chapter 2 (commencing with Section 14200) of Division 6 of the Business and Professions Code.

(h) An owner, officer, employee, or agent who provides, rents, leases, licenses, or sells real property upon which a violation of subdivision (a) or (d) occurs shall not be subject to a criminal penalty pursuant to this section, unless he or she sells, or possesses for sale, articles bearing a counterfeit mark in violation of this section. This subdivision shall not be construed to abrogate or limit any civil rights or remedies for a trademark violation.

SEC. 102. Section 667.61 of the Penal Code, as added by Chapter 447 of the Statutes of 1994, is repealed.

SEC. 103. 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 a 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 has no right to carry or possess firearms in the performance of his or her prescribed duties, except, under the direction of the sheriff or chief of police, while engaged in transporting prisoners; guarding hospitalized prisoners; or

suppressing jail riots, lynchings, escapes, or rescues in or about a detention facility falling under the care and custody of the sheriff or chief of police.

(c) Each person described in this section as a custodial officer shall, within 90 days following the date of the initial assignment to that position, satisfactorily complete the training course specified in Section 832. In addition, each person designated as a custodial officer shall, within one year following the date of the initial assignment as a custodial officer, have satisfactorily met the minimum selection and training standards prescribed by the Board of Corrections pursuant to Section 6035. Persons designated as custodial officers, before the expiration of the 90-day and one-year periods described in this subdivision, who have not yet completed the required training, shall not carry or possess firearms in the performance of their prescribed duties, but may perform the duties of a custodial officer only while under the direct supervision of a peace officer, as described in Section 830.1, who has completed the training prescribed by the Commission on Peace Officer Standards and Training, or a custodial officer who has completed the training required in this section.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him or her by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may make warrantless arrests pursuant to Section 836.5 only during the duration of his or her job; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

SEC. 104. Section 1295 of the Penal Code is amended to read:

1295. (a) The defendant, or any other person, at any time after an order admitting defendant to bail or after the arrest and booking of a defendant for having committed a misdemeanor, instead of giving bail may deposit, with the clerk of the court in which the defendant is held to answer or notified to appear for arraignment, the sum mentioned in the order or, if no order, in the schedule of bail previously fixed by the judges of the court, and, upon delivering to the officer in whose custody defendant is a certificate of the deposit, the defendant must be discharged from custody.

(b) Where more than one deposit is made with respect to any charge in any accusatory pleading based upon the acts supporting the original charge as a result of which an earlier deposit was made, the defendant shall receive credit in the amount of any earlier deposit.

(c) The clerk of the court shall not accept a general assistance check for this deposit or any part thereof.

SEC. 105. Section 1529 of the Penal Code is amended to read:

1529. The warrant shall be in substantially the following form:

County of ________.

The people of the State of California to any sheriff, marshal, or police officer in the County of ________:

Proof, by affidavit, having been this day made before me by (naming every person whose affidavit has been taken), that (stating the grounds of the application, according to Section 1524, or, if the affidavit be not positive, that there is probable cause for believing that ________ stating the ground of the application in the same manner), you are therefore commanded, in the daytime (or at any time of the day or night, as the case may be, according to Section 1533), to make search on the person of C. D. (or in the house situated ________, describing it, or any other place to be searched, with reasonable particularity, as the case may be) for the following property, thing, things, or person: (describing the property, thing, things, or person with reasonable particularity); and, in the case of a thing or things or personal property, if you find the same or any part thereof, to bring the thing or things or personal property forthwith before me (or this court) at (stating the place).

Given under my hand, and dated this ________ day of ________, A.D. (year).

E. F., Judge of the (applicable) Court.

SEC. 106. Section 4415 of the Penal Code is amended to read:

4415. Moneys in the fund shall be available for expenditure in accordance with this title by the Board of Corrections. Prior to the disbursement of any money in the fund, the board and the appropriate subcommittees of the Senate Committee on Criminal Procedure and of the Assembly Committee on Public Safety shall reexamine the factors specified in subdivisions (a) and (b) to determine whether they are still suitable and applicable to the distribution of the proceeds of the bonds authorized by this title. Moneys in the fund shall be available for expenditure for the following purposes:

(a) For the construction, reconstruction, remodeling, and replacement of county jail facilities, and the performance of deferred maintenance activities on the facilities pursuant to rules and regulations adopted by the Board of Corrections, in accordance with Section 6029.1. No expenditure shall be made unless county matching funds of 25 percent are provided.

(b) In performing the duties set forth in subdivision (a), the Board of Corrections shall consider all of the following:

(1) The extent to which the county requesting aid has exhausted all other available means of raising the requested funds for the capital

improvements and the extent to which the funds from the County Jail Capital Expenditure Fund will be utilized to attract other sources of capital financing for county jail facilities.

(2) The extent to which the capital improvements are necessary to the life or safety of the persons confined or employed in the facility or the health and sanitary conditions of the facility.

(3) The extent to which the county has utilized reasonable alternatives to pre-conviction and post-conviction incarceration, including, but not limited to, programs to facilitate release upon one's own recognizance where appropriate to individuals pending trial, sentencing alternatives to custody, and civil commitment or diversion programs consistent with public safety for those with drug- or alcohol-related problems or mental or developmental disabilities.

SEC. 107. Section 7500 of the Penal Code is amended to read:

7500. The Legislature finds and declares all of the following:

(a) The public peace, health, and safety is endangered by the spread of the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) within state and local correctional institutions.

(b) The spread of AIDS within prison and jail populations presents a grave danger to inmates within those populations, law enforcement personnel, and other persons in contact with a prisoner infected with the AIDS virus, both during and after the prisoner's confinement. Law enforcement personnel and prisoners are particularly vulnerable to this danger, due to the high number of assaults and other violent acts that occur within correctional institutions.

(c) AIDS has the frightening potential of spreading more rapidly within the closed society of correctional institutions than outside these institutions. This major public health problem is compounded by the further potential of rapid spread of communicable disease outside correctional institutions, through contacts of an infected prisoner who is not treated and monitored upon his or her release.

(d) New diseases of epidemic proportions such as AIDS may suddenly and tragically infect large numbers of people. This title primarily addresses a current problem of this nature, the spread of AIDS among those in correctional institutions and among the people of California.

(e) HIV and AIDS pose a major threat to the public health and safety of those governmental employees and others whose responsibilities bring them into most direct contact with persons afflicted with those illnesses, and the protection of the health and safety of these personnel is of equal importance to the people of the State of California as the protection of the health of those afflicted with the diseases who are held in custodial situations.

(f) Testing described in this title of individuals housed within state and local correctional facilities for evidence of infection by HIV or AIDS would help to provide a level of information necessary for effective disease control within these institutions and would help to

preserve the health of public employees, inmates, and persons in custody, as well as that of the public at large. This testing is not intended to be, and shall not be construed as, a prototypical method of disease control for the public at large.

SEC. 108. Section 7501 of the Penal Code is amended to read:

7501. In order to address the public health crisis described in Section 7500, it is the intent of the Legislature to do all of the following:

(a) Establish a procedure through which custodial and law enforcement personnel are required to report certain situations and may request and be granted a confidential HIV test of an inmate convicted of a crime, or a person arrested or taken into custody, if the custodial or law enforcement officer has reason to believe that he or she has come into contact with the blood or semen of an inmate or in any other manner has come into contact with the inmate in a way that could result in HIV infection, based on the latest determinations and conclusions by the federal Centers for Disease Control and the State Department of Health Services on means for the transmission of AIDS, and if appropriate medical authorities, as provided in this title, reasonably believe there is good medical reason for the test.

(b) Permit inmates to file similar requests stemming from contacts with other inmates.

(c) Require that probation and parole officers be notified when an inmate being released from incarceration is infected with AIDS, and permit these officers to notify certain persons who will come into contact with the parolee or probationer, if authorized by law.

(d) Authorize prison medical staff authorities to require tests of a jail or prison inmate under certain circumstances, if they reasonably believe, based upon the existence of supporting evidence, that the inmate may be suffering from HIV infection or AIDS and is a danger to other inmates or staff.

(e) Require supervisory and medical personnel of correctional institutions to which this title applies to notify staff if they are coming into close and direct contact with persons in custody who have tested positive or who have AIDS, and provide appropriate counseling and safety equipment.

SEC. 109. Section 7515 of the Penal Code is amended to read:

7515. (a) A decision of the chief medical officer made pursuant to Section 7511, 7512, or 7516 may be appealed, within three calendar days of receipt of the decision, to a three-person panel, either by the person required to be tested, his or her parent or guardian when the subject is a minor, the law enforcement employee filing a report pursuant to either Section 7510 or 7516, or the person requesting testing pursuant to Section 7512, whichever is applicable, or the chief medical officer, upon his or her own motion. If no request for appeal is filed under this subdivision, the chief medical officer's decision shall be final.

(b) Depending upon which entity has jurisdiction over the person requesting or appealing a test, the Department of Corrections, the Department of the Youth Authority, the county, the city, or the county and city shall convene the appeal panel and shall ensure that the appeal is heard within 30 calendar days from the date an appeal request is filed pursuant to subdivision (a).

(c) A panel required pursuant to subdivision (a) shall consist of three members, as follows:

(1) The chief medical officer making the original decision.

(2) A physician and surgeon who has knowledge in the diagnosis, treatment, and transmission of HIV, selected by the Department of Corrections, the Department of the Youth Authority, the county, the city, or the county and city. The physician and surgeon appointed pursuant to this paragraph shall preside at the hearing and serve as chairperson.

(3) A physician and surgeon not on the staff of, or under contract with, a state, county, city, or county and city correctional institution or with an employer of a law enforcement employee as defined in subdivision (b) of Section 7502, and who has knowledge of the diagnosis, treatment, and transmission of HIV. The physician and surgeon appointed pursuant to this paragraph shall be selected by the State Department of Health Services from a list of persons to be compiled by that department. The State Department of Health Services shall adopt standards for selecting persons for the list required by this paragraph, as well as for their reimbursement, and shall, to the extent possible, utilize its normal process for selecting consultants in compiling this list.

The Legislature finds and declares that the presence of a physician and surgeon on the panel who is selected by the State Department of Health Services enhances the objectivity of the panel, and it is the intent of the Legislature that the State Department of Health Services make every attempt to comply with this subdivision.

(d) The Department of Corrections, the county, the city, or the county and city shall notify the Office of AIDS in the State Department of Health Services when a panel must be convened under subdivision (a). Within 10 calendar days of the notification, a physician and surgeon appointed under paragraph (3) of subdivision (c) shall reach agreement with the Department of Corrections, the county, the city, or the county and city on a date for the hearing that complies with subdivision (b).

(e) If the Office of AIDS in the State Department of Health Services fails to comply with subdivision (d) or the physician and surgeon appointed under paragraph (3) of subdivision (c) fails to attend the scheduled hearing, the Department of Corrections, the county, the city, or the county and city shall appoint a physician or surgeon who has knowledge of the diagnosis, treatment, and transmission of HIV to serve on the appeals panel to replace the physician and surgeon required under paragraph (3) of subdivision

(c). The Department of Corrections, the county, the city, or the county and city shall have standards for selecting persons under this subdivision and for their reimbursement.

The Department of Corrections, the Department of the Youth Authority, the county, the city, or the county and city shall, whenever feasible, create, and utilize ongoing panels to hear appeals under this section. The membership of the panel shall meet the requirements of paragraphs (1), (2), and (3) of subdivision (c).

No panel shall be created pursuant to this paragraph by a county, city, or county and city correctional institution except with the prior approval of the local health officer.

(f) A hearing conducted pursuant to this section shall be closed, except that each of the following persons shall have the right to attend the hearing, speak on the issues presented at the hearing, and call witnesses to testify at the hearing:

(1) The chief medical officer, who may also bring staff essential to the hearing, as well as the other two members of the panel.

(2) The subject of the chief medical officer's decision, except that a subject who is a minor may attend only with the consent of his or her parent or guardian and, if the subject is a minor, his or her parent or guardian.

(3) The law enforcement employee filing the report pursuant to Section 7510, or the person requesting HIV testing pursuant to Section 7512, whichever is applicable and, if the person is a minor, his or her parent or guardian.

(g) The subject of the test, or the person requesting the test pursuant to Section 7512, or who filed the report pursuant to Section 7510, whichever is applicable, may appoint a representative to attend the hearing in order to assist him or her.

(h) When a hearing is sought pursuant to this section, the decision shall be rendered within 10 days of the date upon which the appeal is filed pursuant to subdivision (a). A unanimous vote of the panel shall be necessary in order to require that the subject of the hearing undergo HIV testing.

The criteria specified in Section 7511 for use by the chief medical officer shall also be utilized by the panel in making its decision.

The decision shall be in writing, stating reasons for the decision, and shall be signed by the members. A copy shall be provided by the chief medical officer to the person requesting the test, or filing the report, whichever is applicable, to the subject of the test, and, when the subject is in a correctional institution, to the superintendent of the institution, except that, when the subject of the test or the person upon whose behalf the request for the test was made is a minor, copies shall also be provided to the parent or guardian of the person, unless the parent or guardian cannot be located.

SEC. 110. Section 11106 of the Penal Code is amended to read:

11106. (a) In order to assist in the investigation of crime, the arrest and prosecution of criminals, and the recovery of lost, stolen,

or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of applications for licenses to carry firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to Section 12078, forms provided pursuant to Section 12084, reports provided pursuant to Section 12071 that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish to the officers mentioned in Section 11105 hard copy printouts of those records as photographic, photostatic, and nonerasable optically stored reproductions.

(b) (1) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, from forms submitted pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or from dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or of the dealers' records of sales for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form, pursuant to subdivision (a) of Section 12078 for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071, for firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Section 12071.

(3) A violation of this subdivision is a misdemeanor.

(c) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to Sections 12071, 12072, 12078, 12082, and 12084 or any other law, as to pistols, revolvers, or other firearms

capable of being concealed upon the person and maintain a registry thereof.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in Section 12084, or reports made to the department pursuant to Section 12078 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner, or the person being loaned the firearm, acquired or was loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

(C) Any waiting period exemption applicable to the transaction that resulted in the owner, or the person being loaned the firearm, acquiring or being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person.

(D) The manufacturer's name if stamped on the firearm; model name or number if stamped on the firearm; and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, whether the firearm is new or used, barrel length, and color of the firearm.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105 or to the person listed in the registry as the owner or person who is listed as being loaned the particular pistol, revolver, or other firearm capable of being concealed upon the person, in the form of hard copy printouts of that information as photographic, photostatic, and nonerasable optically stored reproductions.

SEC. 111. Section 12033 of the Penal Code is amended to read:

12033. The Department of Consumer Affairs may issue a certificate to any person referred to in subdivision (d) of Section 12031, upon notification by the school where the course was completed, that the person has successfully completed a course in the carrying and use of firearms and a course of training in the exercise of the powers of arrest that meet the standards prescribed by the department pursuant to Section 7583.5 of the Business and Professions Code.

SEC. 112. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term “licensee,” “person licensed pursuant to Section 12071,” or “dealer” means a person who meets all of the following conditions:

(A) Has a valid federal firearms license.

(B) Has any regulatory or business license, or licenses, required by local government.

(C) Has a valid seller’s permit issued by the State Board of Equalization.

(D) Has a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) Has a license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

(2) The duly constituted licensing authority of a city, county, or a city and county shall accept applications for, and may grant licenses permitting, licensees to sell firearms at retail within the city, county, or city and county. The duly constituted licensing authority shall inform applicants who are denied licenses of the reasons for the denial in writing.

(3) No license shall be granted to any applicant who fails to provide a copy of his or her valid federal firearms license, valid seller’s permit issued by the State Board of Equalization, and the certificate of eligibility described in paragraph (4).

(4) A person may request a certificate of eligibility from the Department of Justice, and the Department of Justice shall issue a certificate to an applicant, if the department’s records indicate that the applicant is not a person who is prohibited from possessing firearms.

(5) The department shall adopt regulations to administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

(6) A license granted by the duly constituted licensing authority of any city, county, or city and county, shall be valid for not more than one year from the date of issuance and shall be in one of the following forms:

(A) The form prescribed by the Attorney General.

(B) A regulatory or business license that states on its face “Valid for Retail Sales of Firearms” and is endorsed by the signature of the issuing authority.

(C) A letter from the duly constituted licensing authority having primary jurisdiction for the applicant’s intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms.

(7) Local licensing authorities may assess fees to recover their full costs of processing applications for licenses.

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph is entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided that the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(i) The building designated in the license.

(ii) The places specified in subparagraph (B) or (C).

(iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to April 1, 1997, within 15 days of the application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 15 days of the

submission to the department of any correction to the application, or within 15 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later. Prior to April 1, 1997, within 10 days of the application to purchase any firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later. On or after April 1, 1997, within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped, or unloaded and in a locked container.

(C) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol, revolver, or other firearm or imitation thereof capable of being concealed upon the person, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to process, and shall act properly and promptly in processing, firearms transactions pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073, 12076, and 12077, subdivisions (a) and (b) of Section 12072, and subdivision (a) of Section 12316.

(7) The licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

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

(B) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(8) Commencing April 1, 1994, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

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

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

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

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

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

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

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

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

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

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

decennial census, may impose the requirements specified in paragraph (14).

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

(17) The licensee shall maintain and make available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, a firearms transaction record.

(18) (A) On the date of receipt, the licensee shall report to the Department of Justice in a format prescribed by the department the acquisition by the licensee of the ownership of a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) This paragraph does not apply to any of the following transactions:

(i) A transaction subject to the provisions of subdivision (n) of Section 12078.

(ii) The dealer acquired the firearm from a wholesaler.

(iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and Professions Code.

(iv) The dealer acquired the firearm from a person who is licensed as a manufacturer or importer to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(v) The dealer acquired the firearm from a person who resides outside this state who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.

(c) (1) As used in this article, “clear evidence of his or her identity and age” means either of the following:

(A) A valid California driver’s license.

(B) A valid California identification card issued by the Department of Motor Vehicles.

(2) As used in this article, a “basic firearms safety certificate” means a basic firearm certificate issued to the purchaser, transferee, or person being loaned the firearm by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

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

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

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

(ii) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with

steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.

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

(B) All windows are covered with steel bars.

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

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

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

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

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

(5) For purposes of paragraph (17) of subdivision (b):

(A) A "firearms transaction record" is a record containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

(B) A licensee shall be in compliance with the provisions of paragraph (17) of subdivision (b) if he or she maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 178.124a and subdivision (e) of Section 178.125 of Title 27 of the Code of Federal Regulations.

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

(e) Except as otherwise provided in this subdivision, the Department of Justice shall keep a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove from this list any person who knowingly or with gross negligence violates this article. Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer's business is located. The department shall make information about an individual dealer available, upon request, only for one of the following purposes:

(1) For law enforcement purposes.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed eighty-five dollars ($85), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law are exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain, and make available upon request, information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

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

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

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

SEC. 113. Section 12072 of the Penal Code is amended to read:

12072. (a) (1) No person, corporation, or firm shall knowingly supply, deliver, sell, or give possession or control of a firearm to any person within any of the classes prohibited by Section 12021 or 12021.1.

(2) No person, corporation, or dealer shall sell, supply, deliver, or give possession or control of a firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(3) (A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor.

(B) Subparagraph (A) does not apply to or affect those circumstances set forth in subdivision (p) of Section 12078.

(4) No person, corporation, or dealer shall sell, loan, or transfer a firearm to any person whom he or she knows or has cause to believe is not the actual purchaser or transferee of the firearm, or to any

person who is not the person actually being loaned the firearm, if the person, corporation, or dealer has either of the following:

(A) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the provisions of subdivision (c) or (d).

(B) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the requirements of any exemption to the provisions of subdivision (c) or (d).

(5) No person, corporation, or dealer shall acquire a firearm for the purpose of selling, transferring, or loaning the firearm, if the person, corporation, or dealer has either of the following:

(A) In the case of a dealer, intent to violate subdivision (b) or (c).

(B) In any other case, intent to avoid either of the following:

(i) The provisions of subdivision (d).

(ii) The requirements of any exemption to the provisions of subdivision (d).

(6) The dealer shall comply with the provisions of paragraph (18) of subdivision (b) of Section 12071.

(b) No person licensed under Section 12071 shall supply, sell, deliver, or give possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer, whether or not acting pursuant to Section 12082, shall deliver a firearm to a person, as follows:

(1) Prior to April 1, 1997, within 15 days of the application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 15 days of the submission to the department of any correction to the application, or within 15 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later. Prior to April 1, 1997, within 10 days of the application to purchase any firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later. On or after April 1, 1997, within 10 days of the application to purchase, or, after notice by the department pursuant to subdivision (d) of Section 12076, within 10 days of the submission to the department of any correction to the application, or within 10 days of the submission to the department of any fee required pursuant to subdivision (e) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped, or unloaded and in a locked container.

(3) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) Commencing April 1, 1994, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through either of the following:

(1) A licensed dealer pursuant to Section 12082.

(2) A law enforcement agency pursuant to Section 12084.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to basic firearms safety.

(2) Knowingly grading the examination falsely.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for the basic firearms safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Allowing others to give unauthorized assistance during the examination.

(7) Reference to materials during the examination and cheating by the applicant.

(8) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as specified in subdivision (f) of Section 12805.

(f) No person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code shall deliver, sell, or transfer a firearm to a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and whose licensed premises are located in this state unless one of the following conditions is met:

(1) The person presents proof of licensure pursuant to Section 12071 to that person.

(2) The person presents proof that he or she is exempt from licensure under Section 12071 to that person, in which case the

person also shall present proof that the transaction is also exempt from the provisions of subdivision (d).

(g) (1) Except as provided in paragraph (2) or (3), a violation of this section is a misdemeanor.

(2) If any of the following circumstances apply, a violation of this section is punishable by imprisonment in the state prison for two, three, or four years.

(A) If the violation is of paragraph (1) of subdivision (a).

(B) If the defendant has a prior conviction of violating this section or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

(C) If the defendant has a prior conviction of violating any offense specified in subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or 12520, or of former Section 12560.

(D) If the defendant is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(E) A violation of this section by a person who actively participates in a "criminal street gang" as defined in Section 186.22.

(F) A violation of subdivision (b) involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(3) If any of the following circumstances apply, a violation of this section shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars ($1,000), or by both the fine and imprisonment.

(A) A violation of paragraph (2) of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor.

(C) A violation of paragraph (4) of subdivision (a).

(D) A violation of paragraph (5) of subdivision (a).

(E) A violation of subdivision (b) involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.

(F) A violation of paragraph (1), (3), (4), or (5) of subdivision (c) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(G) A violation of subdivision (d) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(H) A violation of subdivision (e).

(4) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(A) A violation of paragraph (2) of subdivision (a) or subdivision (b).

(B) The firearm transferred in violation of paragraph (2) of subdivision (a) or subdivision (b) is used in the subsequent

commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

SEC. 114. Section 12078 of the Penal Code is amended to read:

12078. (a) (1) The preceding provisions of this article, except subdivision (e) of Section 12076, do not apply to deliveries, transfers, or sales of firearms made to any person properly identified as a full-time paid peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officer is authorized by his or her employer to carry firearms while in the performance of his or her duties, nor to deliveries, transfers, or sales of firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by those governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the seller or transferor at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. On the day that the application to purchase is completed, where a peace officer is receiving the firearm, and either a dealer is not the seller or transferor, or is not otherwise the person responsible for the delivery of the firearm, or the transfer or sale is not conducted through a law enforcement agency pursuant to Section 12084, the peace officer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the seller or transferor, the buyer or transferee, and the firearm as is indicated in Section 12077, together with the original certification. On the day that the application to purchase is completed, where a dealer is the seller or transferor, or is otherwise responsible for delivery of the firearm, and electronic or telephonic transfer of applicant information is used, the dealer shall retain the original certification with the original record of electronic or telephonic transfer. If electronic or telephonic transfer of applicant information is not used, on the day that the application to purchase is completed, where a dealer is the seller or transferor, or is otherwise responsible for delivery of the firearm, the dealer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12077, together with the original certification. On the day that the application to purchase is completed, where the transfer is conducted pursuant to Section 12084, the law enforcement agency shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12084, together with the original certification. The reports that peace officers shall complete shall be provided to

them by the department. No report need be submitted to the Department of Justice where a peace officer receiving the firearm received it from his or her employer in accordance with the applicable rules, regulations, or procedures of the employer.

(2) The preceding provisions of this article, except subdivision (e) of Section 12076, do not apply to deliveries, transfers, or sales of firearms made to peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 made pursuant to Section 10334 of the Public Contract Code. On the day that the application to purchase is completed, and a dealer is not the person responsible for the delivery of the firearm or the transfer or sale is not conducted through a law enforcement agency pursuant to Section 12084, the peace officer receiving the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the seller or transferor, the buyer or transferee, and the firearm as is indicated in Section 12077. On the day that the application to purchase is completed, where a dealer is the seller or transferor, or is otherwise responsible for delivery of the firearm, and electronic or telephonic transfer of applicant information is used, the dealer shall retain the original certification with the original record of electronic or telephonic transfer. If electronic or telephonic transfer of applicant information is not used, on the day that the application to purchase is completed, where a dealer is responsible for delivery of the firearm, the dealer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12077. On the day that the application to purchase is completed where the transfer is conducted pursuant to Section 12084, the law enforcement agency shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12084. The reports that peace officers shall complete shall be the same as those set forth in paragraph (1) of this subdivision and shall be provided to them by the department.

(3) Subdivision (d) of Section 12072 does not apply to sales, deliveries, or transfers of firearms to an authorized representative of a city, city and county, county, or state or federal government that is acquiring the weapon as part of an authorized, voluntary program under which the government entity is buying or receiving weapons from private individuals. Any weapons acquired pursuant to this subdivision shall be disposed of pursuant to the applicable provisions of Section 12028 or 12032.

(b) Section 12071 and subdivisions (c) and (d) of Section 12072 do not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of

Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) (1) Subdivision (d) of Section 12072 does not apply to the infrequent transfer of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family.

(2) Subdivision (d) of Section 12072 does not apply to the infrequent transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family and both of the following conditions are met:

(A) The person to whom the firearm is transferred shall, within 30 days of taking possession of the firearm, forward by prepaid mail or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this paragraph shall be provided to them by the Department of Justice.

(B) Prior to taking possession of the firearm, the person taking title to the firearm shall obtain a basic firearm safety certificate.

(3) As used in this subdivision, "immediate family member" means any one of the following relationships:

(A) Parent and child.

(B) Grandparent and grandchild.

(d) Subdivision (d) of Section 12072 does not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 do not apply to the delivery of a firearm to a gunsmith for service or repair.

(f) Subdivision (d) of Section 12072 does not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g) (1) Subdivision (d) of Section 12072 does not apply to the infrequent sale or transfer of a firearm, other than a pistol, revolver, or other firearm capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term "infrequent" shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(2) Subdivision (d) of Section 12072 does not apply to the transfer of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 does not apply to a dealer who delivers a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (c) of Section 12077. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (c) of Section 12077.

(h) Subdivision (d) of Section 12072 does not apply to the loan of a firearm for the purposes of shooting at targets if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(i) (1) Subdivision (d) of Section 12072 does not apply to a person who takes title or possession of firearms by operation of law if all the following conditions are met:

(A) The person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(B) If the firearms are pistols, revolvers, or other firearms capable of being concealed upon the person, and the person is not a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure, the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the

Department of Justice a report of the same and the type of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this paragraph shall be provided to them by the Department of Justice.

(C) In the case of a transmutation of property between spouses made in accordance with Section 850 of the Family Code consisting of a pistol, revolver, or other firearm capable of being concealed upon the person, taking place on or after April 1, 1994, a basic firearms safety certificate shall be required prior to taking possession of the firearm.

(2) Subdivision (d) of Section 12072 does not apply to a person who takes possession of a firearm by operation of law in a representative capacity who transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, on and after April 1, 1994, that individual shall have a basic firearms safety certificate in order for the exemption set forth in this paragraph to apply.

(j) Subdivision (d) of Section 12072 does not apply to deliveries, transfers, or returns of firearms made pursuant to Section 12028, 12028.5, or 12030.

(k) Section 12071 and subdivision (c) of Section 12072 do not apply to any of the following:

(1) The delivery, sale, or transfer of unloaded firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person by a dealer to another dealer upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

(2) The delivery, sale, or transfer of unloaded firearms by dealers to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(3) The delivery, sale, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler's business.

(4) The delivery, sale, or transfer of unloaded firearms by one dealer to another dealer if the firearms are intended as merchandise in the receiving dealer's business, upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

(5) The delivery, sale, or transfer of an unloaded firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer to himself or herself.

(6) The loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at

targets upon established ranges, whether public or private, to a person at that target facility or that club or organization, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(*l*) A person who is exempt from subdivision (d) of Section 12072 or is otherwise not required by law to report his or her acquisition, ownership, or disposal of a pistol, revolver, or other firearm capable of being concealed upon the person or who moves out of this state with his or her pistol, revolver, or other firearm capable of being concealed upon the person may submit a report of the same to the Department of Justice in a format prescribed by the department.

(m) Subdivision (d) of Section 12072 does not apply to the delivery, sale, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler's business by manufacturers or importers licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, or by another wholesaler, if the delivery, sale, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(n) (1) The waiting period described in Section 12071 or 12072 does not apply to the delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer in either of the following situations:

(A) The dealer is delivering the firearm to another dealer and it is not intended as merchandise in the receiving dealer's business.

(B) The dealer is delivering the firearm to himself or herself and it is not intended as merchandise in his or her business.

(2) In order for this subdivision to apply, both of the following shall occur:

(A) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that he or she is licensed pursuant to Section 12071.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c) and (d) of Section 12072 do not apply to the delivery, sale, or transfer of firearms regulated

pursuant to Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275).

(p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 do not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor if the loan is made with the express permission of the parent or legal guardian of the minor, does not exceed 30 days in duration, and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 do not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

(A) The minor has the written consent of his or her parent or legal guardian that is presented at the time of, or prior to the time of, the loan, or is accompanied by his or her parent or legal guardian at the time the loan is made.

(B) The minor is being loaned the firearm for the purpose of engaging in a lawful recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(C) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(D) The duration of the loan does not, in any event, exceed 10 days.

(3) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 do not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian if both of the following circumstances exist:

(A) The minor is being loaned the firearm for the purposes of engaging in a lawful recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(B) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(4) Paragraph (3) of subdivision (a) of Section 12072 does not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian.

(5) Paragraph (3) of subdivision (a) of Section 12072 does not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her grandparent who is not the legal guardian of the minor if the transfer is done with the express permission of the parent or legal guardian of the minor.

(q) Subdivision (d) of Section 12072 does not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a licensed hunter for use by that licensed hunter for a period of time not to exceed the duration of the hunting season for which that firearm is to be used.

(r) The waiting period described in Section 12071, 12072, or 12084 does not apply to the delivery, sale, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice issued pursuant to Section 12095, 12230, 12250, or 12305. On the date that the application to purchase is completed, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084 shall forward by prepaid mail to the Department of Justice a report of the same as described in subdivision (b) or (c) of Section 12077 or Section 12084. If the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (b) or (c) of Section 12077.

(s) Subdivision (d) of Section 12072 does not apply to the loan of an unloaded firearm or the loan of a firearm loaded with blank cartridges for use solely as a prop for a motion picture, television, or video production or an entertainment or theatrical event.

(t) The waiting period described in Sections 12071, 12072, and 12084 does not apply to the sale, delivery, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, by a dealer or through a law enforcement agency to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084 shall forward by prepaid mail to the Department of Justice a report of the transaction pursuant to subdivision (b) of Section 12077 or Section 12084. If the electronic or telephonic transfer

of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) of Section 12077.

(u) As used in this section:

(1) "Infrequent" has the same meaning as in paragraph (1) of subdivision (c) of Section 12070.

(2) "A person taking title or possession of firearms by operation of law" includes, but is not limited to, any of the following instances wherein an individual receives title to, or possession of, firearms:

(A) The executor or administrator of an estate, if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof, when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver, if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties, if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

(G) A transmutation of property consisting of firearms pursuant to Section 850 of the Family Code.

(H) Firearms passing to a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.

(I) Firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.

SEC. 115. Section 12084 of the Penal Code is amended to read:

12084. (a) As used in this section, the following definitions apply:

(1) "Agency" means a sheriff's department in a county of less than 200,000 persons, according to the most recent federal decennial census, that elects to process purchases, sales, loans, or transfers of firearms.

(2) "Seller" means the seller or transferor of a firearm or the person loaning the firearm.

(3) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(4) "Purchase" means the purchase, loan, sale, or transfer of a firearm.

(5) "Department" means the Department of Justice.

(6) "LEFT" means the Law Enforcement Firearms Transfer Form consisting of the transfer form utilized to purchase a firearm in accordance with this section.

(b) As an alternative to completing the sale, transfer, or loan of a firearm through a licensed dealer pursuant to Section 12082, the parties to the purchase of a firearm may complete the transaction through an agency in accordance with this section in order to comply with subdivision (d) of Section 12072.

(c) (1) LEFTs shall be prepared by the State Printer and shall be furnished to agencies on application at a cost to be determined by the Department of General Services for each 100 leaves in quintuplicate, one original and four duplicates for the making of carbon copies. The original and duplicate copies shall differ in color, and shall be in the form provided by this section. The State Printer, upon issuing the LEFT, shall forward to the department the name and address of the agency together with the series and sheet numbers on the LEFT. The LEFT shall not be transferable.

(2) The department shall prescribe the form of the LEFT. It shall be in the same exact format set forth in Sections 12077 and 12082, with the same distinct formats for firearms that are pistols, revolvers, and other firearms capable of being concealed upon the person and for firearms that are not pistols, revolvers, and other firearms capable of being concealed upon the person, except that, instead of the listing of information concerning a dealer, the LEFT shall contain the name, telephone number, and address of the law enforcement agency.

(3) The original of each LEFT shall be retained in consecutive order. Each book of 50 originals shall become the permanent record of transactions that shall be retained not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, department employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco and Firearms upon the presentation of proper identification.

(4) Ink shall be used to complete each LEFT. The agency shall ensure that all information is provided legibly. The purchaser and seller shall be informed that incomplete or illegible information delays purchases.

(5) Each original LEFT shall contain instructions regarding the procedure for completion of the form and the routing of the form. The agency shall comply with these instructions which shall include the information set forth in this subdivision.

(6) One firearm transaction shall be reported on each LEFT. For purposes of this paragraph, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person between the same two persons.

(d) The following procedures shall be followed in processing the purchase:

(1) Without waiting for the conclusion of any waiting period to elapse, the seller shall immediately deliver the firearm to the agency solely to complete the LEFT. Upon completion of the LEFT, the

firearm shall be immediately returned by the agency to the seller without waiting for the waiting period to elapse.

(2) The purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the agency. The agency shall require the purchaser to complete the original and one copy of the LEFT. An employee of the agency shall then affix his or her signature as a witness to the signature and identification of the purchaser.

(3) Two copies of the LEFT shall, on that date of purchase, be placed in the mail, postage prepaid to the department at Sacramento. The third copy shall be provided to the purchaser and the fourth copy to the seller.

(4) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) If the department determines that the copies of the LEFT submitted to it pursuant to paragraph (3) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the firearm to be purchased, or if any fee required pursuant to paragraph (6) is not submitted by the agency in conjunction with submission of the copies of the LEFT, or if the department determines that the person is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the agency of that fact. Upon notification by the department, the purchaser shall submit any fee required pursuant to paragraph (6), as appropriate, and, if notification by the department is received by the agency at any time prior to delivery of the firearm, the delivery of the firearm shall be withheld until the conclusion of the waiting period described in paragraph (7).

(6) (A) The agency may charge a fee, not to exceed actual cost, sufficient to reimburse the agency for processing the transfer.

(B) The department may charge a fee, not to exceed actual cost, sufficient to reimburse the department for providing the information. The department shall charge the same fee that it would charge a dealer pursuant to Section 12082.

(7) The firearm shall not be delivered to the purchaser as follows:

(A) Prior to April 1, 1997, within 15 days of the application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to paragraph (5), within 15 days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of the submission to the department of any correction to the LEFT, whichever is later. Prior to April 1, 1997, within 10 days of the application to purchase any firearm that is not a pistol,

revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to paragraph (5), within 10 days of the submission to the department of any fees required pursuant to this subdivision, or within 10 days of the submission to the department of any correction to the LEFT, whichever is later. On and after April 1, 1997, within 10 days of the application to purchase, or after notice by the department pursuant to paragraph (5), within 10 days of the submission to the department of any fees required pursuant to this subdivision, or within 10 days of the submission to the department of any correction to the LEFT, whichever is later.

(B) Unless unloaded.

(C) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, unless securely wrapped or in a locked container.

(D) Unless the purchaser presents clear evidence of his or her identity and age to the agency.

(E) Whenever the agency is notified by the department that the person is in a prohibited class described in Section 12021 or 12021.1, or Section 8100 or 8103 of the Welfare and Institutions Code.

(F) Unless done at the agency's premises.

(G) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, commencing April 1, 1994, unless the purchaser presents to the seller a basic firearms safety certificate.

(H) Unless the purchaser is at least 18 years of age.

(e) The action of a law enforcement agency acting pursuant to Section 12084 shall be deemed to be a discretionary act within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(f) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(g) Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the LEFT is guilty of a misdemeanor.

(h) All sums received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund.

SEC. 116. Section 12403.7 of the Penal Code is amended to read:

12403.7. Notwithstanding any other law, any person may purchase, possess, or use tear gas and tear gas weapons for the projection or release of tear gas if the tear gas and tear gas weapons are used solely for self-defense purposes, subject to the following requirements:

(a) No person convicted of a felony or any crime involving an assault under the laws of the United States, the State of California, or any other state, government, or country or convicted of misuse of tear gas under subdivision (g) shall purchase, possess, or use tear gas or tear gas weapons.

(b) No person who is addicted to any narcotic drug shall purchase, possess, or use tear gas or tear gas weapons.

(c) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

(d) No person who is a minor shall purchase, possess, or use tear gas or tear gas weapons.

(e) (1) No person shall purchase, possess, or use any tear gas weapon that expels a projectile, or that expels the tear gas by any method other than an aerosol spray, or that contains more than 2.5 ounces net weight of aerosol spray.

(2) Every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall have a label that states: "WARNING: The use of this substance or device for any purpose other than self-defense is a crime under the law. The contents are dangerous—use with care."

(3) After January 1, 1984, every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall have a label that discloses the date on which the useful life of the tear gas weapon expires.

(4) Every tear gas container and tear gas weapon that may be lawfully purchased pursuant to this section shall be accompanied at the time of purchase by printed instructions for use.

(f) Effective March 1, 1994, every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall be accompanied by an insert including directions for use, first aid information, safety and storage information, and explanation of the legal ramifications of improper use of the tear gas container or tear gas product.

(g) Any person who uses tear gas or tear gas weapons except in self-defense is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by a fine not to exceed one thousand dollars ($1,000), or by both the fine and imprisonment, except that, if the use is against a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, engaged in the performance of his or her official duties and the person committing the offense knows or reasonably should know that the victim is a peace officer, the offense is punishable by imprisonment in a state prison for 16 months or two or three years or by a fine of one thousand dollars ($1,000), or by both the fine and imprisonment.

SEC. 117. The heading of Article 8 (commencing Section 12800) of Chapter 6 of Title 2 of Part 4 of the Penal Code is amended to read:

Article 8. Basic Firearms Safety Instruction and Certificate

SECTION 118. Section 3493 of the Public Resources Code is repealed.

SEC. 119. Section 4576.1 of the Public Resources Code is amended to read:

4576.1. During the period for which a timber operator license has been suspended or revoked pursuant to Section 4576, the real person in interest, as defined in Section 4570, shall not have any ownership, possessory, security, or other pecuniary interest in, or any responsibility for the conduct of, the timber operations of any person licensed pursuant to this article. This provision does not preclude ownership of publicly traded stock in any corporation.

SEC. 120. Section 6817 of the Public Resources Code is amended to read:

6817. (a) The Controller shall annually as of June 30 apportion, for the fiscal year ending on that date, to each city or county having within its boundaries ungranted tide and submerged lands or other tide and submerged lands granted to it by the state, in which the state has reserved the rights to the mineral deposits contained therein, 1 percent of the revenues paid to the state under Article 4 (commencing with Section 6870) from those tide and submerged lands that are within the limits of the particular county or city, except that the total amount apportioned to each city or county in each year shall not exceed one hundred thousand dollars ($100,000) per mile, or fraction of a mile, of ocean frontage that is within, and owned or operated as a park by, that city or county and leased by the commission for the production of oil, gas, and other hydrocarbons, and which ocean frontage is available to the public free of charge for recreational purposes. However, that limitation on the amount that may be apportioned to each city or county in each year does not apply to revenues from leases within the limits of the particular county or city that exceed the revenues paid to the state during the 1983–84 fiscal year. Any city that is fronted, in whole or in part, by a state oil and gas lease shall be qualified to receive an apportionment under this section based on the formula contained in this section. For purposes of this section, tide and submerged lands within the limits of a city shall not be deemed to be within the boundaries of a county except in the case of a city and county. The commission shall, at the time of remitting revenues to the State Treasury received under Article 4 (commencing with Section 6870), report to the Controller the total amount of the revenue paid from the tide and submerged lands to the state, shown with respect to each city or county to which that amount is applicable. The apportionment for any given fiscal year shall be based upon the physical facts with respect to each city or county existing on June 30 of the next preceding fiscal year. The report of the commission and the apportionments of the Controller shall be final.

(b) In addition to any amounts payable to a city or county pursuant to subdivision (a), 20 percent of revenues paid to the state under Article 4 (commencing with Section 6870) that are derived from the production of oil, gas, and other hydrocarbons from a state tideland lease, not to exceed a total amount of two hundred million dollars ($200,000,000), adjusted annually to reflect increases in the cost of living, as measured by the California Consumer Price Index, shall be paid to the city or county within whose boundaries the lease is located, for a period not to exceed 20 years from commencement of payment, if oil, gas, or other hydrocarbons are extracted under the lease under any of the following circumstances, except as provided in subdivision (c):

(1) The lease was not under production at any time during 1994.

(2) Although the lease was under production at some time during 1994, the lease is subject to a boundary adjustment pursuant to Section 6872.5.

(3) Although the lease was under production in 1994, the lease has new production from a new drilling site constructed after January 1, 1996, including a new offshore platform, an existing offshore platform that has been substantially modified to achieve an increase in production, a subsea well completion, or an upland drilling site where the upland drilling site was constructed pursuant to a development plan approved by the commission after January 1, 1996.

(4) The extraction is from a production zone not under production prior to January 1, 1996.

(5) The extraction is from new wells drilled as a result of a development plan approved by the commission after January 1, 1996.

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

(1) Oil and gas development on tide and submerged lands that have been granted by the state to local government without a reservation of the minerals to the state.

(2) The Long Beach Unit operations, notwithstanding the inclusion in those operations of the Alamitos Beach Park Lands as Tract No. 2.

(3) Any upland location or tideflats. “Tideflats” are areas that are marshy, sandy, or muddy and nearly horizontal coastal flatlands that are alternatively covered and exposed as the tide rises and falls, or that are located within 100 feet inland of the mean high tide line of any beach or tideflat.

(4) Any upland drilling site, unless the site requires the use of slant drilling technology to extract oil, gas, or other hydrocarbons.

(5) Leases that do not have either a local or state development plan submitted for consideration on or before January 1, 2002.

(d) (1) The amounts paid to cities and counties shall be deposited in a special tide and submerged lands fund established by the cities or counties, to be held in trust and to be expended only for the promotion and accommodation of commerce, navigation, and fisheries, for the protection of the lands within the boundaries of the

cities and counties, for the promotion, accommodation, establishment, improvement, operation, and maintenance of public recreational beaches and coastline for the benefit of all the people of the state, and for the mitigation of any adverse environmental impact caused by exploration for hydrocarbons on state tide and submerged lands within city or county boundaries or caused by production or transportation of hydrocarbons produced on these tide and submerged lands.

(2) The Legislature hereby finds and declares that the purposes specified in paragraph (1) constitute matters of statewide interest and that the expenditure of funds for those purposes will benefit all of the people of the state.

(e) This section applies with respect to all revenues received in the State Treasury on and after October 1, 1963.

SEC. 121. Section 42010 of the Public Resources Code is amended to read:

42010. (a) The local governing body may, either by ordinance or resolution, upon the recommendation of the appropriate land use planning agency, propose eligible parcels of property within its jurisdiction as a recycling market development zone.

(b) The proposal of a recycling market development zone shall be based upon the following findings by the local governing body:

(1) The current waste management practices and conditions are favorable to the development of postconsumer waste material markets.

(2) The designation as a recycling market development zone is necessary to assist in attracting private sector recycling investments to the area.

(c) (1) The Recycling Market Development Revolving Loan Subaccount is hereby created in the account for the purpose of providing loans for purposes of the Recycling Market Development Revolving Loan Program established pursuant to this article.

(2) Notwithstanding Section 13340 of the Government Code, the funds deposited in the subaccount are hereby continuously appropriated to the board without regard to fiscal year for making loans pursuant to this article.

(3) The board may, upon appropriation by the Legislature in the annual Budget Act, expend interest earnings on funds in the subaccount for administrative expenses incurred in carrying out the Recycling Market Development Revolving Loan Program.

(4) The money from any loan repayments and fees, including, but not limited to, principal and interest repayments, fees and points, recovery of collection costs, income earned on any asset recovered pursuant to a loan default, and funds collected through foreclosure actions, shall be deposited in the subaccount.

(5) All interest accruing on interest payments from loan applicants shall be deposited in the subaccount.

(6) The board may make low-interest loans to local governing bodies and private business entities within a recycling market development zone from money in the subaccount for the purpose of assisting the board and local agencies in complying with Section 40051 and to assist counties and cities in complying with Section 41780.

(7) The board shall establish and collect fees for applications for loans authorized by this section. The application fee shall be set at a level that is sufficient to fund the board's cost of processing applications for loans. In addition, the board shall establish a schedule of fees, or points, for loans that are entered into by the board, to fund the board's administration of the revolving loan program.

(8) The board may, upon appropriation by the Legislature in the annual Budget Act, expend money in the subaccount for the administration of the Recycling Market Development Revolving Loan Program. In addition, the board may fund administration of the revolving loan program from the account upon appropriation by the Legislature in the annual Budget Act. However, funding for the administration of the revolving loan program from the account shall be provided only if there are not sufficient funds in the subaccount to fully fund administration of the program.

(9) The board, pursuant to subdivision (a) of Section 47901, may set aside funds for the purposes of paying costs necessary to protect the state's position as a lender-creditor. These costs shall be broadly construed to include, but not be limited to, foreclosure expenses, auction fees, title searches, appraisals, real estate brokerage fees, attorney fees, mortgage payments, insurance payments, utility costs, repair costs, removal and storage costs for repossessed equipment and inventory, and additional expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.

(d) Loans made pursuant to subdivision (c) shall be subject to all of the following requirements:

(1) The terms of any approved loan shall be specified in a loan agreement between the borrower and the board. The loan agreement shall include a requirement that the failure to comply with the agreement shall result in any remaining unpaid amount of the loan, with accrued interest, being immediately due and payable. Notwithstanding any term of the agreement, any recipient of a loan that the board approves shall repay the principal amount, plus interest on the basis of the rate of return for money in the Surplus Money Investment Fund at the time of the loan commitment. Except as provided in subdivision (g), all money received as repayment and interest on loans made pursuant to this section shall be deposited in the subaccount.

(2) The term of any loan made pursuant to this section shall be not more than 10 years.

(3) The board shall approve only those loan applications that demonstrate the applicant's ability to repay the loan. The highest

priority for funding shall be given to projects that demonstrate that the project will increase market demand for recycling the project's type of postconsumer waste material.

(4) The board shall finance not more than one-half of the cost of the project, or not more than one million dollars ($1,000,000) for loans to the project, whichever is less.

(5) The board shall encourage applicants to seek participation from private financial institutions or other public agencies. For purposes of enabling the board and local agencies to comply with Sections 40051 and 41780, the board may, on a pilot basis, participate, in an amount not to exceed five hundred thousand dollars ($500,000), in the Capital Access Loan Program as provided in Article 8 (commencing with Section 44559) of Chapter 1 of Division 27 of the Health and Safety Code.

(6) The Department of Finance may audit the expenditure of the proceeds of any loan made pursuant to this section.

(e) Upon authorization by the Legislature in the annual Budget Act, the Controller shall transfer the sum of five million dollars ($5,000,000) from the account to the subaccount for the purpose of making loans pursuant to this section. Commencing July 1, 2000, upon authorization by the Legislature in the annual Budget Act, the amount of the funds transferred pursuant to this section shall be a sum not to exceed five million dollars ($5,000,000) as necessary to meet anticipated loan demand. Those amounts shall be a loan to the subaccount, repayable with interest to the account at the rate of return for money in the Surplus Money Investment Fund.

(f) The board shall, as part of the annual report to the Legislature pursuant to Section 40507, include a report on the performance of the Recycling Market Development Revolving Loan Program, including the number and size of loans made, characteristics of loan recipients, projected loan demand, and the cost of administering the program.

(g) All money remaining in the subaccount on July 1, 2006, and all money received as repayment and interest on loans shall, as of July 1, 2006, be transferred to the account, and any money due and outstanding on loans as of July 1, 2006, shall be repaid to the board and deposited by the board in the account until paid in full, except that, upon authorization by the Legislature in the annual Budget Act, interest earnings may be expended for administrative costs associated with the collection of outstanding loan accounts.

(h) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2006, and as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 122. Section 42350 of the Public Resources Code is amended to read:

42350. (a) For the purposes of this section, “degradable” means all of the following:

(1) Biodegradation, photodegradation, chemodegradation, or degradation by other natural degrading processes, as defined by the American Society of Testing Materials.

(2) Degradation at a rate that meets the requirements of Part 238 (commencing with Section 238.10) of Subchapter H of Chapter I of Title 40 of the Code of Federal Regulations.

(3) Degradation that, as attested by the manufacturer of the device, will not produce or result in a residue or byproduct that, during or after the process of degrading, would be a hazardous or extremely hazardous waste identified pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(b) Except as provided in subdivision (c), no container shall be sold or offered for sale at retail in this state that is connected to any other container by means of a plastic ring or similar plastic device that is not degradable when disposed of as litter.

(c) This section does not apply to devices that do not contain an enclosed hole or circle of more than one and one-half inches in diameter or that do not contain a hole.

(d) Any person who sells at wholesale or distributes to a retailer for sale at retail in this state containers that are connected to each other in violation of subdivision (b) is guilty of an infraction and shall be punished by a fine not exceeding one thousand dollars ($1,000).

SEC. 123. Section 43210 of the Public Resources Code is amended to read:

43210. For those facilities that accept only hazardous wastes, or accept only low-level radioactive wastes, or facilities that accept only both, and to which Chapter 6.5 (commencing with Section 25100) of Division 20 or Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code applies, the board and the enforcement agency have no enforcement or regulatory authority. All enforcement activities for the facilities relative to the control of hazardous wastes shall be performed by the Department of Toxic Substances Control pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code, and all enforcement activities relative to the control of low-level radioactive waste shall be performed by the State Department of Health Services pursuant to Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code.

SEC. 124. Section 43211 of the Public Resources Code is amended to read:

43211. (a) For those facilities that accept both hazardous wastes and other solid wastes, the Department of Toxic Substances Control shall exercise enforcement and regulatory powers relating to the

control of the hazardous wastes at the facility pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The board and the enforcement agency shall, at solid waste disposal facilities, exercise enforcement and regulatory powers relating to the control of solid wastes and asbestos-containing waste, as provided in Section 44820.

(b) For purposes of this section, "asbestos containing waste" means waste that contains more than 1 percent by weight, of asbestos that is either friable or nonfriable.

SEC. 125. Section 368 of the Public Utilities Code is amended to read:

368. Each electrical corporation shall propose a cost recovery plan to the commission for the recovery of the uneconomic costs of an electrical corporation's generation-related assets and obligations identified in Section 367. The commission shall authorize the electrical corporation to recover the costs pursuant to the plan if the plan meets the following criteria:

(a) The cost recovery plan shall set rates for each customer class, rate schedule, contract, or tariff option, at levels equal to the level as shown on electric rate schedules as of June 10, 1996, provided that rates for residential and small commercial customers shall be reduced so that these customers shall receive rate reductions of no less than 10 percent for 1998 continuing through 2002. These rate levels for each customer class, rate schedule, contract, or tariff option shall remain in effect until the earlier of March 31, 2002, or the date on which the commission-authorized costs for utility generation-related assets and obligations have been fully recovered. The electrical corporation shall be at risk for those costs not recovered during that time period. Each utility shall amortize its total uneconomic costs, to the extent possible, such that for each year during the transition period its recorded rate of return on the remaining uneconomic assets does not exceed its authorized rate of return for those assets. For purposes of determining the extent to which the costs have been recovered, any over-collections recorded in Energy Costs Adjustment Clause and Electric Revenue Adjustment Mechanism balancing accounts, as of December 31, 1996, shall be credited to the recovery of the costs.

(b) The cost recovery plan shall provide for identification and separation of individual rate components such as charges for energy, transmission, distribution, public benefit programs, and recovery of uneconomic costs. The separation of rate components required by this subdivision shall be used to ensure that customers of the electrical corporation who become eligible to purchase electricity from suppliers other than the electrical corporation pay the same unbundled component charges, other than energy, that a bundled service customer pays. No cost shifting among customer classes, rate schedules, contract, or tariff options shall result from the separation required by this subdivision. Nothing in this provision is intended to

affect the rates, terms, and conditions or to limit the use of any Federal Energy Regulatory Commission-approved contract entered into by the electrical corporation prior to the effective date of this provision.

(c) In consideration of the risk that the uneconomic costs identified in Section 367 may not be recoverable within the period identified in subdivision (a) of Section 367, an electrical corporation that, as of December 20, 1995, served more than four million customers, and was also a gas corporation that served less than four thousand customers, shall have the flexibility to employ risk management tools, such as forward hedges, to manage the market price volatility associated with unexpected fluctuations in natural gas prices, and the out-of-pocket costs of acquiring the risk management tools shall be considered reasonable and collectible within the transition freeze period. This subdivision applies only to the transaction costs associated with the risk management tools and shall not include any losses from changes in market prices.

(d) In order to ensure implementation of the cost recovery plan, the limitation on the maximum amount of cost recovery for nuclear facilities that may be collected in any year adopted by the commission in Decision 96-01-011 and Decision 96-04-059 shall be eliminated to allow the maximum opportunity to collect the nuclear costs within the transition cap period.

(e) As to an electrical corporation that is also a gas corporation serving more than four million California customers, so long as any cost recovery plan adopted in accordance with this section satisfies subdivision (a), it shall also provide for annual increases in base revenues, effective January 1, 1997, and January 1, 1998, equal to the inflation rate for the prior year plus two percentage points, as measured by the consumer price index. The increase shall do both of the following:

(1) Remain in effect pending the next general rate case review, which shall be filed not later than December 31, 1997, for rates that would become effective in January 1999. For purposes of any commission-approved performance-based ratemaking mechanism or general rate case review, the increases in base revenue authorized by this subdivision shall create no presumption that the level of base revenue reflecting those increases constitute the appropriate starting point for subsequent revenues.

(2) Be used by the utility for the purposes of enhancing its transmission and distribution system safety and reliability, including, but not limited to, vegetation management and emergency response. To the extent the revenues are not expended for system safety and reliability, they shall be credited against subsequent safety and reliability base revenue requirements. Any excess revenues carried over shall not be used to pay any monetary sanctions imposed by the commission.

(f) The cost recovery plan shall provide the electrical corporation with the flexibility to manage the renegotiation, buy-out, or buy-down of the electrical corporation's power purchase obligations, consistent with review by the commission to assure that the terms provide net benefits to ratepayers and are otherwise reasonable in protecting the interests of both ratepayers and shareholders.

(g) An example of a plan authorized by this section is the document entitled "Restructuring Rate Settlement" transmitted to the commission by Pacific Gas and Electric Company on June 12, 1996.

SEC. 126. Section 489.1 of the Public Utilities Code is amended to read:

489.1. (a) This section applies to contracts executed by gas corporations in instances in which the corporations are precluded from shifting to any other customers any loss of revenue as measured against filed rates and tariffs. To encourage fair competition, the commission may, by rule or order, partially or completely exempt, from the requirements of subdivision (a) of Section 489, contracts negotiated by the gas corporations for service subject to the commission's jurisdiction, with rates, terms, or conditions differing from the schedules on file with the commission. To provide general guidance to the public and to minimize administration adjudications, the commission shall adopt and enforce rules, on or before July 1, 1997, on gas utilities contract confidentiality that consider, among other issues, the impact of supply contact confidentiality on competitive markets and customers and that require both of the following:

(1) Reasonable comparability between contract disclosure requirements applicable to gas corporations and those applicable to competitors pursuant to federal law.

(2) The disclosure of information that may be reasonably necessary to permit auditing and collection of fees and taxes.

(b) If, due to inadequate resources, the commission has not issued the rules pursuant to subdivision (a) within the time required, in any order exempting a contract from public inspection, partially or completely, the commission shall require the disclosures set forth in paragraphs (1) and (2) of subdivision (a) as are relevant.

(c) Upon request by a person, and a finding by the commission that the public benefit from the disclosure of additional specific information regarding a particular contract would outweigh the interests of the gas corporation and customer in confidentiality, the commission may order disclosure of the additional contract information subject to the conditions and limitations that the commission may establish. However, the commission shall allow representatives of residential customers of the gas corporation, who are not competitors of the gas corporation and have not previously violated a nondisclosure agreement, to inspect the contracts subject to a nondisclosure agreement.

(d) Notwithstanding subdivisions (a), (b), and (c), to ensure compliance with Section 454.4, this section does not apply to contracts between gas utilities and electrical corporations. These contracts shall continue to be subject to commission policy and its rules of practice and procedure. However, no less information shall be made publicly available regarding these contracts than would otherwise be made available pursuant to this section.

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

SEC. 127. 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 does 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.

SEC. 128. Section 5322 of the Public Utilities Code is amended to read:

5322. (a) The Legislature finds and declares that advertisement and use of telephone service is essential for household goods carriers to obtain business and conduct intrastate moving services. The unlawful advertisement by unlicensed household goods carriers has required properly licensed and regulated household goods carriers to compete with unlicensed household goods carriers using unfair business practices. Unlicensed household goods carriers have also exposed citizens of the State of California to unscrupulous persons who portray themselves as properly licensed, qualified, and insured household goods carriers. Many of these unlicensed household goods

carriers have been found to have perpetrated acts of theft, fraud, and dishonesty upon unsuspecting citizens of the State of California.

(b) The Legislature finds and declares that the termination of telephone service utilized by unlicensed household goods carriers is essential to ensure the public safety and welfare. Therefore, the commission should take enforcement action as specified in this section to disconnect telephone service of unlicensed household goods carriers who unlawfully advertise moving services in yellow page directories and other publications. The enforcement action provided for by this section is consistent with the decision of the Supreme Court of the State of California in Goldin, et al. v. Public Utilities Commission et al., 23 Cal. 3d 638.

(c) Any telephone utility operating under the jurisdiction of the commission shall refuse telephone service to a new customer and shall disconnect telephone service of an existing customer only after it is shown that other available enforcement remedies of the commission have failed to terminate unlawful activities detrimental to the public welfare and safety, and upon receipt from any authorized official of the commission of a writing, signed by a magistrate, as defined by Sections 807 and 808 of the Penal Code, finding that probable cause exists to believe that the customer is advertising or holding out to the public to perform, or is performing, household goods carrier services without having in force a permit issued by the commission authorizing those services, or that the telephone service otherwise is being used or is to be used as an instrumentality, directly or indirectly, to violate or to assist in violation of the laws requiring a household goods carrier permit. Included in the writing of the magistrate shall be a finding that there is probable cause to believe that the subject telephone facilities have been or are to be used in the commission or facilitation of holding out to the public to perform, or in performing, household goods carrier services without having in force a permit issued by the commission authorizing those services, and that, absent immediate and summary action, a danger to public welfare or safety will result.

(d) Any person aggrieved by any action taken pursuant to this section shall have the right to file a complaint with the commission and may include therein a request for interim relief. The commission shall schedule a public hearing on the complaint to be held within 21 calendar days of the filing and assignment of a docket number to the complaint. The remedy provided by this section shall be exclusive. No other action at law or in equity shall accrue against any telephone utility because of, or as a result of, any matter or thing done or threatened to be done pursuant to this section.

(e) At any hearing on complaint pursuant to subdivision (d), the commission staff shall have the right to participate, including the right to present evidence and argument and to present and cross-examine witnesses. The commission staff shall have both the burden of providing that the use made or to be made of the telephone

service is to hold out to the public to perform, or to assist in performing, services as a household goods carrier, or that the telephone service is being or is to be used as an instrumentality, directly or indirectly, to violate or to assist in violation of the licensing laws as applicable to household goods carriers and that the character of the acts is such that, absent immediate and summary action, a danger to public welfare or safety will result, and the burden of persuading the commission that the telephone services should be refused or should not be restored.

(f) The telephone utility, immediately upon refusal or disconnection of service in accordance with subdivision (c), shall notify the customer or subscriber in writing that the refusal or disconnection of telephone service has been made pursuant to a request of the commission and the writing of a magistrate, and shall include with the notice a copy of this section, a copy of the writing of the magistrate, and a statement that the customer or subscriber may request information from the commission at its San Francisco or Los Angeles office concerning any provision of this section and the manner in which a complaint may be filed.

(g) Each contract for telephone service, by operation of law, shall be deemed to contain the provisions of this section. The provisions shall be deemed to be a part of any application for telephone service. Applicants and customers for telephone service shall be deemed to have consented to the provisions of this section as a consideration for the furnishing of the service.

(h) The terms "person," "customer," and "subscriber," as used in this section, include a subscriber to telephone service, an applicant for that service, a corporation, a company, a partnership, an association, and an individual.

(i) The term "telephone utility," as used in this section, includes a "telephone corporation" and a "telegraph corporation," as defined in Division 1 (commencing with Section 201).

(j) The term "authorized official," as used in this section, includes the Director of the Safety and Enforcement Division of the Public Utilities Commission or any commission employee designated pursuant to paragraph (5) of subdivision (a) of Section 830.11 of the Penal Code.

SEC. 129. Section 125105 of the Public Utilities Code is amended to read:

125105. The board shall:

(a) Acquire, construct, maintain, and operate (or let a contract to operate) public transit systems and related facilities.

(b) Adopt an annual budget and fix the compensation of its officers and employees.

(c) Adopt an administrative code, by ordinance, that prescribes the powers and duties of board officers, the method of appointment of board employees, and methods, procedures, and systems of operation and management of the board.

(d) Cause a postaudit of the financial transactions and records of the board to be made at least annually by a certified public accountant.

(e) Appoint advisory commissions as it deems necessary.

(f) Do any and all things necessary to carry out the purposes of this division, including, but not limited to, adopting all ordinances and making all rules and regulations proper or necessary to regulate the use, operation, and maintenance of its property and facilities, including its public transit systems and related transportation facilities and services operating within its area of jurisdiction and those areas beyond the board's jurisdiction served by the board pursuant to contract or memorandum of agreement with another transit agency, and to carry into effect the powers granted to the board.

SEC. 130. Section 69.5 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 897 of the Statutes of 1996, is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding paragraph (1), the limitation in that paragraph requiring that the original property and the replacement dwelling be located in the same county does not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph applies in a county only if the ordinance adopted by the board of supervisors complies with the following requirements:

(A) The ordinance is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) The ordinance requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both

subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) The ordinance requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) The ordinance provides that its provisions shall remain operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), a person must meet all of the following conditions in order to be eligible for the property tax relief provided by this section:

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowner's exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated, which portion of land, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) (A) For purposes of paragraph (1) of subdivision (a), the replacement dwelling, including that portion of land on which it is situated as specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(B) For purposes of paragraph (2) of subdivision (a), the replacement dwelling, including that portion of the land on which it

is situated as specified in paragraph (5), is located entirely within the county.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph does not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board as necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the

mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision is subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section is available to a claimant who is the coowner of the original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them shall be deemed eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) apply only to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section does not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803, or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) A claimant is not eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form

that the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician and surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property, and, if the original property is located within another county, the name of the county or counties and, if applicable, city or cities in which the original property is located.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

(6) If the original property and the replacement dwelling are located in different counties, the base year value of the original property determined by the assessor of the county in which the original property is located.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed.

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant holds either a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling is considered a separate replacement dwelling. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if no portion of the property is used for commercial purposes. "Commercial purposes" does not include activities that are incidental to the use of the property as a residential site.

(4) "Original property" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant holds either a leasehold interest described in

subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling is considered a separate original property. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if no portion of the property is used for commercial purposes. “Commercial purposes” does not include activities that are incidental to the use of the property as a residential site.

(5) “Equal or lesser value” means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if either of the following conditions is met:

(i) The replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

(ii) The replacement dwelling is purchased or newly constructed on or after November 5, 1986, and on or before January 1, 1988, and within two years of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the “replacement dwelling is purchased or newly constructed” is the date of purchase or the date of completion of construction, whichever is later.

(6) “Full cash value of the replacement dwelling” means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) “Full cash value of the original property” means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) “Sale” means any change in ownership of the original property for consideration.

(9) “Claimant” means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner

of the replacement dwelling, the spouse shall also be deemed a claimant for purposes of determining whether the condition of paragraph (7) of subdivision (b) has been met.

(10) "Property that is eligible for the homeowner's exemption" includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) "Consultation" means a noticed hearing conducted by a county board of supervisors concerning the adoption of an ordinance described in paragraph (2) of subdivision (a) and with respect to which all local affected agencies within the boundaries of the county are provided with reasonable notice of the time and place of the hearing and a reasonable opportunity to appear and participate at the hearing.

(12) "Local affected agency" means any city, special district, school district, or community college district that receives an annual property tax revenue allocation.

(13) "Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(14) "Severely and permanently disabled person" means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), if a written notice of rescission is delivered to the office of the assessor in which the original claim was filed and all of the following have occurred:

(1) The notice is signed by the original filing claimant or claimants.

(2) The notice is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), applies to any replacement dwelling that is purchased or newly constructed on or after November 5, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, this section, except as provided in paragraph (3), applies to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but does not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section applies only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by Chapter 1180 of the Statutes of 1992 apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and apply commencing with the 1991–92 fiscal year.

(k) 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. 131. Section 69.5 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 897 of the Statutes of 1996, is repealed.

SEC. 132. Section 69.5 is added to the Revenue and Taxation Code, to read:

69.5. (a) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(b) In addition to meeting the requirements of subdivision (a), a person must meet all of the following conditions in order to be eligible for claiming the property tax relief provided by this section:

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowner's

exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated as specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph does not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board as necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision is subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section is available to a claimant who is the coowner of original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) apply only to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with

subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section does not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803, or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who was a record owner of the original property at the time of its sale or is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician and surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed.

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant holds either a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling is considered a separate replacement dwelling. For purposes of this paragraph, "area of reasonable size that is used as a site for a residence" includes all land if no portion of the property is used for commercial purposes. "Commercial purposes" does not include activities that are incidental to the use of the property as a residential site.

(4) “Original property” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and “land owned by the claimant” includes land for which the claimant holds either a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling is considered a separate original property. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if no portion of the property is used for commercial purposes. “Commercial purposes” does not include activities that are incidental to the use of the property as a residential site.

(5) “Equal or lesser value” means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the “replacement dwelling is purchased or newly constructed” is the date of purchase or the date of completion of construction, whichever is later.

(6) “Full cash value of the replacement dwelling” means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) “Full cash value of the original property” means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) "Sale" means any change in ownership of the original property for consideration.

(9) "Claimant" means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) "Property that is eligible for the homeowner's exemption" includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) "Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(12) "Severely and permanently disabled" means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on

the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), if a written notice of rescission is delivered to the office of the assessor in which the original claim was filed and all of the following have occurred:

(1) The notice is signed by the original filing claimant or claimants.

(2) The notice is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee may not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) This section, except as provided in paragraph (2) or (3), applies to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value by a severely and permanently disabled person, this section applies only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(3) The amendments made to subdivision (e) by Chapter 1180 of the Statutes of 1992 apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and applies commencing with the 1991–92 fiscal year.

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

SEC. 133. Section 401.10 of the Revenue and Taxation Code, as added by Chapter 76 of the Statutes of 1996, is repealed.

SEC. 134. Section 401.11 of the Revenue and Taxation Code is amended to read:

401.11. (a) Notwithstanding any other provision of law, refunds or payments of taxes, where applicable, for intercounty pipeline right-of-way property that is subject to local assessment pursuant to the decision in Southern Pacific Pipe Lines, Inc. v. State Board of

Equalization (1993) 14 Cal. App. 4th 42, shall be treated as follows for taxpayers and tax years described below:

(1) The tax refund claims that are subject to this subdivision are the tax refund claims for the following taxpayers and tax years:

(A) Tax refund claims of any taxpayer who was a plaintiff in Southern Pacific Pipe Lines, Inc. v. State Board of Equalization (1993) 14 Cal. App. 4th 42, for tax years 1984–85 to 1996–97, inclusive, that were not included in the judgment for the taxpayer.

(B) Tax refund claims of any taxpayer who was not a plaintiff in Southern Pacific Pipe Lines, Inc. v. State Board of Equalization (1993) 14 Cal. App. 4th 42, for tax years 1989–90 to 1996–97, inclusive.

(2) If taxes due on local assessments, as calculated under Section 401.10, are less than the total taxes paid by the taxpayer for that year, based on either the original State Board of Equalization assessments or escape assessments made by the local assessor, or both, the county shall refund the difference. Simple interest at the rate of 8 percent shall be paid by the county on any overpayment for the period from the date of the tax payment resulting in the overpayment through December 31, 1992. Simple interest at the county's pool apportioned rate shall be paid by the county on any overpayment for the period from January 1, 1993, through the date which is 45 days prior to payment in full. No interest shall be payable for the 45-day period immediately prior to payment in full. For purposes of this subdivision, payment shall be deemed to be timely if made 45 days after the effective date of this section.

(3) If payment of any taxes due under this subdivision is made within 45 days of billing by the tax collector for payment, the county may not impose late payment penalties or interest. Taxes not paid within 45 days of billing by the tax collector shall become delinquent at that time, and the delinquent penalty, redemption penalty, or other collection provisions of this code shall thereafter apply.

(b) Notwithstanding any other provision of law, the judgment obligation of each judgment debtor under the judgment entered in Southern Pacific Pipe Lines, Inc. v. State Board of Equalization (1993) 14 Cal. App. 4th 42 shall be deemed fully satisfied with respect to a judgment creditor if a debtor county makes timely payment to that judgment creditor of the amount calculated pursuant to this subdivision. For purposes of this subdivision, a payment shall be deemed to be timely if made 45 days after the effective date of this section. For purposes of this subdivision, the amount that shall be paid to satisfy the judgment is the total of the amounts awarded to the judgment creditor against the debtor county in paragraphs 5, 6, 7, and 8 of the judgment entered in Southern Pacific Pipe Lines, Inc. v. State Board of Equalization (1993) 14 Cal. App. 4th 42, together with postjudgment interest thereon, except that no interest shall be due for the 45-day period immediately prior to payment in full. For purposes of this subdivision, postjudgment interest shall be calculated at 7 percent, except that postjudgment interest shall be

calculated at the county's then effective county pool apportioned rate for the following periods of time: July 1, 1993, to April 30, 1994, inclusive; and January 1, 1995, until 45 days prior to the date of payment in full.

(c) Any refund or billing for payment made pursuant to this section may be made on the basis of a single, countywide parcel per taxpayer as described in Section 401.8.

(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.

SEC. 135. Section 410.10 of the Revenue and Taxation Code is amended and renumbered to read:

401.10. (a) Notwithstanding any other provision of law relating to the determination of the values upon which property taxes are based, values for each tax year from the 1984–85 tax year to the 2000–01 tax year, inclusive, for intercounty pipeline rights-of-way on publicly or privately owned property, including those rights-of-way that are the subject of a change in ownership, new construction, or any other reappraisable event during the period from March 1, 1975, to June 30, 2001, inclusive, shall be rebuttably presumed to be at full cash value for that year, if all of the following conditions are met:

(1) (A) The full cash value is determined to equal a 1975–76 base year value, annually adjusted for inflation in accordance with subdivision (b) of Section 2 of Article XIII A of the California Constitution, and the 1975–76 base year value was determined in accordance with the following schedule:

(i) Twenty thousand dollars ($20,000) per mile for a high density property.

(ii) Twelve thousand dollars ($12,000) per mile for a transitional density property.

(iii) Nine thousand dollars ($9,000) per mile for a low density property.

(B) For purposes of this section, the density classifications described in subparagraph (A) are defined as follows:

(i) "High density" means Category 1 (densely urban) as established by the State Board of Equalization.

(ii) "Transitional density" means Category 2 (urban) as established by the State Board of Equalization.

(iii) "Low density" means Category 3 (valley-agricultural), Category 4 (grazing), and Category 5 (mountain and desert) as established by the State Board of Equalization.

(2) The full cash value is determined utilizing the same property density classifications that were assigned to the property by the State Board of Equalization for the 1984–85 tax year or, if density classifications were not so assigned to the property for the 1984–85 tax year, the density classifications that were first assigned to the property by the board for a subsequent tax year.

(3) (A) If a taxpayer owns multiple pipelines in the same right-of-way, an additional 50 percent of the value attributed to the right-of-way for the presence of the first pipeline, as determined under paragraphs (1) and (2), shall be added for the presence of each additional pipeline up to a maximum of two additional pipelines. For any particular taxpayer, the total valuation for a multiple pipeline right-of-way shall not exceed 200 percent of the value determined for the right-of-way of the first pipeline in the right-of-way in accordance with paragraphs (1) and (2).

(B) If the State Board of Equalization has determined that an intercounty pipeline, located within a multiple pipeline right-of-way previously valued in accordance with subparagraph (A), has been abandoned as a result of physical removal or blockage, the assessed value of the right-of-way attributable to the last pipeline enrolled in accordance with subparagraph (A) shall be reduced by not less that 75 percent of that increase in assessed value that resulted from the application of subparagraph (A).

(4) If all pipelines of a taxpayer located within the same pipeline right-of-way, previously valued in accordance with this section, are determined by the State Board of Equalization to have been abandoned as the result of physical removal or blockage, the assessed value of that right-of-way to that taxpayer shall be determined to be no more than 25 percent of the assessed value otherwise determined for the right-of-way for a single pipeline of that taxpayer pursuant to paragraphs (1) and (2).

(b) If the assessor assigns values for any tax year from the 1984–85 tax year to the 2000–01 tax year, inclusive, in accordance with the methodology specified in subdivision (a), the taxpayer’s right to assert any challenge to the right to assess that property, whether in an administrative or judicial proceeding, shall be deemed to have been raised and resolved for that tax year and the values determined in accordance with that methodology shall be rebuttably presumed to be correct. If the assessor assigns values for any tax year from the 1984–85 tax year to the 2000–01 tax year, inclusive, in accordance with the methodology specified in subdivision (a), any pending taxpayer lawsuit that challenges the right to assess the property shall be dismissed by the taxpayer with prejudice as it applies to intercounty pipeline rights-of-way.

(c) Notwithstanding any change in ownership, new construction, or decline in value occurring after March 1, 1975, if the assessor assigns values for rights-of-way for any tax year from the 1984–85 tax year to the 2000–01 tax year, inclusive, in accordance with the methodology specified in subdivision (a), the taxpayer may not challenge the right to assess that property and the values determined in accordance with that methodology shall be rebuttably presumed to be correct for that property for that tax year.

(d) Notwithstanding any change in ownership, new construction, or decline in value occurring after March 1, 1975, if the assessor does

not assign values for rights-of-way for any tax year from the 1984–85 tax year to the 2000–01 tax year, inclusive, at the 1975–76 base year values specified in subdivision (a), any assessed value that is determined on the basis of valuation standards that differ, in whole or in part, from those valuation standards set forth in subdivision (a) shall not benefit from any presumption of correctness, and the taxpayer may challenge the right to assess that property or the values for that property for that tax year. As used herein, a challenge to the right to assess shall include any assessment appeal, claim for refund, or lawsuit asserting any right, remedy, or cause of action relating to or arising from, but not limited to, the following or similar contentions:

(1) That the value of the right-of-way is included in the value of the underlying fee or railroad right-of-way.

(2) That assessment of the value of the right-of-way to the owner of the pipeline would result in double assessment.

(3) That the value of the right-of-way may not be assessed to the owner of the pipeline separately from the assessment of the value of the underlying fee.

(e) Notwithstanding any other provision of law, during a four-year period commencing on the effective date of this section, the assessor may issue an escape assessment in accordance with the specific valuation standards set forth in subdivision (a) for the following taxpayers and tax years:

(1) Any intercounty pipeline right-of-way taxpayer who was a plaintiff in Southern Pacific Pipe Lines, Inc. v. State Board of Equalization (1993) 14 Cal. App. 4th 42, for the tax years 1984–85 to 1996–97, inclusive.

(2) Any intercounty pipeline right-of-way taxpayer who was not a plaintiff in Southern Pacific Pipe Lines, Inc. v. State Board of Equalization (1993) 14 Cal. App. 4th 42, for the tax years 1989–90 to 1996–97, inclusive.

(f) Any escape assessment levied under subdivision (e) shall not be subject to penalties or interest under the provisions of Section 532. If payment of any taxes due under this section is made within 45 days of demand by the tax collector for payment, the county shall not impose any late payment penalty or interest. Taxes not paid within 45 days of demand by the tax collector shall become delinquent at that time, and the delinquent penalty, redemption penalty, or other collection provisions of this code shall thereafter apply.

(g) For purposes of this section, "intercounty pipeline right-of-way" means, except as otherwise provided in this subdivision, any interest in publicly or privately owned real property through which or over which an intercounty pipeline is placed. However, "intercounty pipeline right-of-way" does not include any parcel or facility that the State Board of Equalization originally separately assessed using a valuation method other than the multiplication of pipeline length within a subject property by a unit

value determined in accordance with the density category of that subject property.

(h) 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. 136. 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 is 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, "time-share 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, "time-share 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. 137. Section 2611.7 of the Revenue and Taxation Code is amended to read:

2611.7. (a) Upon the written request of a taxpayer made no later than September 1, a tax collector who has adopted this section pursuant to paragraph (4) of subdivision (c) shall, subject to subdivisions (b) and (c), issue a consolidated tax statement, for all of the properties entered on the secured roll with respect to which the requesting taxpayer is the assessee. An adopting tax collector shall annually print on the back of each property tax bill a written notice to each taxpayer of a taxpayer's authority under this section to request a consolidated tax statement, and of those fees, requirements, conditions, and limitations specified in subdivisions (b) and (c).

(b) Any request made pursuant to this section for a consolidated tax statement is subject to all of the following conditions:

(1) The request shall specify the assessor's parcel number of each property on the secured roll for which the requesting taxpayer is the assessee.

(2) With respect to any single parcel, only one named assessee may request and receive a consolidated tax statement.

(3) Any request that is timely made pursuant to this section for a consolidated tax statement is valid only for those property taxes levied for the first five fiscal years following the making of the request.

(c) (1) The tax collector may charge a fee for each request for a consolidated tax statement made pursuant to this section. Any fee charged pursuant to this paragraph shall be set at an amount not greater than that amount that will allow the tax collector to recover his or her costs incurred in implementing this section.

(2) A consolidated tax statement issued pursuant to a request made pursuant to this section is not a tax bill and does not supersede or take the place of any tax bill.

(3) No tax collector shall incur any legal liability with respect to any consolidated tax statement provided by the tax collector pursuant to this section.

(4) This section does not apply to a county unless the tax collector of that county has adopted this section pursuant to a written memorandum transmitted to the county board of supervisors and recorded with the county recorder.

SEC. 138. Section 4528 of the Revenue and Taxation Code is amended to read:

4528. (a) (1) The tax collector may sell tax certificates by any form of public or private sale, including, but not limited to, an auction, a negotiated sale, or a bulk sale. Except as provided in subdivision (c), the price received for a tax certificate shall not be less than the amount of taxes and assessments being assigned thereby. Prior to any sale of any tax certificates, the tax collector shall do all of the following:

(A) Determine the size of the offering and the parcels to be included in the sale.

(B) Determine the fees necessary to conduct the sale and maintain adequate tax certificate records.

(C) Establish rules and procedures for the making of offers on any tax certificate.

(D) Publish the determinations, fees, rules, and procedures described in this paragraph.

(E) Make these determinations, fees, rules, and procedures available to any person upon request.

(2) The tax collector has the right to accept or reject any or all bids in his or her sole discretion, subject to the determinations, fees, rules, and procedures described in paragraph (1).

(b) Except as provided in subdivision (c), the tax collector may not sell a tax certificate if any of the following apply:

(1) The parcel is not on the secured roll or supplemental roll.

(2) The parcel is owned by a governmental agency.

(3) The total amount of taxes and assessments to be assigned thereby is less than one hundred dollars ($100), unless the parcel is included in a bulk sale.

(4) The parcel has a recorded public notice concerning pollution or contamination to the degree that the parcel poses a public health concern or environmental hazard.

(5) The parcel was subject to a proceeding in federal bankruptcy court prior to the sale of the tax certificate.

(6) The parcel was subject to any condemnation proceedings prior to the sale of the tax certificate.

(c) Notwithstanding subdivisions (a) and (b), the tax collector may sell or resell tax certificates for parcels described in paragraphs (3), (4), (5), and (6) of subdivision (b), any certificate subject to the Sailors and Soldiers Relief Act, and for parcels described in paragraph (5) of subdivision (a) of Section 4527, at a discount, in accordance with the determinations, fees, rules, and procedures published by the tax collector.

(d) If, pursuant to Section 4521, the tax collector is required to offer for sale a tax certificate for which there exists an outstanding tax certificate for the assignment of taxes and assessments for a previous year, until the date occurring six months after the date specified in Section 4521, the tax collector shall offer to sell the tax certificate to the holder of the outstanding tax certificate. The tax collector shall notify the holder of the outstanding tax certificate by certified mail of the default requiring the issuance of an additional tax certificate with respect to the same parcel, and of the tax certificate holder's right, until the date one month after the receipt of this notice, to purchase the additional certificate on the same terms as the outstanding certificate. In addition, the holder of the outstanding tax certificate shall have the right of first refusal to purchase the tax certificate with respect to the same parcel at the highest bid amount

until all tax certificates with respect to that parcel are redeemed or canceled. During the six-month period, at the option of the holder of the most recently issued outstanding tax certificate, the tax collector shall sell the tax certificate to the holder of the outstanding tax certificate on the same terms as that outstanding tax certificate.

SEC. 139. Section 10753 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 228 of the Statutes of 1996, 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" includes 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 addition 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) does not apply under any of the following conditions:

(A) When the cost of any modification or addition 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 "commercial 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 also applies to a system as specified in subdivision (c) that is 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 that 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. 140. Section 10753 of the Revenue and Taxation Code, as added by Section 2 of Chapter 228 of the Statutes of 1996, 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" includes 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 addition 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) does not apply to any of the following:

(A) When the cost of any modification or addition 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 also applies to a system as specified in subdivision (c) that is 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 that 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. 141. Section 19141.6 of the Revenue and Taxation Code is amended to read:

19141.6. (a) Each taxpayer determining its income subject to tax pursuant to Section 25101 or electing to file pursuant to Section 25110 shall, for income years beginning on or after January 1, 1994, maintain

(in the location, in the manner, and to the extent prescribed in regulations that shall be promulgated by the Franchise Tax Board on or before December 31, 1995) and make available upon request all of the following:

(1) Any records as may be appropriate to determine the correct treatment of the components that are a part of one or more unitary businesses for purposes of determining the income derived from or attributable to this state pursuant to Section 25101 or 25110.

(2) Any records as may be appropriate to determine the correct treatment of amounts that are attributable to the classification of an item as business or nonbusiness income for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(3) Any records as may be appropriate to determine the correct treatment of the apportionment factors for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(4) Documents and information, including any questionnaires completed and submitted to the Internal Revenue Service that are necessary to audit issues involving attribution of income to the United States or foreign jurisdictions under Section 882 or Subpart F of Part III of Subchapter N, or similar sections, of the Internal Revenue Code.

(b) For purposes of this section:

(1) Information for any year shall be retained for that period of time in which the taxpayers' income or franchise tax liability to this state may be subject to adjustment, including all periods in which additional income or franchise taxes may be assessed, not to exceed eight years from the due date or extended due date of the return, or during which a protest is pending before the Franchise Tax Board, an appeal is pending before the State Board of Equalization, or a lawsuit is pending in the courts of this state or the United States with respect to California franchise or income tax.

(2) "Related party" means banks and corporations that are related because one owns or controls directly or indirectly more than 50 percent of the stock of the other or because more than 50 percent of the voting stock of each is owned or controlled, directly or indirectly, by the same interests.

(3) "Records" includes any books, papers, or other data.

(c) (1) If a bank or corporation subject to this section fails to maintain or fails to cause another to maintain records as required by subdivision (a), or willfully fails to comply substantially with Section 18634 requiring the filing of an information return, that bank or corporation shall pay a penalty of ten thousand dollars ($10,000) for each income year with respect to which the failure occurs.

(2) If any failure described in paragraph (1) continues for more than 90 days after the day on which the Franchise Tax Board mails notice of the failure to the bank or corporation, that bank or corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of ten thousand dollars ($10,000) for each

30-day period (or fraction thereof) during which the failure continues after the expiration of the 90-day period. The additional penalty imposed by this subdivision shall not exceed a maximum of fifty thousand dollars ($50,000) if the failure to maintain or the failure to cause another to maintain is not willful. This maximum applies with respect to income years beginning on or after January 1, 1994, and before the earlier of the first day of the month following the month in which regulations are adopted pursuant to this section or December 31, 1995.

(3) For purposes of this section, the time prescribed by regulations to maintain records (and the beginning of the 90-day period after notice by the Franchise Tax Board) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Franchise Tax Board) reasonable cause existed for failure to maintain the records.

(d) (1) The Franchise Tax Board may apply the rules of paragraph (2) whether or not the board begins a proceeding to enforce a subpoena, or subpoena duces tecum, if subparagraphs (A), (B), and (C) apply:

(A) For purposes of determining the correct treatment under Part 11 (commencing with Section 23001) of the items described in subdivision (a), the Franchise Tax Board issues a subpoena or subpoena duces tecum to a bank or corporation to produce (either directly or as agent for the related party) any records or testimony.

(B) The subpoena or subpoena duces tecum is not quashed in a proceeding begun under paragraph (3) and is not determined to be invalid in a proceeding begun under Section 19504 to enforce the subpoena or subpoena duces tecum.

(C) The bank or corporation does not substantially comply in a timely manner with the subpoena or subpoena duces tecum and the Franchise Tax Board has sent by certified or registered mail a notice to that bank or corporation that it has not substantially complied.

(D) If the bank or corporation fails to maintain or fails to cause another to maintain records as required by subdivision (a) and, by reason of that failure, the subpoena, or subpoena duces tecum, is quashed in a proceeding described in subparagraph (B) or the bank or corporation is not able to provide the records requested in the subpoena or subpoena duces tecum, the Franchise Tax Board may apply the rules of paragraph (2) to any of the items described in subdivision (a) to which the records relate.

(2) (A) All of the following shall be determined by the Franchise Tax Board in the Franchise Tax Board's sole discretion from the Franchise Tax Board's own knowledge or from information the Franchise Tax Board may obtain through testimony or otherwise:

(i) The components that are a part of one or more unitary businesses for purposes of determining the income derived from or attributable to this state pursuant to Section 25101 or 25110.

(ii) Amounts that are attributable to the classification of an item as business or nonbusiness income for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(iii) The apportionment factors for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(iv) The correct amount of income under Section 882 of, or Subpart F of Part III of, Subchapter N of, or similar sections of, the Internal Revenue Code.

(B) This paragraph shall apply to determine the correct treatment of the items described in subdivision (a) unless the bank or corporation is authorized by its related parties (in the manner and at the time as the Franchise Tax Board shall prescribe) to act as the related parties' limited agent solely for purposes of applying Section 19504 with respect to any request by the Franchise Tax Board to examine records or produce testimony related to any item described in subdivision (a) or with respect to any subpoena or subpoena duces tecum for the records or testimony. The appearance of persons or the production of records by reason of the bank or corporation being an agent shall not subject those persons or records to legal process for any purpose other than determining the correct treatment under Part 11 of the items described in subdivision (a).

(C) Determinations made in the sole discretion of the Franchise Tax Board pursuant to this paragraph may be appealed to the State Board of Equalization, in the manner and at a time as provided by Section 19045 or 19324, or may be the subject of an action to recover tax, in the manner and at a time as provided by Section 19382. The review of determinations by the board or the court shall be limited to whether the determinations were arbitrary or capricious, or are not supported by substantial evidence.

(3) (A) Notwithstanding any other law or rule of law, any reporting bank or corporation to which the Franchise Tax Board issues a subpoena or subpoena duces tecum referred to in subparagraph (A) of paragraph (1) shall have the right to begin a proceeding to quash the subpoena or subpoena duces tecum not later than the 90th day after the subpoena or subpoena duces tecum was issued. In that proceeding, the Franchise Tax Board may seek to compel compliance with the subpoena or subpoena duces tecum.

(B) Notwithstanding any other law or rule of law, any reporting bank or corporation that has been notified by the Franchise Tax Board that it has determined that the bank or corporation has not substantially complied with a subpoena or subpoena duces tecum referred to in paragraph (1) shall have the right to begin a proceeding to review the determination not later than the 90th day after the day on which the notice referred to in subparagraph (C) of paragraph (1) was mailed. If the proceeding is not begun on or before the 90th day, the determination by the Franchise Tax Board shall be binding and shall not be reviewed by any court.

(C) The superior courts of the State of California for the Counties of Los Angeles, Sacramento, and San Diego, and for the City and County of San Francisco have jurisdiction to hear any proceeding brought under subparagraphs (A) and (B). Any order or other determination in the proceeding shall be treated as a final order that may be appealed.

(D) If any bank or corporation takes any action as provided in subparagraphs (A) and (B), the running of any period of limitations under Sections 19057 to 19064, inclusive (relating to the assessment and collection of tax), or under Section 19704 (relating to criminal prosecutions), with respect to that bank or corporation shall be suspended for the period during which the proceedings, and appeals therein, are pending. In no event shall any period expire before the 90th day after the day on which there is a final determination in the proceeding.

SEC. 142. Section 19442 of the Revenue and Taxation Code is amended and renumbered to read:

19432. (a) Any outstanding tax, penalty, interest, or additions to tax for any bank or corporation that have 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 September 16, 1996, 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. 143. Section 3016 of the Vehicle Code is amended to read:

3016. (a) New motor vehicle dealers and other licensees under the jurisdiction of the board shall be charged fees sufficient to fully fund the activities of the board other than those conducted pursuant to Section 472.5 of the Business and Professions Code. The board may recover the direct cost of the activities required by Section 472.5 of the Business and Professions Code by charging the Department of Consumer Affairs a fee which shall be paid by the Department of Consumer Affairs with funds appropriated from the Certification Account in the Consumer Affairs Fund. All fees shall be deposited, and held separate from other moneys, in the Motor Vehicle Account

in the State Transportation Fund, and shall not be transferred to the State Highway Account pursuant to Section 42273.

(b) The fees shall be available, when appropriated, exclusively to fund the activities of the board. If, at the conclusion of any fiscal year, the amount of fees collected exceeds the amount of expenditures for this purpose during the fiscal year, the surplus shall be carried over into the succeeding fiscal year.

SEC. 144. Section 22651.2 of the Vehicle Code is amended to read:

22651.2. (a) Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations of a city, county, or jurisdiction of a state agency in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act when the vehicle is found upon a highway or any public lands, and if all of the following requirements are satisfied:

(1) Because of the size and placement of signs or placards on the vehicle, it appears that the primary purpose of parking the vehicle at that location is to advertise to the public an event or function on private property or on public property hired for a private event or function to which the public is invited.

(2) The vehicle is known to have been previously issued a notice of parking violation that was accompanied by a notice warning that an additional parking violation may result in the impoundment of the vehicle.

(3) The registered owner of the vehicle has been mailed a notice advising of the existence of the parking violation and that an additional violation may result in the impoundment of the vehicle.

(b) Subdivision (a) does not apply to a vehicle bearing any sign or placard advertising any business or enterprise carried on by or through the use of that vehicle.

(c) Section 22852 applies to the removal of any vehicle pursuant to this section.

SEC. 145. Section 40513 of the Vehicle Code is amended to read:

40513. (a) Whenever written notice to appear has been prepared, delivered, and filed with the court, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, shall constitute a complaint to which the defendant may plead "guilty" or "nolo contendere."

If, however, the defendant violates his or her promise to appear in court or does not deposit lawful bail, or pleads other than "guilty" or "nolo contendere" to the offense charged, a complaint shall be filed that shall conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code, which shall be deemed to be an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by him or her and filed with the court, waive the

filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(b) Notwithstanding subdivision (a), whenever the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed.

SEC. 146. Section 13399.3 of the Water Code is amended to read:

13399.3. (a) On or before January 1, 2000, the state board shall report to the Legislature on actions taken by the state board and the regional boards to implement this chapter and the results of that implementation. Each regional board shall provide the state board with the information that the state board requests to determine the degree to which the purposes described in subdivision (a) of Section 13399 have been achieved.

(b) This chapter shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2001, deletes or extends that date.

SEC. 147. Section 207.1 of the Welfare and Institutions Code is amended to read:

207.1. (a) No court, judge, referee, peace officer, or employee of a detention facility shall knowingly detain any minor in a jail or lockup, except as provided in subdivision (b) or (d).

(b) Any minor who is alleged to have committed an offense described in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707 whose case is transferred to a court of criminal jurisdiction pursuant to Section 707.1 after a finding is made that he or she is not a fit and proper subject to be dealt with under the juvenile court law, or any minor who has been charged directly in or transferred to a court of criminal jurisdiction pursuant to Section 707.01, may be detained in a jail or other secure facility for the confinement of adults if all of the following conditions are met:

(1) The juvenile court or the court of criminal jurisdiction makes a finding that the minor's further detention in the juvenile hall would endanger the safety of the public or would be detrimental to the other minors in the juvenile hall.

(2) Contact between the minor and adults in the facility is restricted in accordance with Section 208.

(3) The minor is adequately supervised.

(c) A minor who is either found not to be a fit and proper subject to be dealt with under the juvenile court law or who will be transferred to a court of criminal jurisdiction pursuant to Section 707.01, at the time of transfer to a court of criminal jurisdiction or at the conclusion of the fitness hearing, as the case may be, shall be entitled to be released on bail or on his or her own recognizance upon

the same circumstances, terms, and conditions as an adult who is alleged to have committed the same offense.

(d) (1) A minor 14 years of age or older who is taken into temporary custody by a peace officer on the basis of being a person described by Section 602, and who, in the reasonable belief of the peace officer, presents a serious security risk of harm to self or others, may be securely detained in a law enforcement facility that contains a lockup for adults, if all of the following conditions are met:

(A) The minor is held in temporary custody for the purpose of investigating the case, facilitating release of the minor to a parent or guardian, or arranging transfer of the minor to an appropriate juvenile facility.

(B) The minor is detained in the law enforcement facility for a period that does not exceed six hours except as provided in subdivision (g).

(C) The minor is informed at the time he or she is securely detained of the purpose of the secure detention, of the length of time the secure detention is expected to last, and of the maximum six-hour period the secure detention is authorized to last. In the event an extension is granted pursuant to subdivision (g), the minor shall be informed of the length of time the extension is expected to last.

(D) Contact between the minor and adults confined in the facility is restricted in accordance with Section 208.

(E) The minor is adequately supervised.

(F) A log or other written record is maintained by the law enforcement agency showing the offense that is the basis for the secure detention of the minor in the facility, the reasons and circumstances forming the basis for the decision to place the minor in secure detention, and the length of time the minor was securely detained.

(2) Any other minor, other than a minor to which paragraph (1) applies, who is taken into temporary custody by a peace officer on the basis that the minor is a person described by Section 602 may be taken to a law enforcement facility that contains a lockup for adults and may be held in temporary custody in the facility for the purposes of investigating the case, facilitating the release of the minor to a parent or guardian, or arranging for the transfer of the minor to an appropriate juvenile facility. While in the law enforcement facility, the minor may not be securely detained and shall be supervised in a manner so as to ensure that there will be no contact with adults in custody in the facility. If the minor is held in temporary, nonsecure custody within the facility, the peace officer shall exercise one of the dispositional options authorized by Sections 626 and 626.5 without unnecessary delay and, in every case, within six hours.

(3) "Law enforcement facility," as used in this subdivision, includes a police station or a sheriff's station, but does not include a jail, as defined in subdivision (i).

(e) The Board of Corrections shall assist law enforcement agencies, probation departments, and courts with the implementation of this section by doing all of the following:

(1) The board shall advise each law enforcement agency, probation department, and court affected by this section as to its existence and effect.

(2) The board shall make available and, upon request, shall provide, technical assistance to each governmental agency that reported the confinement of a minor in a jail or lockup in calendar year 1984 or 1985. The purpose of this technical assistance is to develop alternatives to the use of jails or lockups for the confinement of minors. These alternatives may include secure or nonsecure facilities located apart from an existing jail or lockup, improved transportation or access to juvenile halls or other juvenile facilities, and other programmatic alternatives recommended by the board. The technical assistance shall take any form the board deems appropriate for effective compliance with this section.

(f) The Board of Corrections may exempt a county that does not have a juvenile hall, or may exempt an offshore law enforcement facility, from compliance with this section for a reasonable period of time, until December 1, 1992, for the purpose of allowing the county or the facility to develop alternatives to the use of jails and lockups for the confinement of minors, if all of the following conditions are met:

(1) The county or the facility submits a written request to the board for an extension of time to comply with this section.

(2) The board agrees to make available, and the county or the facility agrees to accept, technical assistance to develop alternatives to the use of jails and lockups for the confinement of minors during the period of the extension.

(3) The county or the facility requesting the extension submits to the board a written plan for full compliance with this section by September 1, 1987.

(g) (1) (A) Under the limited conditions of inclement weather, acts of God, or natural disasters that result in the temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted to a county by the Board of Corrections. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall not exceed the duration of the special conditions, plus a period reasonably necessary to accomplish transportation of the minor to a suitable juvenile facility, not to exceed six hours after the restoration of available transportation.

(B) A county that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The county also shall provide a written report to the board that specifies

when the inclement weather, act of God, or natural disaster ceased to exist, when transportation availability was restored, and when the minor was delivered to a suitable juvenile facility. In the event that the minor was detained in excess of 24 hours, the board shall verify the information contained in the report.

(2) Under the limited condition of temporary unavailability of transportation, an extension of the six-hour maximum period of detention set forth in paragraph (2) of subdivision (d) may be granted by the board to an offshore law enforcement facility. The extension may be granted only by the board, on an individual, case-by-case basis. If the extension is granted, the detention of minors under those conditions shall extend only until the next available mode of transportation can be arranged.

An offshore law enforcement facility that receives an extension under this paragraph shall comply with the requirements set forth in subdivision (d). The facility also shall provide a written report to the board that specifies when the next mode of transportation became available, and when the minor was delivered to a suitable juvenile facility. In the event that the minor was detained in excess of 24 hours, the board shall verify the information contained in the report.

(3) At least annually, the board shall review and report on extensions sought and granted under this subdivision. If, upon that review, the board determines that a county has sought one or more extensions resulting in the excessive confinement of minors in adult facilities, or that a county is engaged in a pattern and practice of seeking extensions, it shall require the county to submit a detailed explanation of the reasons for the extensions sought and an assessment of the need for a conveniently located and suitable juvenile facility. Upon receiving this information, the board shall make available, and the county shall accept, technical assistance for the purpose of developing suitable alternatives to the confinement of minors in adult lockups. Based upon the information provided by the county, the board also may place limits on, or refuse to grant, future extensions requested by the county under this subdivision.

(h) Any county that did not have a juvenile hall on January 1, 1987, may establish a special purpose juvenile hall, as defined by the Board of Corrections, for the detention of minors for a period not to exceed 96 hours. Any county that had a juvenile hall on January 1, 1987, also may establish, in addition to the juvenile hall, a special purpose juvenile hall. The board shall prescribe minimum standards for that type of facility.

(i) (1) "Jail," as used in this chapter, means any building that contains a locked facility administered by a law enforcement or governmental agency, the purpose of which is to detain adults who have been charged with violations of criminal law and are pending trial, or to hold convicted adult criminal offenders sentenced for less than one year.

(2) "Lockup," as used in this chapter, means any locked room or secure enclosure under the control of a sheriff or other peace officer that is primarily for the temporary confinement of adults upon arrest.

(3) "Offshore law enforcement facility," as used in this section, means a sheriff's station containing a lockup for adults that is located on an island located at least 22 miles from the California coastline.

(j) Nothing in this section shall be deemed to prevent a peace officer or employee of an adult detention facility or jail from escorting a minor into the detention facility or jail for the purpose of administering an evaluation, test, or chemical test pursuant to Section 23157 of the Vehicle Code, if all of the following conditions are met:

(1) The minor is taken into custody by a peace officer on the basis of being a person described by Section 602 and there is no equipment for the administration of the evaluation, test, or chemical test located at a juvenile facility within a reasonable distance of the point where the minor was taken into custody.

(2) The minor is not locked in a cell or room within the adult detention facility or jail, is under the continuous, personal supervision of a peace officer or employee of the detention facility or jail, and is not permitted to come in contact or remain in contact with in-custody adults.

(3) The evaluation, test, or chemical test administered pursuant to Section 23157 of the Vehicle Code is performed as expeditiously as possible, so that the minor is not delayed unnecessarily within the adult detention facility or jail. Upon completion of the evaluation, test, or chemical test, the minor shall be removed from the detention facility or jail as soon as reasonably possible. No minor shall be held in custody in an adult detention facility or jail under the authority of this paragraph in excess of two hours.

SEC. 148. Section 366.21 of the Welfare and Institutions Code, as amended by Section 6.9 of Chapter 1084 of the Statutes of 1996, is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) (1) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons,

not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued. Service of a copy of the notice personally, by certified mail return receipt requested, or by any other form of actual notice is equivalent to service by first-class mail.

(2) The notice required by paragraph (1) shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the minor being recommended by the supervising agency. The notice to the foster parent shall indicate that the foster parent may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(c) At least 10 calendar days prior to the hearing, the probation officer shall file a supplemental report with the court regarding the services provided or offered to the parent or guardian to enable them to assume custody, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and shall make his or her recommendation for disposition. If the recommendation is not to return the minor to a parent or guardian, the report shall specify why the return of the minor would be detrimental to the minor. The probation officer shall provide the parent or guardian with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court-appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to such a hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing his or her recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) (1) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be

prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of the services provided. Whether or not the minor is returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366 and, where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that, if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

(2) If the minor was under the age of three years on the date of the initial removal and the court finds by clear and convincing evidence that the parent failed to participate regularly in any court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds that there is a substantial probability that the minor, who was under the age of three years on the date of initial removal, may be returned to his or her parent or guardian within six months or that reasonable services have not been provided, the court shall continue the case.

(3) If the minor was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or that the parent has failed to contact and visit the minor, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

(4) (A) If the minor had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

(B) In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services. If the minor is not returned to his or her

parent or guardian, the court shall determine whether reasonable services have been provided or offered to the parent or guardian that were designed to aid the parent or guardian in overcoming the problems that led to the initial removal and the continued custody of the minor. The court shall order that those services be initiated, continued, or terminated.

(f) At the review hearing held 12 months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The court shall also determine whether reasonable services have been provided or offered to the parent or guardian that were designed to aid the parent or guardian to overcome the problems that led to the initial removal and continued custody of the minor. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366. Whether or not the minor is returned to his or her parent or guardian, the court shall specify the factual basis for its decision. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If the time period for which the court-ordered services were provided has met or exceeded the time period set forth in paragraph (1) or (2) of subdivision (a) of Section 361.5, as appropriate, and a minor is not returned to the custody of a parent or guardian at the hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for another review hearing, provided that the hearing shall occur within 18 months of the date the minor was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months or that reasonable services have not been provided to the parent or guardian. The court shall inform the parent or guardian that, if the minor cannot be returned home by the next

review hearing, a permanent plan shall be developed at that hearing. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or guardian.

(2) Order that the minor remain in long-term foster care, if the court finds by clear and convincing evidence, based upon the evidence already presented to it, that the minor is not a proper subject for adoption and has no one willing to accept legal guardianship.

(3) Order that a hearing be held within 120 days, pursuant to Section 366.26, if there is clear and convincing evidence that reasonable services have been provided or offered to the parents. Evidence that the minor has been placed with a foster family that is eligible to adopt a minor, or has been placed in a preadoptive home, in and of itself, shall not be deemed a failure to provide or offer reasonable services.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment regarding the likelihood that the minor will be adopted if parental rights are terminated. The assessment shall include all of the following:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status and an analysis of whether any of the minor's characteristics would make it difficult to find a person willing to adopt the minor.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical,

emotional, or other condition precludes his or her meaningful response, and, if so, a description of the condition.

(j) This section applies to minors made dependents of the court pursuant to subdivision (c) of Section 360 on or after January 1, 1989.

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

SEC. 149. Section 366.21 of the Welfare and Institutions Code, as amended by Section 7.9 of Chapter 1084 of the Statutes of 1996, is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing and of their right to be present and represented by counsel.

(b) (1) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record if the counsel of record was not present at the time that the hearing was set by the court, by first-class mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued. Service of a copy of the notice personally , by certified mail return receipt requested, or by any other form of actual notice is equivalent to service by first-class mail.

(2) The notice required by paragraph (1) shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the minor being recommended by the supervising agency. The notice to the foster parent shall indicate that the foster parent may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(c) At least 10 calendar days prior to the hearing, the probation officer shall file a supplemental report with the court regarding the services provided or offered to the parent or guardian to enable them to assume custody, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and shall make his or her recommendation for disposition. If the recommendation is not to return the minor to a parent or guardian, the report shall specify why the return of the minor would be detrimental to the minor. The probation officer shall provide the parent or guardian with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall

provide a summary of his or her recommendation for disposition to the counsel for the minor, any court-appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to such a hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider the report and recommendation filed pursuant to this subdivision prior to determining any disposition.

(e) (1) (A) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided. Whether or not the minor is returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366 and, where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that, if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

(B) If the minor was under the age of three years on the date of the initial removal and the court finds by clear and convincing evidence that the parent failed to participate regularly in any court-ordered treatment plan, the court may schedule a hearing

pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the minor, who was under the age of three years on the date of initial removal, may be returned to his or her parent or guardian within six months or that reasonable services have not been provided, the court shall continue the case.

(2) If the minor was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or that the parent has failed to contact and visit the minor, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

(3) (A) If the minor had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

(B) In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or guardian pursuant to the time periods set forth in subdivision (a) of Section 361.5, provided that the court may modify the terms and conditions of those services.

(4) If the minor is not returned to his or her parent or guardian, the court shall determine whether reasonable services have been provided or offered to the parent or guardian that were designed to aid the parent or guardian in overcoming the problems that led to the initial removal and the continued custody of the minor. The court shall order that those services be initiated, continued, or terminated.

(f) At the review hearing held 12 months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless the court finds, by a preponderance of the evidence, that the return of the minor to his or her parent or guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the minor. The probation officer shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the probation officer's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366. Whether or not the minor is returned to his or her parent or guardian,

the court shall specify the factual basis for its decision. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If the time period in which the court-ordered services were provided has met or exceeded the time period set forth in paragraph (1) or (2) of subdivision (a) of Section 361.5, as appropriate, and a minor is not returned to the custody of a parent or guardian at the hearing held pursuant to subdivision (f), the court shall do one of the following:

(1) Continue the case for up to six months for another review hearing, provided that the hearing shall occur within 18 months of the date the minor was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months or that reasonable services have not been provided to the parent or guardian. The court shall inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a permanent plan shall be developed at that hearing. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parent or guardian.

(2) Order that the minor remain in long-term foster care, if the court finds by clear and convincing evidence, based upon the evidence already presented to it, that the minor is not a proper subject for adoption and has no one willing to accept legal guardianship.

(3) Order that a hearing be held within 120 days, pursuant to Section 366.26, if there is clear and convincing evidence that reasonable services have been provided or offered to the parents. Evidence that the minor has been placed with a foster family that is eligible to adopt a minor, or has been placed in a preadoptive home, in and of itself, shall not be deemed a failure to provide or offer reasonable services.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the minor and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that includes all of the following:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(j) This section applies to minors made dependents of the court pursuant to subdivision (c) of Section 360 on or after January 1, 1989.

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

SEC. 150. 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 that 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 from 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 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. Nothing in this paragraph in any way obligates 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 or 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, or 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

(3) For purposes of this subdivision, "small counties" means counties with less than 200,000 population.

(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 be in effect only 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 be in effect only 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 prohibits 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 limits 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. 151. Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, as added by Chapter 762 of the Statutes of 1995, is repealed.

SEC. 152. Section 7325 of the Welfare and Institutions Code is amended to read:

7325. (a) When any patient committed by a court to a state hospital or other institution on or before June 30, 1969, or when any patient who is judicially committed on or after July 1, 1969, or when any patient who is involuntarily detained pursuant to Part 1

(commencing with Section 5000) of Division 5 escapes from any state hospital, any hospital or facility operated by or under the Veterans' Administration of the United States government, or any facility designated by a county pursuant to Part 1 (commencing with Section 5000) of Division 5, or any facility into which the patient has been placed by his or her conservator appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, or when a judicially committed patient's return from leave of absence has been authorized or ordered by the State Department of Mental Health, or the State Department of Developmental Services, or the facility of the Veterans' Administration, any peace officer, upon written request of the state hospital, veterans' facility, or the facility designated by a county, or the patient's conservator appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, shall, without the necessity of a warrant or court order, or any officer or employee of the State Department of Mental Health, or of the State Department of Developmental Services, designated to perform these duties may, apprehend, take into custody, and deliver the patient to the state hospital or to a facility of the Veterans' Administration, or the facility designated by a county, or to any person or place authorized by the State Department of Mental Health, the State Department of Developmental Services, the Veterans' Administration, the local director of the county mental health program of the county in which is located the facility designated by the county, or the patient's conservator appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, as the case may be, to receive him or her. Every officer or employee of the State Department of Mental Health, or of the State Department of Developmental Services, designated to apprehend or return those patients has the powers and privileges of peace officers so far as necessary to enforce this section.

(b) As used in this section, "peace officer" means a person as specified in Section 830.1 of the Penal Code.

(c) Any officer or employee of a state hospital, hospital or facility operated by or under the Veterans' Administration, or any facility designated by a county pursuant to Part 1 (commencing with Section 5000) of Division 5 shall provide any peace officer with any information concerning any patient who escapes from the hospital or facility that is necessary to assist in the apprehension and return of the patient. The written notification of the escape required by this section shall include the name and physical description of the patient, his or her home address, the degree of dangerousness of the patient, including specific information about the patient if he or she is deemed likely to cause harm to himself or herself or to others, and any additional information that is necessary to apprehend and return the patient. If the escapee has been charged with any crime involving physical harm to children, the notice shall be provided by the law enforcement agency to school districts in the vicinity of the hospital

or other facility in which the escapee was being held, in the area the escapee is known or is likely to frequent, and in the area where the escapee resided immediately prior to confinement.

(d) The person in charge of the hospital or facility, or his or her designee, may provide telephonic notification of the escape to the law enforcement agency of the county or city in which the hospital or facility is located. If that notification is given, the time and date of notification, the person notified, and the person making the notification shall be noted in the written notification required by this section.

(e) Photocopying is not required in order to satisfy the requirements of this section.

(f) No public or private entity or public or private employee shall be liable for damages caused, or alleged to be caused, by the release of information or the failure to release information pursuant to this section.

SEC. 153. 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 so 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 action 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, may 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 its 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	
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 that 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 that 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 that 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 that 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 that 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 that 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 Section 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 may 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 that 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 provision 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. The donations and contributions shall not be considered in any determination of maximum expenditures made by the department.

(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 that may have significant fiscal impact on providers of group homes care. The committee may, in the 1993–94 fiscal year and thereafter, 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. 154. 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. 155. Section 6 of Chapter 920 of the Statutes of 1994, as last amended by Chapter 1143 of the Statutes of 1996, is amended to read:

Sec. 6. It is the intent of the Legislature that the tables set forth below indicating the derivation of the Elections Code sections as contained in Section 2 of this act, and the disposition of the provisions of the 1961 Elections Code, serve as a temporary guide to the Elections Code as enacted by this act.

The information contained in the tables set forth below is for informational purposes only, and shall not be construed as creating any new right, power, duty, or other obligation, or as changing, limiting, or repealing any right, power, duty, or other obligation that existed on the effective date of this act.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
1	1	31	352	203	2022
2	2	32	351	204	2023
3	3	33	314	205	2024
4	4	34	313	206	2025
5	5	35	338	206.5	2026
6	6	36	337	207	2027
7	7	37	334	208	2028
8	353	38	329	209	2029
9	8	39	339	210	2030
10	310	40	319	211	2031
11	354	41	100	212	2032
12	335	41.5	101	214	346
13	311	42	102	215	2033
14	307	43	103	216	2034
15	320	44	104	217	2035
16	347	45	105	225	2050
17	321	47	9	226	2051
18	359	49	12	227	2052
19	318	50	14	228	2053
20	324	51	21000	300	2100
21	341	52	13	300.5	2101
22	340[1]	53	106	301	2102
22	340[2]	54	15450	302	2103
23	316[1]	55	10	303	2104
23	316[2]	58	11	304	2105
24	357	60	15	304.5	2106
25	328	70	200	305	2107
26	348	75	201	306	2108
27	356	100	2000	307	2109
28	327	200	349	308	2110
29	326	201	2020	309	2111
30	325	202	2021		

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
309.5	2112	509	2161	707.6	2209
310	2113	509.1	2162	707.7	2210
311	2114	509.3	2163	707.8	2211
311.5	2115	510	2164	708	2212
311.6	2116	511	2165	709	2213
312	2117	511.5	2166	800	2220
313	2118	512	2167	800.1	2221
315	2119	600	2180	800.2	2222
316	2120	601	2181	800.3	2223
318	2121	602	2182	801	2224
319	2122	603	2183	802	2225
320	2123	604	2184	803	2226
400	2135	604.5	305	804	2227
401	2136	605	2185	805	2228
402	2137	606	2186	825	2240
403	2138	607	2187	826	2241
404	2139	608	2188	827	2130
405	2140	609	2189	1000	300
406	2141	611	2190		320
407	2142	611.1	2191	1001	3000
408	2143	612	2192	1002	3001
500	2150	613	2193	1002.5	3002
501	2151	615	2194	1003	3003
502	2152	700	2200	1004	3004
503	2153	701	2201	1005	3005
503.5	2154	702	2202	1006	3006
504	2155	703	2203	1006.1	3007
505	2156	703.5	2204	1006.3	3008
506	2157	704	2205	1007	3009
507	2158	704.5	2206	1008	3010
507.5	2159	705	2207	1009	3011
508	2160	707.5	2208	1009.5	3012

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
1010	3013	1204	3106	1405	15005
1011	3014	1205	3107	1407	15006
1012	3015	1206	3108	1408	15007
1012.5	3016	1206.3	3109	1409	15008
1013	3017	1206.5	3110	1409.5	15009
1014	3018	1207	3111	1410	15010
1015	3019	1208	3112	1411	15011
1016	3020	1300	3300	1450	3200
1017	3021	1301	323	1451	3201
1018	3022	1302	3301	1452	3202
1019	3023	1303	3302	1453	3203
1100	322	1304	3303	1454	3204
1101	3400	1304.5	3304	1455	3205
1101.5	3401	1305	3305	1456	3206
1102	3402	1305.5	3306	1500	12200
1103	3403	1306	3307	1501	12220
1104	3404	1307	3308	1503	12260
1105	3405	1308	3309	1504	12283
1106	3406	1309	3310	1504.5	12282
1107	3407	1310	3311	1504.6	12284
1109	3408	1340	4000	1505	12223
1126	331	1340.5	4001 [5]	1506	12226
1127	3500	1341	4002	1507	12228
1128	3501	1350	4100	1508	12224
1129	3502	1351	4101	1508.5	12240
1130	3503	1352	4102	1509	12227
1200	3100	1353	4103	1510	12225
1201	3101	1400	15000	1511	12221
1202	3102	1401	15001	1513	12222
1202.1	3103	1402	15002	1513.1	12262
1202.3	3104	1403	15003	1514	12261
1203	3105	1404	15004		

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
1515	12325	1655	12312	3508	9009
1630	12301	2500	1000 [1]	3509	9010
1631	12304	2500	1000 [2]	3510	9011
1632	12305	2501	1001 [1]	3511	9012
1633	12302	2501	1001 [2]	3513	336
1634	12308	2502	1002	3514	9013
1635	12303	2503	1003	3515	9014
1636	12320	2520	1100	3515.1	9015
1637	12321	2550	1200	3516	9020
1637.5	12300	2551	1201 [1]	3517	9021
1638	12326	2551	1201 [2]	3519	9022
1638.5	12280	2552	1202 [1]	3520	9030
1638.7	12285	2552	1202 [2]	3521	9031
1639	12306	2553	12000	3522	9032
1640	12309	2600	1300	3523	9033
1641	12307	2601	1301	3523.1	9034
1642	12103	2602	1302	3524	9035
1642.3	12318	2603	1303	3525	9040
1642.9	12104	2604	1500	3526	9041
1643	12105	2650	1400	3527	9042
1643.3	12106	2651	10700	3528	9043
1644	12229	2652	10701	3529	9044
1645	12319	2653	12001	3530	9050
1646	12316	3500	9000	3531	9051
1647	12317	3501	9001	3532	9052
1648	12327	3502	9002	3533	9053
1649	12313	3502.05	9003	3559	9060
1650	12281	3503	9004	3560	9061
1651	12314	3504	9005	3561	9062
1652	12315	3505	9006	3562	9063
1653	12310	3506	9007	3563	9064
1654	12311	3507	9008		

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
3564	9065	3705	9110	3786	9166
3564.1	9066	3705.5	9111	3787	9167
3565	9067	3705.6	9112	3788	9168
3566	9068	3706	9113	3790	9180
3567	9069	3707	9114	3795	9190
3567.5	9080	3708	9115	4000	9200
3568	9081	3709	9116	4001	9201
3569	9082	3710	9117	4002	9202
3569.5	9083	3711	9118	4002.5	9203
3570	9084	3713	9119	4002.7	9204
3570.5	9085 [6]	3714	9120	4003	9205
3571	9086	3715	9121	4004	9206
3572	9087	3716	9122	4005	9207
3572.5	9088	3717	9123	4006	9208
3573	9089	3718	9124	4007	9209
3574	9090	3719	9125	4008	9210
3575	9091	3720	9126	4009	9211
3576	9092	3750	9140	4009.5	9212
3577	9093	3751	9141	4009.6	9213
3578	9094	3751.7	9142	4010	9214
3578.5	9095	3752	9143	4011	9215
3579	9096	3753	9144	4012	9216
3700	9100	3754	9145	4013	9217
3701	9101	3755	9146	4014	9218
3701.5	9102	3755.5	9147	4015	9219
3702	9103	3780	312	4015.5	9220
3702.1	9104	3781	9160	4016	9221
3702.5	9105	3782	9161	4017	9222
3702.7	9106	3783	9162	4018	9223
3703	9107	3784	9163	4019	9224
3704	9108	3785	9164	4020	9225
3704.5	9109	3785.1	9165		

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
4021	9226	5013	9282	5161	9322
4050	9235	5014	9283	5162	9323
4050.1	9236	5014.1	9284	5200	9340
4051	9237	5014.5	9285	5200.1	9341
4052	9238	5015	9286	5201	9342
4053	9239	5016	9287	5210	9360
4054	9240	5020	9290	5215	9380
4055	9241	5025	9295	5300	9400
4056	9242	5150	9300	5301	9401
4057	9243	5151	317	5302	9402
4058	9244	5151.5	308	5303	9403
4059	9245	5152	9301	5304	9404
4060	9246	5152.1	9302	5305	9405
4061	9247	5152.2	9303	5320	350
4080	9255	5152.3	9304	5321	9500
4081	9256	5152.4	9305	5322	9501
4082	9257	5152.5	9306	5323	9502
4083	9258	5152.6	9307	5324	9503
4084	9259	5153	9308	5325	9504
4085	9260	5153.5	9309	5326	9505
4086	9261	5154	9310	5327	9506
4087	9262	5154.3	9311	5328	9507
4088	9263	5156	9312	5329	9508
4089	9264	5156.5	9313	5330	9509
4090	9265	5156.6	9314	5350	9600
4091	9266	5157	9315	5351	9601
4093	9267	5157.2	9316	5352	9602
4094	9268	5157.5	9317	5353	9603
4095	9269	5157.6	9318	5354	9604
5010	306	5158	9319	5355	9605
5011	9280	5159	9320	5357	9606
5012	9281	5160	9321	5358	9607

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
6000	6300	6050	6954	6134	6564
6002	6301	6055	6420	6135	6565
6005	6320 [1]	6056	6421	6136	6566
6005	6320 [2]	6057	6422	6138	6567
6006	6321	6060	6440	6139	6568 [1]
6007	6322	6061	6441	6139	6568 [2]
6008	6323 [1]	6062	6442	6140	6580
6008	6323 [2]	6063	6443	6141	6581
6010	6340 [1]	6070	6460	6142	6582
6010	6340 [2]	6071	6461	6143	6583
6011	6341	6080	6480	6144	6584
6012	6342	6100	6500	6145	6585
6013	6343 [1]	6102	6501	6146	6586
6013	6343 [2]	6103	6502	6147	6587
6021	6360	6110	6520 [1]	6148	6588
6024	6361	6110	6520 [2]	6149	6589
6025	6362	6111	6521	6150	6590
6026	6363	6112	6522	6151	6591
6027	6364	6113	6523 [1]	6152	6592
6028	6365	6113	6523 [2]	6153	6593
6030	6380	6114	6524	6154	6594
6031	6381	6120	6540 [1]	6155	6595
6032	6382	6120	6540 [2]	6156	6596
6033	6383	6121	6541	6157	6597
6040	6400	6122	6542	6158	6598
6041	6401	6123	6543 [1]	6159	6599
6042	6402	6123	6543 [2]	6160	6953
6043	6403	6130	6560	6170	6620
6044	6404	6131	6561	6171	6621
6045	6405	6132	6562	6190	6640
6046	6406	6133	6563	6191	6641

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
6193	6642	6233	6763	6272	6822
6194	6643	6234	6764	6285	6840
6195	6644	6235	6765	6286	6841
6196	6645	6236	6766	6287	6842
6197	6646	6237	6767	6288	6843
6198	6647	6238	6768	6289	6844
6200	6700	6239	6769	6290	6845
6202	6701	6240	6780	6291	6846
6203	6702	6241	6781	6292	6847
6210	6720	6242	6782	6293	6848
6210.5	6721 [1]	6243	6783	6294	6849
6210.5	6721 [2]	6244	6784	6300	6000
6211	6722 [1]	6245	6785	6301	6001
6211	6722 [2]	6246	6786	6303	6002
6212	6723	6247	6787	6303.1	6003
6213	6724	6248	6788	6303.2	6004
6214	6725 [1]	6249	6789	6303.3	6005
6214	6725 [2]	6250	6790	6305	6020 [1]
6215	6726	6251	6791	6305	6020 [2]
6220	6740 [1]	6252	6792	6305.1	6021
6220	6740 [2]	6253	6793	6305.2	6022
6221	6741	6254	6794	6306	6023
6222	6742 [1]	6255	6795	6307	6024
6222	6742 [2]	6256	6796	6310	6040
6223	6743 [1]	6257	6797	6311	6041 [1]
6223	6743 [2]	6258	6798	6311	6041 [2]
6224	6744	6260	6951	6312	6042
6225	6745	6261	6952 [1]	6313	6043
6230	6760	6261	6952 [2]	6315	6060
6231	6761	6270	6820	6316	6061 [1]
6232	6762	6271	6821	6316	6061 [2]

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
6325	6080	6360	6180 [1]	6491	8040
6326	6081	6360	6180 [2]	6493	8060
6327	6082	6360.5	6950	6494	8041
6328	6083	6361.5	6181	6494.1	8061
6328.3	6084 [1]	6365	6200	6495	8062
6328.3	6084 [2]	6365.5	6201	6496	8063
6328.5	6085	6366	6202	6496.5	8064
6329	6086 [1]	6367	6203	6497	8065
6329	6086 [2]	6368	6204	6498	8042
6329.5	6087	6370	6220	6499	8066
6330	6100	6371	6221	6500	8067
6331	6101	6372	6222	6501	8068
6332	6102	6375	6240	6502	8069
6333	6103	6376	6241	6503	8102
6334	6104	6400	8000	6504	8080
6335	6105	6401	8001	6505	8070
6336	6106	6401.5	8002	6506	8081
6337	6107	6402	8003	6507	8082
6338	6108	6430	5100	6508	8083
6340	6120	6430.5	5101	6509	8021
6341	6121	6431	5102	6550	8100
6342	6122 [1]	6432	5200	6551	8101
6342	6122 [2]	6461	12100	6552	8103
6343	6123	6462	12101	6553	8104
6345	6140	6463	12102	6554	8105
6346	6141	6489	333	6555	8106
6347	6142	6490	8020	6555.5	8084
6348	6143	6490.1	8024	6556	8107
6349	6144	6490.2	8025	6580	8120
6350	6145	6490.3	8026	6580.5	8121
6351	6146	6490.4	8027		
6355	6160	6490.5	8028		

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
6581	8122	6803	8303	7302	8602
6582	8123	6804	8304	7303	8603
6583	8124	6810	8350	7304	8604
6584	8125	6831	8400	7310	8650
6610	15451	6831.1	8401	7311	8651
6611	8140	6832	8402	7312	8652
6612	8141	6833	8403	7313	8653
6613	8142	6834	8404	8000	7000
6614	8143	6834.1	8405	8500	7050
6614.5	8144	6835	8406	8510	7100
6615	8145	6836	8407	8660	7150
6616	8146	6837	8408	8660.1	7151
6617	8147	6838	8409	8660.2	7152
6618	8148	6860	8450	8660.3	7153
6619	8149	6861	8451	8661	7154
6620	8150	6862	8452	8662	7155
6650	8800	6863	8453	8663	7156
6651	8801	6864	8454	8664	7157
6651.5	8802	6890	8500	8665	7158
6653	8803	6891	8501	8666	7159
6653.3	8804	6892	8502	8667	7160
6654	8805	6893	8503	8668	7161
6655	8806	6894	8504	8669	7162
6656	8807	6920	8550	8670	7163
6657	8808	7200	10702	8671	7164
6658	8809	7200.5	10703	8672	7165
6659	8810	7201	10704	8673	7166
6660	8811	7202	10705	8674	7167
6661	8605	7203	10706	8675	7168
6800	8300	7204	10707	8676	7169
6801	8301	7300	8600	8677	7170
6802	8302	7301	8601	8678	7171

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
8711	7180	8871	7226	9241	7377
8740	7185	8872	7227	9242	7378
8740.5	7186	8873	7228	9243	7379
8741	7187	8874	15460	9270	7380
8744	7188	8875	7229	9271	7381
8770	7190	8923	7235	9272	7382
8771	7191	8940	7240	9273	7383
8772	7192	8941	7241	9274	7384
8773	7193	8942	7242	9276	7385
8774	7194	8943	7243	9277	7386
8775	7195	8944	7244	9278	7387
8776	7196	9000	7250	9279	7388
8777	7197	9010	7300	9280	7389
8778	7198	9160	7350	9320	7400
8820	7200	9160.5	7351	9321	7401
8820.5	7201	9160.7	7352	9322	7402
8821	7202	9160.8	7353	9323	7403
8822	7203	9160.9	7354	9324	7404
8823	7204	9161	7355	9325	7405
8823.5	7205	9161.5	7356	9326	7406
8824	7206	9162	7357	9327	7407
8825	7207	9163	7358	9328	7408
8826	7208	9164	7359	9329	7409
8827	7209	9165	7360	9330	7410
8828	7210	9166	7361	9331	7411
8829	7211	9167	7362	9332	7412
8830	7212	9168	7363	9333	7413
8831	7213	9169	7364	9334	7414
8832	7214	9170	7365	9370	7420
8833	7215	9171	7366	9371	7421
8834	7216	9240	7375	9372	7422
8870	7225	9240.5	7376	9373	7423

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
9374	15470	9618	7561	9683	7638
9375	7424	9620	7570	9684	7639
9422	7430	9630	7575	9685	7640
9423	7431	9631	7576	9686	7641
9440	7440	9632	7577	9687	7642
9441	7441	9633	7578	9688	7643
9442	7442	9634	7579	9689	7644
9443	7443	9635	7580	9690	7645
9444	7444	9640	7600	9700	7650
9500	7460	9640.1	7601	9701	7651
9501	7461	9640.2	7602	9702	7652
9502	7462	9641	7603	9703	7653
9503	7463	9642	7604	9704	7654
9504	7464	9643	7605	9705	7655
9505	7465	9644	7606	9706	7656
9506	7466	9645	7607	9707	7657
9507	7467	9646	7608	9708	7658
9508	7468	9647	7609	9709	7659
9509	7469	9648	7610	9710	7660
9510	7470	9649	7611	9711	7661
9600	7500	9650	7612	9720	7670
9610	7550	9651	7613	9721	7671
9611	7551	9652	7614	9722	7672
9611.5	7552	9660	7620	9723	7673
9611.6	7553	9661	7621	9724	15480
9611.7	7554	9670	7625	9725	7674
9612	7555	9670.5	7626	9730	7680
9613	7556	9671	7627	9731	7681
9614	7557	9672	7628	9732	7682
9615	7558	9680	7635	9733	7683
9616	7559	9681	7636	9740	7690
9617	7560	9682	7637	9741	7691

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
9742	7692	9793	7804	9950	7844
9743	7693	9794	7805	9551	5000
9744	7694	9801	7820	9952	5001
9745	7695	9810	7830	9953	5002
9750	7700	9811	7831	9954	5003
9760	7750	9812	7832	9955	5004
9761	7751	9813	7833	9956	5005
9762	7752	9814	7834	10000	5006
9763	7753	9815	7835	10000	13001 [3]
9764	7754	9816	7836	10001	13001 [4]
9765	7755	9816.5	7837	10001.5	13002
9770	7770	9817	7838	10002	13003
9771	7771	9819	7839	10002.5	13004
9772	7772	9820	7840	10003	13005
9773	7773	9821	7841	10004	13006
9774	7774	9822	7842	10005	13007
9775	7775	9823	7843	10006	13000
9776	7776	9831	7850	10007	13200
9777	7777	9832	7851	10008	13300
9779	7778	9833	7852	10009	13301
9780	7779	9834	7853	10010	13302
9781	7780	9835	7854	10010.2	13303
9782	7781	9836	7855	10010.5	13304
9783	15490	9837	7856	10011	13305
9784	7782	9838	7857	10012	13306
9785	7783	9842	7870	10012.1	13307
9786	7784	9843	7871	10012.3	13308
9787	7785	9850	7880	10012.5	13309
9790	7800	9851	7881	10012.7	13310
9790.5	7801	9852	7882	10013	13311
9791	7802	9853	7883	10013.5	13312
9792	7803	9854	7884		13313

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
10014	13219	10224	13214	10327	13247
10015	13314	10225	13215	10330	301
10016	13101	10226	13216	10331	302
10017	13315	10227	13217	10332	344
10200	13100	10229	13231		345
10200.5	13102	10230	13230	10333	13260
10201	13103	10230.1	13232	10334	13261
10203	13203	10231	13118	10335	13262
10204	13204	10232	13201	10336	13263
10205	13205	10233	13220	10337	13264
10206	13206	10234	13233	10338	13265
10207	13207	10235	13119	10339	13266
10208	13208	10236	13120	10340	13267
10208.5	13209	10300	303	11700	20000
10209	13104	10301	13280	11701	20001
10210	13105	10302	13281	11702	20002
10210.5	13106	10302.5	13282	11703	20003
10211	13107	10303	13283	11704	20004
10212	13108	10304	13284	11705	20005
10213	13109	10305	13285	11706	20006
10214	13110	10306	13286	11707	20007
10215	13202	10307	13287	11708	20008
10216	13111	10307.5	13316	11709	20009
10217	13112	10308	13288	11710	16
10217.5	13113	10309	13289	12200	20100
10217.7	13114	10320	13240	12300	20200
10218	13115	10321	13241	12300.1	305
10219	13116	10322	13242		309
10219.5	13117	10323	13243	12301	20201
10220	13210	10324	13244	12302	20202
10221	13211	10324.5	13317	12303	20203
10222	13212	10325	13245		
10223	13213	10326	13246		

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
12400	20300	14204	14202	14237	14284
12401	20301	14205.5	14203	14238	14321
12500	20400	14206	14212	14239	14285
12510	20420	14207	14213	14240	14286
12511	304	14208	14214	14241	14287
12512	305	14209	14215	14242	14288
12513	20420	14210	14320	14243	14290
12520	20440	14211	14216	14244	14291
12522	20441	14212	14217	14245	14292
12523	20442	14213	14218	14246	14293
12524	20443	14214	14219	14247	14297
12525	20444	14215	14220	14249	14295
12527	20500	14216	14240	14250	14296
12528	20501	14217	14241	14251	14294
12530	20502	14218	14242	14252	14298
14000	14100	14219	14243	14253	14310
14001	14101	14220	14244	14255	14299
14002	14102	14221	14245	14300	14400
14003	14103	14222	14246	14301	14401
14004	14104	14223	14247	14302	14402
14005	14105	14224	14248	14303	14403
14005.4	14106	14225	14249	14304	14404
14005.5	14107	14226	14250	14305	14405
14005.6	14108	14227	14251	14306	14406
14006	14109	14228	14252	14350	14000
14007	14110	14229	14253	14351	14001
14008	14111	14230	14278	14352	14002
14009	10405	14231	14279	14354	14003
14200	14210	14232	14280	14400	14221
14201	14211	14233	14281	14400.1	14222
14202	14200	14234	14282	14401	14223
14203	14201	14236	14283	14402	14224

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
14403	14225	15020	19001	15206	12356
14404	14226	15021	19002	15207	12357
14405	14227	15022	19003	15209	14112
14427	14289	15023	19210	15210	14113
14500	17000	15024	19211	15220	14270
14510	17001	15025	19005	15221	14271
14600	17100	15026	19212	15222	14272
14700	17200	15100	19100	15223	14273
14800	17300	15101	19203	15224	14274
14810	17301	15102	19101	15225	14275
14811	17302	15103	19102	15226	14276
14820	17303	15104	19204	15227	14277
14821	17304	15105	19103	15240	14420
14830	17305	15110	19200	15241	14421
14831	17306	15111	19201	15242	14422
14900	17400	15112	19202	15243	14423
14950	17500	15113	19205	15260	15260
14960	17501	15114	19206	15261	15261
14970	17502	15115	19207	15262	15262
14971	17503	15116	19208	15263	15263
14980	17504	15117	19209	15264	15264
14981	17505	15118	19213	15265	15265
14990	17506	15119	19220	15266	15266
15000	Rep.	15120	19221	15267	15267
15003	315	15121	19004	15268	15268
15004	320	15122	19222	15269	15269
15005	344	15200	12350	15270	15270
15006	355	15201	12351	15271	15271
15007	360	15202	12352	15272	15272
15008	361	15203	12353	15272.5	15273
15009	362	15204	12354	15273	15274
15010	358	15205	12355	15274	15275

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
15275	15276	17006	15056	17061	15201
15276	15277	17007	15057	17063	15202
15300	19300	17008	15058	17070	15250
15301	19301	17009	15059	17071	15251
15302	19302	17010	15060	17080	15300
15303	19303	17011	15061	17081	15301
15304	19304	17012	15062	17082	15302
15320	19320	17013	15063	17083	15303
15321	19321	17014	15064	17084	15304
15322	19322	17020	15080	17085	15305
15340	19340	17021	15081	17086	15306
15341	19341	17022	15082	17087	15307
15342	19323	17024	15083	17088	15308
15343	19360	17025	15084	17089	15309
15344	19361	17026	15085	17090	15310
15345	19362	17030	15100	17091	15311
15346	19363	17031	15101	17100	15350
15360	19380	17032	15102	17101	15351
15361	19381	17033	15103	17102	15352
15362	19382	17040	15120	17103	15353
15363	19370	17041	15121	17110	15452
15364	19383	17042	15122	17111	15400
15365	19371	17050	12107	17112	15401
15367	19384	17052	15150	17113	15402
15368	19385	17053	15151	17120	15500
15369	19386	17054	15152	17121	15501
17000	15050	17055	15153	17122	15502
17001	15051	17056	15154	17123	15504
17002	15052	17057	15155	17124	15505
17003	15053	17058	15156	17130	15550
17004	15054	17059	15157	17134	15551
17005	15055	17060	15200	17136	15552

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
17140	15600	20053	16403	20338	16720
17150	15610	20080	16500	20339	16920
17160	15620	20081	16501	20360	16460
17160.5	15621	20082	16502	20361	16461
17161	15622	20083	16600	20362	16462
17162	15623	20084	16601	20363	16463
17163	15624	20085	16602	20364	16464
17164	15625	20086	16603	20365	16540
17165	15626	20087	16703	20366	16465
17166	15627	20088	16503	20367	16466
17167	15628	20089	16000	20368	16467
17168	15629	20110	16700	20369	16640
17169	15630	20111	16701	20370	16641
17170	15631	20112	16800	20371	16642
17171	15632	20113	16801	20372	16643
17172	15633	20114	16802	20373	16740
17173	15634	20115	16900	20374	16940
17180	15640	20116	16702	20375	16741
17182	15641	20300	16101	20376	16742
17183	15642	20301	16420	20500	15650
17190	15645	20302	16404	20501	15651
20000	16001	20303	16421	20502	15652
20001	16002	20304	16300	20502.5	15653
20002	16003	20305	16803	20503	15654
20020	16200	20330	16440	20530	15670
20021	16100	20331	16441	20531	15671
20022	16201	20332	16442	20532	15672
20023	16202	20333	16443	20533	15673
20024	16203	20334	16444	22000	10000
20050	16400	20335	16520	22002	10001
20051	16401	20336	16521	22003	10002
20052	16402	20337	16620	22004	10003

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
22005	10004	22843.5	10229	23303	10408
22030	12241	22900	10240	23304	10409
22050	12322	22902	10241	23305	10410
22051	12323	22903	10242	23306	10411
22052	12324	22904	10243	23307	10412
22600	10100	22930	10260	23308	10413
22601	10101	22930.5	10261	23309	10414
22602	10102	22932	10262	23310	10415
22603	10103	22932.5	10263	23311	10416
22800	342	22933	10264	23312	10417
22801	12108	22934	10265	23314	10418
22802	12328	22935	10266	23500	10500
22804	12329	23100	10300	23501	10501
22805	12330	23101	10301	23502	10502
22806	10200	23102	10302	23502.5	10503
22807	10201	23103	10303	23503	10500
22808	10202	23104	10304	23504	10504
22830	12109	23105	10305	23506	10505
22831	12110	23106	10306	23507	10506
22832	12111	23107	10307	23508	10507
22833	12112	23108	10308	23509	1304
22834	12113	23109	10309	23509.1	4106
22835	12114	23110	10310	23509.2	4107
22836	10220	23111	10311	23509.5	1501
22837	10221	23112	10312	23510	10508
22838	10222	23300	10400	23510.5	10509
22839	10223	23301	10401	23511	12115
22840	10224	23301.5	10402	23511.1	4108
22840.5	10225	23302	10403	23511.2	4104
22841	10226	23302.1	10404	23511.3	4105
22842	10227	23302.3	10406	23511.4	4003
22843	10228	23302.5	10407	23512	10510

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
23512.12	10513	23540.5	10540	25103	6904
23512.2	10511	23541	10541	25104	6905
23512.6	10512	23542	10542	25105	6906
23513	10514	23543	10543	25106	6907
23520	10515	23544	10544	25107	6908
23521	12116	23547	10545	25108	6909
23521.5	10516	23549	10546	25300	8200
23523	10517	23550	10547	25301	8023
23523.5	10518	23551	10548	25302	8201
23523.7	10519	23552	10549	25303	8202
23524	10520	23553	10550	25304	8203
23525	10521	23554	10551	25305	8204
23526	10522	23554.5	10552	25330	8220
23526.5	10523	23555	10553	25331	8221
23527	10524	23556	10554	25332	8222
23527.5	10525	23557	10555	25333	8223
23528	12286	23557.5	1502	25334	8224
23529	10526	23558	10556	25335	8225
23529.5	10527	24000	10600	25336	8226
23530	10528	24001	10601	25337	8227
23530.5	10529	24002	10602	25338	8228
23531	10530	24003	12118	25500	8022
23531.5	10531	24004	13121	27000	11000
23532	10532	24005	10603	27001	11001
23533	10533	25000	324	27002	11002
23534	10534	25001	10720	27003	11003
23535	10535	25003	8700	27004	322
23536	10536	25050	15503	27005	11004
23537	10537	25100	6900	27006	11005
23538	10538	25100.5	6901	27007	11006
23539	10539	25101	6902	27008	11007
23540	12117	25102	6903	27020	11020

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
27021	11021	27303	11302	29203.7	18105
27022	11022	27304	11303	29204	18106
27023	11023	27310	11320	29205	18107
27024	11024	27311	11321	29206	18108
27030	11040	27312	11322	29207	18109
27031	11041	27313	11323	29300	18200
27031.5	11042	27315	11324	29301	18201
27032	11043	27316	11325	29302	18202
27033	11044	27316.1	11326	29303	18203
27035	11045	27317	11327	29304	18204
27036	11046	27320	11328	29305	18205
27037	11047	27321	11329	29413	18300
27100	11100	27330	11360	29414	18301
27101	11101	27331	11361	29415	18302
27102	11102	27332	11362	29416	18303
27103	11103	27333	11363	29420	18310
27104	11104	27334	11364	29421	18311
27200	11200	27340	11380	29430	18320
27201	11201	27341	11381	29440	18340
27210	11220	27342	11382	29450	18350
27211	11221	27343	11383	29451	18351
27212	11222	27344	11384	29460	18360
27213	11223	27345	11385	29462	18361
27214	11224	27346	11386	29470	18370
27215	11225	29100	18000	29473	18371
27216	11226	29101	18001	29480	18380
27217	11227	29102	18002	29490	18390
27230	11240	29200	18100	29500	18400
27230.5	11241	29200.5	18101	29501	18401
27231	11242	29201	18102	29505	18402
27301	11300	29202	18103	29506	18403
27302	11301	29203	18104	29610	18500

See footnotes at conclusion of this table.

DISPOSITION TABLE—1961 CODE

OLD	NEW	OLD	NEW	OLD	NEW
29611	18501	29656	18576	30011	Rep.
29612	18502	29657	18577	30020	Rep.
29620	18520	29658	18578	30020.5	Rep.
29621	18521	29710	342	30021	Rep.
29622	18522	29711	343	30022	Rep.
29623	18523	29720	18600	30030	Rep.
29624	18524	29721	18601	30031	Rep.
29630	18540	29722	18602	30032	Rep.
29630.5	18541	29723	18603	30040	Rep.
29631	18542	29730	18610	30041	Rep.
29632	18543	29731	18611	30042	Rep.
29634	18544	29732	18612	30043	Rep.
29635	18545	29733	18613	30044	Rep.
29636	18546	29734	18614	35000	21500
29640	18560	29740	18620	35001	21501
29641	18561	29741	18621	35002	21502
29643	18562	29742	18622	35003	21503
29644	18563	29750	18630	35004	21504
29645	18564	29751	18631	35005	21505
29645.1	18565	29760	18640	35006	21506
29646	18566	29770	18650	35100	21600
29647	18567	29780	18660	35101	21601
29648	18568	29781	18661	35102	21602
29649	18569	29790	18670	35103	21603
29650	18570	29791	18671	35104	21604
29651	18571	29795	18680	35105	21605
29652	18572	29800	18700	35106	21606
29653	18573	30000	21001	35150	21620
29654	18574	30001	21002		
29655	18575	30010	Rep.		

[1] Repeal operative January 1, 1998.
[2] Operative January 1, 1998.
[3] Repeal operative January 1, 1996.
[4] Operative January 1, 1996.
[5] Repeal operative January 1, 1995.
[6] Repeal operative January 1, 1999.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
1	1		12512	333	6489
2	2	306	5010	334	37
3	3	307	14	335	12
4	4	308	5151.5	336	3513
5	5	309	12300.1	337	36
6	6	310	10	338	35
7	7	311	13	339	39
8	9	312	3780	340	22 [1]
9	47	313	34	340	22 [2]
10	55	314	33	341	21
11	58	315	15003	342	29710
12	49	316	23 [1]	343	29711
13	52	316	23 [2]	344	10332
14	50	317	5151		15005
15	60	318	19	345	10332
16	11710	319	40	346	214
100	41	320	15	347	16
101	41.5		15004	348	26
102	42	321	17	349	200
103	43	322	1100	350	5320
104	44		27004	351	32
105	45	323	1301	352	31
106	53	324	20	353	8
200	70		25000	354	11
201	75	325	30	355	15006
300	1000	326	29	356	27
301	10330	327	28	357	24
302	10331	328	25	358	15010
303	10300	329	38	359	18
304	12511	330	17	360	15007
305	604.5	331	1126		
	12300.1	332	27004		

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
361	15008	2028	208	2120	316
362	15009	2029	209	2121	318
1000	2500 [1]	2030	210	2122	319
1000	2500 [2]	2031	211	2123	320
1001	2501 [1]	2032	212	2130	827
1001	2501 [2]	2033	215	2135	400
1002	2502	2034	216	2136	401
1003	2503	2035	217	2137	402
1100	2520	2050	225	2138	403
1200	2550	2051	226	2139	404
1201	2551 [1]	2052	227	2140	405
1201	2551 [2]	2053	228	2141	406
1202	2552 [1]	2100	300	2142	407
1202	2522 [2]	2101	300.5	2143	408
1300	2600	2102	301	2150	500
1301	2601	2103	302	2151	501
1302	2602	2104	303	2152	502
1303	2603	2105	304	2153	503
1304	23509	2106	304.5	2154	503.5
1400	2650	2107	305	2155	504
1500	2604	2108	306	2156	505
1501	23509.5	2109	307	2157	506
1502	23557.5	2110	308	2158	507
2000	100	2111	309	2159	507.5
2020	201	2112	309.5	2160	508
2021	202	2113	310	2161	509
2022	203	2114	311	2162	509.1
2023	204	2115	311.5	2163	509.3
2024	205	2116	311.6	2164	510
2025	206	2117	312	2165	511
2026	206.5	2118	313	2166	511.5
2027	207	2119	315		

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
2167	512	2222	800.2	3023	1019
2180	600	2223	800.3	3100	1200
2181	601	2224	801	3101	1201
2182	602	2225	802	3102	1202
2183	603	2226	803	3103	1202.1
2184	604	2227	804	3104	1202.3
2185	605	2228	805	3105	1203
2186	606	2240	825	3106	1204
2187	607	2241	826	3107	1205
2188	608	3000	1001	3108	1206
2189	609	3001	1002	3109	1206.3
2190	611	3002	1002.5	3110	1206.5
2191	611.1	3003	1003	3111	1207
2192	612	3004	1004	3112	1208
2193	613	3005	1005	3200	1450
2194	615	3006	1006	3201	1451
2200	700	3007	1006.1	3202	1452
2201	701	3008	1006.3	3203	1453
2202	702	3009	1007	3204	1454
2203	703	3010	1008	3205	1455
2204	703.5	3011	1009	3206	1456
2205	704	3012	1009.5	3300	1300
2206	704.5	3013	1010	3301	1302
2207	705	3014	1011	3302	1303
2208	707.5	3015	1012	3303	1304
2209	707.6	3016	1012.5	3304	1304.5
2210	707.7	3017	1013	3305	1305
2211	707.8	3018	1014	3306	1305.5
2212	708	3019	1015	3307	1306
2213	709	3020	1016	3308	1307
2220	800	3021	1017	3309	1308
2221	800.1	3022	1018	3310	1309

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
3311	1310	5004	9954	6084	6328.3 [1]
3400	1101	5005	9955	6084	6328.3 [2]
3401	1101.5	5006	9956	6085	6328.5
3402	1102	5100	6430	6086	6329 [1]
3403	1103	5101	6430.5	6086	6329 [2]
3404	1104	5102	6431	6087	6329.5
3405	1105	5200	6432	6100	6330
3406	1106	6000	6300	6101	6331
3407	1107	6001	6301	6102	6332
3408	1109	6002	6303	6103	6333
3500	1127	6003	6303.1	6104	6334
3501	1128	6004	6303.2	6105	6335
3502	1129	6005	6303.3	6106	6336
3503	1130	6020	6305 [1]	6107	6337
4000	1340	6020	6305 [2]	6108	6338
4001	1340.5 [5]	6021	6305.1	6120	6340
4002	1341	6022	6305.2	6121	6341
4003	23511.4	6023	6306	6122	6342 [1]
4100	1350	6024	6307	6122	6342 [2]
4101	1351	6040	6310	6123	6343
4102	1352	6041	6311 [1]	6140	6345
4103	1353	6041	6311 [2]	6141	6346
4104	23511.2	6042	6312	6142	6347
4105	23511.3	6043	6313	6143	6348
4106	23509.1	6060	6315	6144	6349
4107	23509.2	6061	6316 [1]	6145	6350
4108	23511.1	6061	6316 [2]	6146	6351
5000	9950	6080	6325	6160	6355
5001	9951	6081	6326	6180	6360 [1]
5002	9952	6082	6327	6180	6360 [2]
5003	9953	6083	6328	6181	6361.5

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
6200	6365	6383	6033	6542	6122
6201	6365.5	6400	6040	6543	6123 [1]
6202	6366	6401	6041	6543	6123 [2]
6203	6367	6402	6042	6560	6130
6204	6368	6403	6043	6561	6131
6220	6370	6404	6044	6562	6132
6221	6371	6405	6045	6563	6133
6222	6372	6406	6046	6564	6134
6240	6375	6420	6055	6565	6135
6241	6376	6421	6056	6566	6136
6300	6000	6422	6057	6567	6138
6301	6002	6440	6060	6568	6139 [1]
6320	6005 [1]	6441	6061	6568	6139 [2]
6320	6005 [2]	6442	6062	6580	6140
6321	6006	6443	6063	6581	6141
6322	6007	6460	6070	6582	6142
6323	6008	6461	6071	6583	6143
6340	6010	6480	6080	6584	6144
6341	6011	6500	6100	6585	6145
6342	6012	6501	6102	6586	6146
6343	6013 [1]	6502	6103	6587	6147
6343	6013 [2]	6520	6110 [1]	6588	6148
6360	6021	6520	6110 [2]	6589	6149
6361	6024	6521	6111	6590	6150
6362	6025	6522	6112	6591	6151
6363	6026	6523	6113 [1]	6592	6152
6364	6027	6523	6113 [2]	6593	6153
6365	6028	6524	6114	6594	6154
6380	6030	6540	6120 [1]	6595	6155
6381	6031	6540	6120 [2]	6596	6156
6382	6032	6541	6121	6597	6157

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
6598	6158	6743	6223 [2]	6798	6258
6599	6159	6744	6224	6820	6270
6620	6170	6745	6225	6821	6271
6621	6171	6760	6230	6822	6272
6640	6190	6761	6231	6840	6285
6641	6191	6762	6232	6841	6286
6642	6193	6763	6233	6842	6287
6643	6194	6764	6234	6843	6288
6644	6195	6765	6235	6844	6289
6645	6196	6766	6236	6845	6290
6646	6197	6767	6237	6846	6291
6647	6198	6768	6238	6847	6292
6700	6200	6769	6239	6848	6293
6701	6202	6780	6240	6849	6294
6702	6203	6781	6241	6900	25100
6720	6210	6782	6242	6901	25100.5
6721	6210.5 [1]	6783	6243	6902	25101
6721	6210.5 [2]	6784	6244	6903	25102
6722	6211 [1]	6785	6245	6904	25103
6722	6211 [2]	6786	6246	6905	25104
6723	6212	6787	6247	6906	25105
6724	6213	6788	6248	6907	25106
6725	6214 [1]	6789	6249	6908	25107
6725	6214 [2]	6790	6250	6909	25108
6726	6215	6791	6251	6950	6360.5
6740	6220 [1]	6792	6252	6951	6260
6740	6220 [2]	6793	6253	6952	6261 [1]
6741	6221	6794	6254	6952	6261 [2]
6742	6222 [1]	6795	6255	6953	6160
6742	6222 [2]	6796	6256	6954	6050
6743	6223 [1]	6797	6257	7000	8000

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
7050	8500	7193	8773	7243	8943
7100	8510	7194	8774	7244	8944
7150	8660	7195	8775	7250	9000
7151	8660.1	7196	8776	7300	9010
7152	8660.2	7197	8777	7350	9160
7153	8660.3	7198	8778	7351	9160.5
7154	8661	7200	8820	7352	9160.7
7155	8662	7201	8820.5	7353	9160.8
7156	8663	7202	8821	7354	9160.9
7157	8664	7203	8822	7355	9161
7158	8665	7204	8823	7356	9161.5
7159	8666	7205	8823.5	7357	9162
7160	8667	7206	8824	7358	9163
7161	8668	7207	8825	7359	9164
7162	8669	7208	8826	7360	9165
7163	8670	7209	8827	7361	9166
7164	8671	7210	8828	7362	9167
7165	8672	7211	8829	7363	9168
7166	8673	7212	8830	7364	9169
7167	8674	7213	8831	7365	9170
7168	8675	7214	8832	7366	9171
7169	8676	7215	8833	7375	9240
7170	8677	7216	8833	7376	9240.5
7171	8678	7225	8870	7377	9241
7180	8711	7226	8871	7378	9242
7185	8740	7227	8872	7379	9243
7186	8740.5	7228	8873	7380	9270
7187	8741	7229	8875	7381	9271
7188	8744	7235	8923	7382	9272
7190	8770	7240	8940	7383	9273
7191	8771	7241	8941	7384	9274
7192	8772	7242	8942	7385	9276

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
7386	9277	7461	9501	7602	9640.2
7387	9278	7462	9502	7603	9641
7388	9279	7463	9503	7604	9642
7389	9280	7464	9504	7605	9643
7400	9320	7465	9505	7606	9644
7401	9321	7466	9506	7607	9645
7402	9322	7467	9507	7608	9646
7403	9323	7468	9508	7609	9647
7404	9324	7469	9509	7610	9648
7405	9325	7470	9510	7611	9649
7406	9326	7500	9600	7612	9650
7407	9327	7550	9610	7613	9651
7408	9328	7551	9611	7614	9652
7409	9329	7552	9611.5	7620	9660
7410	9330	7553	9611.6	7621	9661
7411	9331	7554	9611.7	7625	9670
7412	9332	7555	9612	7626	9670.5
7413	9333	7556	9613	7627	9671
7414	9334	7557	9614	7628	9672
7420	9370	7558	9615	7635	9680
7421	9371	7559	9616	7636	9681
7422	9372	7560	9617	7637	9682
7423	9373	7561	9618	7638	9683
7424	9375	7570	9620	7639	9684
7430	9422	7575	9630	7640	9685
7431	9423	7576	9631	7641	9686
7440	9440	7577	9632	7642	9687
7441	9441	7578	9633	7643	9688
7442	9442	7579	9634	7644	9689
7443	9443	7580	9635	7645	9690
7444	9444	7600	9640	7650	9700
7460	9500	7601	9640.1	7651	9701

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
7652	9702	7770	9770	7839	9819
7653	9703	7771	9771	7840	9820
7654	9704	7772	9772	7841	9821
7655	9705	7773	9773	7842	9822
7656	9706	7774	9774	7843	9823
7657	9707	7775	9775	7850	9831
7658	9708	7776	9776	7851	9832
7659	9709	7777	9777	7852	9833
7660	9710	7778	9779	7853	9834
7661	9711	7779	9780	7854	9835
7670	9720	7780	9781	7855	9836
7671	9721	7781	9782	7856	9837
7672	9722	7782	9784	7857	9838
7673	9723	7783	9785	7870	9842
7674	9725	7784	9786	7871	9843
7680	9730	7785	9787	7880	9850
7681	9731	7800	9790	7881	9851
7682	9732	7801	9790.5	7882	9852
7683	9733	7802	9791	7883	9853
7690	9740	7803	9792	7884	9854
7691	9741	7804	9793	8000	6400
7692	9742	7805	9794	8001	6401
7693	9743	7820	9801	8002	6401.5
7694	9744	7830	9810	8003	6402
7695	9745	7831	9811	8020	6490
7700	9750	7832	9812	8021	6509
7750	9760	7833	9813	8022	25500
7751	9761	7834	9814	8023	25301
7752	9762	7835	9815	8024	6490.1
7753	9763	7836	9816	8025	6490.2
7754	9764	7837	9816.5	8026	6490.3
7755	9765	7838	9817	8027	6490.4

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
8028	6490.5	8124	6583	8350	6810
8040	6491	8125	6584	8400	6831
8041	6494	8140	6611	8401	6831.1
8042	6498	8141	6612	8402	6832
8060	6493	8142	6613	8403	6833
8061	6494.1	8143	6614	8404	6834
8062	6495	8144	6614.5	8405	6834.1
8063	6496	8145	6615	8406	6835
8064	6496.5	8146	6616	8407	6836
8065	6497	8147	6617	8408	6837
8066	6499	8148	6618	8409	6838
8067	6500	8149	6619	8450	6860
8068	6501	8150	6620	8451	6861
8069	6502	8200	25300	8452	6862
8070	6505	8201	25302	8453	6863
8080	6504	8202	25303	8454	6864
8081	6506	8203	25304	8500	6890
8082	6507	8204	25305	8501	6891
8083	6508	8220	25330	8502	6892
8084	6555.5	8221	25331	8503	6893
8100	6550	8222	25332	8504	6894
8101	6551	8223	25333	8550	6920
8102	6503	8224	25334	8600	7300
8103	6552	8225	25335	8601	7301
8104	6553	8226	25336	8602	7302
8105	6554	8227	25337	8603	7303
8106	6555	8228	25338	8604	7304
8107	6556	8300	6800	8605	6661
8120	6580	8301	6801	8650	7310
8121	6580.5	8302	6802	8651	7311
8122	6581	8303	6803	8652	7312
8123	6582	8304	6804	8653	7313

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
8700	25003	9030	3520	9087	3572
8800	6650	9031	3521	9088	3572.5
8801	6651	9032	3522	9089	3573
8802	6651.5	9033	3523	9090	3574
8803	6653	9034	3523.1	9091	3575
8804	6653.3	9035	3524	9092	3576
8805	6654	9040	3525	9093	3577
8806	6655	9041	3526	9094	3578
8807	6656	9042	3527	9095	3578.5
8808	6657	9043	3528	9096	3579
8809	6658	9044	3529	9100	3700
8810	6659	9050	3530	9101	3701
8811	6660	9051	3531	9102	3701.5
9000	3500	9052	3532	9103	3702
9001	3501	9053	3533	9104	3702.1
9002	3502	9060	3559	9105	3702.5
9003	3502.05	9061	3560	9106	3702.7
9004	3503	9062	3561	9107	3703
9005	3504	9063	3562	9108	3704
9006	3505	9064	3563	9109	3704.5
9007	3506	9065	3564	9110	3705
9008	3507	9066	3564.1	9111	3705.5
9009	3508	9067	3565	9112	3705.6
9010	3509	9068	3566	9113	3706
9011	3510	9069	3567	9114	3707
9012	3511	9080	3567.5	9115	3708
9013	3514	9081	3568	9116	3709
9014	3515	9082	3569	9117	3710
9015	3515.1	9083	3569.5	9118	3711
9020	3516	9084	3570	9119	3713
9021	3517	9085	3570.5 [6]	9120	3714
9022	3519	9086	3571		

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
9121	3715	9207	4005	9247	4061
9122	3716	9208	4006	9255	4080
9123	3717	9209	4007	9256	4081
9124	3718	9210	4008	9257	4082
9125	3719	9211	4009	9258	4083
9126	3720	9212	4009.5	9259	4084
9140	3750	9213	4009.6	9260	4085
9141	3751	9214	4010	9261	4086
9142	3751.7	9215	4011	9262	4087
9143	3752	9216	4012	9263	4088
9144	3753	9217	4013	9264	4089
9145	3754	9218	4014	9265	4090
9146	3755	9219	4015	9266	4091
9147	3755.5	9220	4015.5	9267	4093
9160	3781	9221	4016	9268	4094
9161	3782	9222	4017	9269	4095
9162	3783	9223	4018	9280	5011
9163	3784	9224	4019	9281	5012
9164	3785	9225	4020	9282	5013
9165	3785.1	9226	4021	9283	5014
9166	3786	9235	4050	9284	5014.1
9167	3787	9236	4050.1	9285	5014.5
9168	3788	9237	4051	9286	5015
9180	3790	9238	4052	9287	5016
9190	3795	9239	4053	9290	5020
9200	4000	9240	4054	9295	5025
9201	4001	9241	4055	9300	5150
9202	4002	9242	4056	9301	5152
9203	4002.5	9243	4057	9302	5152.1
9204	4002.7	9244	4058	9303	5152.2
9205	4003	9245	4059	9304	5152.3
9206	4004	9246	4060	9305	5152.4

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
9306	5152.5	9503	5324	10225	22840.5
9307	5152.6	9504	5325	10226	22841
9308	5153	9505	5326	10227	22842
9309	5153.5	9506	5327	10228	22843
9310	5154	9507	5328	10229	22843.5
9311	5154.3	9508	5329	10240	22900
9312	5156	9509	5330	10241	22902
9313	5156.5	9600	5350	10242	22903
9314	5156.6	9601	5351	10243	22904
9315	5157	9602	5352	10260	22930
9316	5157.2	9603	5353	10261	22930.5
9317	5157.5	9604	5354	10262	22932
9318	5157.6	9605	5355	10263	22932.5
9319	5158	9606	5357	10264	22933
9320	5159	9607	5358	10265	22934
9321	5160	10000	22000	10266	22935
9322	5161	10001	22002	10300	23100
9323	5162	10002	22003	10301	23101
9340	5200	10003	22004	10302	23102
9341	5200.1	10004	22005	10303	23103
9342	5201	10100	22600	10304	23104
9360	5210	10101	22601	10305	23105
9380	5215	10102	22602	10306	23106
9400	5300	10103	22603	10307	23107
9401	5301	10200	22806	10308	23108
9402	5302	10201	22807	10309	23109
9403	5303	10202	22808	10310	23110
9404	5304	10220	22836	10311	23111
9405	5305	10221	22837	10312	23112
9500	5321	10222	22838	10400	23300
9501	5322	10223	22839	10401	23301
9502	5323	10224	22840	10402	23301.5

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
10403	23302	10516	23521.5	10548	23551
10404	23302.1	10517	23523	10549	23552
10405	14009	10518	23523.5	10550	23553
10406	23302.3	10519	23523.7	10551	23554
10407	23302.5	10520	23524	10552	23554.5
10408	23303	10521	23525	10553	23555
10409	23304	10522	23526	10554	23556
10410	23305	10523	23526.5	10555	23557
10411	23306	10524	23527	10556	23558
10412	23307	10525	23527.5	10600	24000
10413	23308	10526	23529	10601	24001
10414	23309	10527	23529.5	10602	24002
10415	23310	10528	23530	10603	24005
10416	23311	10529	23530.5	10700	2651
10417	23312	10530	23531	10701	2652
10418	23314	10531	23531.5	10702	7200
10500	23503	10532	23532	10703	7200.5
10501	23501	10533	23533	10704	7201
10502	23502	10534	23534	10705	7202
10503	23502.5	10535	23535	10706	7203
10504	23504	10536	23536	10707	7204
10505	23506	10537	23537	10720	25001
10506	23507	10538	23538	11000	27000
10507	23508	10539	23539	11001	27001
10508	23510	10540	23540.5	11002	27002
10509	23510.5	10541	23541	11003	27003
10510	23512	10542	23542	11004	27005
10511	23512.2	10543	23543	11005	27006
10512	23512.6	10544	23544	11006	27007
10513	23512.12	10545	23547	11007	27008
10514	23513	10546	23549	11020	27020
10515	23520	10547	23550	11021	27021

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
11022	27022	11303	27304	12107	17050
11023	27023	11320	27310	12108	22801
11024	27024	11321	27311	12109	22830
11040	27030	11322	27312	12110	22831
11041	27031	11323	27313	12111	22832
11042	27031.5	11324	27315	12112	22833
11043	27032	11325	27316	12113	22834
11044	27033	11326	27316.1	12114	22835
11045	27035	11327	27317	12115	23511
11046	27036	11328	27320	12116	23521
11047	27037	11329	27321	12117	23540
11100	27100	11360	27330	12118	24003
11101	27101	11361	27331	12200	1500
11102	27102	11362	27332	12220	1501
11103	27103	11363	27333	12221	1511
11104	27104	11364	27334	12222	1513
11200	27200	11380	27340	12223	1505
11201	27201	11381	27341	12224	1508
11220	27210	11382	27342	12225	1510
11221	27211	11383	27343	12226	1506
11222	27212	11384	27344	12227	1509
11223	27213	11385	27345	12228	1507
11224	27214	11386	27346	12229	1644
11225	27215	12000	2553	12240	1508.5
11226	27216	12001	2653	12241	22030
11227	27217	12100	6461	12260	1503
11240	27230	12101	6462	12261	1514
11241	27230.5	12102	6463	12262	1513.1
11242	27231	12103	1642	12280	1638.5
11300	27301	12104	1642.9	12281	1650
11301	27302	12105	1643	12282	1504.5
11302	27303	12106	1643.3	12283	1504

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
12284	1504.6	12329	22804	13113	10217.5
12285	1638.7	12330	22805	13114	10217.7
12286	23528	12350	15200	13115	10218
12300	1637.5	12351	15201	13116	10219
12301	1630	12352	15202	13117	10219.5
12302	1633	12353	15203	13118	10231
12303	1635	12354	15204	13119	10235
12304	1631	12355	15205	13120	10236
12305	1632	12356	15206	13121	24004
12306	1639	12357	15207	13200	10006
12307	1641	13000	10005	13201	10232
12308	1634	13001	10000 [3]	13202	10215
12309	1640	13001	10000 [4]	13203	10203
12310	1653	13002	10001	13204	10204
12311	1654	13003	10001.5	13205	10205
12312	1655	13004	10002	13206	10206
12313	1649	13005	10002.5	13207	10207
12314	1651	13006	10003	13208	10208
12315	1652	13007	10004	13209	10208.5
12316	1646	13100	10200	13210	10220
12317	1647	13101	10016	13211	10221
12318	1642.3	13102	10200.5	13212	10222
12319	1645	13103	10201	13213	10223
12320	1636	13104	10209	13214	10224
12321	1637	13105	10210	13215	10225
12322	22050	13106	10210.5	13216	10226
12323	22051	13107	10211	13217	10227
12324	22052	13108	10212	13219	10014
12325	1515	13109	10213	13220	10233
12326	1638	13110	10214	13230	10230
12327	1648	13111	10216	13231	10229
12328	22802	13112	10217		

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
13232	10230.1	13304	10010.2	14200	14202
13233	10234	13305	10010.5	14201	14203
13240	10320	13306	10011	14202	14204
13241	10321	13307	10012	14203	14205.5
13242	10322	13308	10012.1	14210	14200
13243	10323	13309	10012.3	14211	14201
13244	10324	13310	10012.5	14212	14206
13245	10325	13311	10012.7	14213	14207
13246	10326	13312	10013	14214	14208
13247	10327	13313	10013.5	14215	14209
13260	10333	13314	10015	14216	14211
13261	10334	13315	10017	14217	14212
13262	10335	13316	10307.5	14218	14213
13263	10336	13317	10324.5	14219	14214
13264	10337	14000	14350	14220	14215
13265	10338	14001	14351	14221	14400
13266	10339	14002	14352	14222	14400.1
13267	10340	14003	14354	14223	14401
13280	10301	14100	14000	14224	14402
13281	10302	14101	14001	14225	14403
13282	10302.5	14102	14002	14226	14404
13283	10303	14103	14003	14227	14405
13284	10304	14104	14004	14240	14216
13285	10305	14105	14005	14241	14217
13286	10306	14106	14005.4	14242	14218
13287	10307	14107	14005.5	14243	14219
13288	10308	14108	14005.6	14244	14220
13289	10309	14109	14006	14245	14221
13300	10007	14110	14007	14246	14222
13301	10008	14111	14008	14247	14223
13302	10009	14112	15209	14248	14224
13303	10010	14113	15210	14249	14225

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
14250	14226	14298	14252	15054	17004
14251	14227	14299	14255	15055	17005
14252	14228	14310	14253	15056	17006
14253	14229	14320	14210	15057	17007
14270	15220	14321	14238	15058	17008
14271	15221	14400	14300	15059	17009
14272	15222	14401	14301	15060	17010
14273	15223	14402	14302	15061	17011
14274	15224	14403	14303	15062	17012
14275	15225	14404	14304	15063	17013
14276	15226	14405	14305	15064	17014
14277	15227	14406	14306	15080	17020
14278	14230	14420	15240	15081	17021
14279	14231	14421	15241	15082	17022
14280	14232	14422	15242	15083	17024
14281	14233	14423	15243	15084	17025
14282	14234	15000	1400	15085	17026
14283	14236	15001	1401	15100	17030
14284	14237	15002	1402	15101	17031
14285	14239	15003	1403	15102	17032
14286	14240	15004	1404	15103	17033
14287	14241	15005	1405	15120	17040
14288	14242	15006	1407	15121	17041
14289	14427	15007	1408	15122	17042
14290	14243	15008	1409	15150	17052
14291	14244	15009	1409.5	15151	17053
14292	14245	15010	1410	15152	17054
14293	14246	15011	1411	15153	17055
14294	14247	15050	17000	15154	17056
14295	14249	15051	17001	15155	17057
14296	14250	15052	17002	15156	17058
14297	14251	15053	17003	15157	17059

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
15200	17060	15309	17089	15624	17163
15201	17061	15310	17090	15625	17164
15202	17063	15311	17091	15626	17165
15250	17070	15350	17100	15627	17166
15251	17071	15351	17101	15628	17167
15260	15260	15352	17102	15629	17168
15261	15261	15353	17103	15630	17169
15262	15262	15400	17111	15631	17170
15263	15263	15401	17112	15632	17171
15264	15264	15402	17113	15633	17172
15265	15265	15450	54	15634	17173
15266	15266	15451	6610	15640	17180
15267	15267	15452	17110	15641	17182
15268	15268	15460	8874	15642	17183
15269	15269	15470	9374	15645	17190
15270	15270	15480	9724	15650	20500
15271	15271	15490	9783	15651	20501
15272	15272	15500	17120	15652	20502
15273	15272.5	15501	17121	15653	20502.5
15274	15273	15502	17122	15654	20503
15275	15274	15503	25050	15670	20530
15276	15275	15504	17123	15671	20531
15277	15276	15505	17124	15672	20532
15300	17080	15550	17130	15673	20533
15301	17081	15551	17134	16000	20089
15302	17082	15552	17136	16001	20000
15303	17083	15600	17140	16002	20001
15304	17084	15610	17150	16003	20002
15305	17085	15620	17160	16100	20021
15306	17086	15621	17160.5	16101	20300
15307	17087	15622	17161	16200	20020
15308	17088	15623	17162	16201	20022

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
16202	20023	16602	20085	17306	14831
16203	20024	16603	20086	17400	14900
16300	20304	16620	20337	17500	14950
16400	20050	16640	20369	17501	14960
16401	20051	16641	20370	17502	14970
16402	20052	16642	20371	17503	14971
16403	20053	16643	20372	17504	14980
16404	20302	16700	20110	17505	14981
16420	20301	16701	20111	17506	14990
16421	20303	16702	20116	18000	29100
16440	20330	16703	20087	18001	29101
16441	20331	16720	20338	18002	29102
16442	20332	16740	20373	18100	29200
16443	20333	16741	20375	18101	29200.5
16444	20334	16742	20376	18102	29201
16460	20360	16800	20112	18103	29202
16461	20361	16801	20113	18104	29203
16462	20362	16802	20114	18105	29203.7
16463	20363	16803	20305	18106	29204
16464	20364	16900	20115	18107	29205
16465	20366	16920	20339	18108	29206
16466	20367	16940	20374	18109	29207
16467	20368	17000	14500	18200	29300
16500	20080	17001	14510	18201	29301
16501	20081	17100	14600	18202	29302
16502	20082	17200	14700	18203	29303
16503	20088	17300	14800	18204	29304
16520	20335	17301	14810	18205	29305
16521	20336	17302	14811	18300	29413
16540	20365	17303	14820	18301	29414
16600	20083	17304	14821	18302	29415
16601	20084	17305	14830	18303	29416

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
18310	29420	18561	29641	18640	29760
18311	29421	18562	29643	18650	29770
18320	29430	18563	29644	18660	29780
18340	29440	18564	29645	18661	29781
18350	29450	18565	29645.1	18670	29790
18351	29451	18566	29646	18671	29791
18360	29460	18567	29647	18680	29795
18361	29462	18568	29648	18700	29800
18370	29470	18569	29649	19001	15020
18371	29473	18570	29650	19002	15021
18380	29480	18571	29651	19003	15022
18390	29490	18572	29652	19004	15121
18400	29500	18573	29653	19005	15025
18401	29501	18574	29654	19100	15100
18402	29505	18575	29655	19101	15102
18403	29506	18576	29656	19102	15103
18500	29610	18577	29657	19103	15105
18501	29611	18578	29658	19200	15110
18502	29612	18600	29720	19201	15111
18520	29620	18601	29721	19202	15112
18521	29621	18602	29722	19203	15101
18522	29622	18603	29723	19204	15104
18523	29623	18610	29730	19205	15113
18524	29624	18611	29731	19206	15114
18540	29630	18612	29732	19207	15115
18541	29630.5	18613	29733	19208	15116
18542	29631	18614	29734	19209	15117
18543	29632	18620	29740	19210	15023
18544	29634	18621	29741	19211	15024
18545	29635	18622	29742	19212	15026
18546	29636	18630	29750	19213	15118
18560	29640	18631	29751	19220	15119

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 CODE

NEW	OLD	NEW	OLD	NEW	OLD
19221	15120	20003	11703	rep.	30011
19222	15122	20004	11704	rep.	30020
19300	15300	20005	11705	rep.	30020.5
19301	15301	20006	11706	rep.	30021
19302	15302	20007	11707	rep.	30022
19303	15303	20008	11708	rep.	30030
19304	15304	20009	11709	rep.	30031
19320	15320	20100	12200	rep.	30032
19321	15321	20200	12300	rep.	30040
19322	15322	20201	12301	rep.	30041
19323	15342	20202	12302	rep.	30042
19340	15340	20203	12303	rep.	30043
19341	15341	20300	12400	rep.	30044
19360	15343	20301	12401	21500	35000
19361	15344	20400	12500	21501	35001
19362	15345	20420	12510	21502	35002
19363	15346		12513	21503	35003
19370	15363	20440	12520	21504	35004
19371	15365	20441	12522	21505	35005
19380	15360	20442	12523	21506	35006
19381	15361	20443	12524	21600	35100
19382	15362	20444	12525	21601	35101
19383	15364	20500	12527	21602	35102
19384	15367	20501	12528	21603	35103
19385	15368	20502	12530	21604	35104
19386	15369	21000	51	21605	35105
20000	11700	21001	30000	21606	35106
20001	11701	21002	30001	21620	35150
20002	11702	rep.	30010		

[1] Repeal operative January 1, 1998.
[2] Operative January 1, 1998.
[3] Repeal operative January 1, 1996.
[4] Operative January 1, 1996.
[5] Repeal operative January 1, 1995.
[6] Repeal operative January 1, 1999.

SEC. 156. Section 5 of Chapter 76 of the Statutes of 1996 is amended to read:

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 provide guidance and clarification that is essential to the fair and efficient taxation of intercounty pipeline rights-of-way, it is necessary that this act take effect immediately.

SEC. 157. Section 1 of Chapter 663 of the Statutes of 1996 is amended to read:

Section 1. The Legislature finds and declares as follows:

(a) That Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, commonly referred to as the Joint Exercise of Powers Act, allows two or more public agencies to enter into agreements to jointly exercise their common powers.

(b) That Section 65101 of the Government Code allows two or more cities and counties to create joint area planning agencies to exercise the powers and perform the duties of the Planning and Zoning Law, as set forth in Title 7 (commencing with Section 65000) of the Government Code.

(c) That the County of Riverside, the City of Moreno Valley, the City of Perris, and the City of Riverside have formed a joint powers agency called the March Joint Powers Authority to coordinate and promote the reuse of the March Air Force Base and adjacent territory.

(d) That existing law allows the March Joint Powers Authority to exercise the powers and perform the duties of the legislative body or any other planning agency of a city, county, or city and county under the Planning and Zoning Law, if authorized by the joint powers agreement that governs the authority. This finding is consistent with the opinion of the Legislative Counsel of California, No. 24940, dated August 1, 1996, printed in the Senate Daily Journal for the 1995–96 Regular Session of the California Legislature of August 23, 1996, at pages 5811 to 5815, inclusive.

(e) The March Joint Powers Authority may exercise the powers and perform the duties set forth in the Planning and Zoning Law within the territory specified by and pursuant to the terms of the joint powers agreement which governs the authority.

(f) The findings and declarations contained in this act do not constitute a change in, but are declaratory of, existing law.

(g) This act does not affect the authority of a local agency, under provisions of law as they read on the effective date of this act, to perform any function set forth in this act.

SEC. 158. Section 1 of Chapter 947 of the Statutes of 1996 is amended to read:

Section 1. (a) The sum of two million two hundred fifty thousand dollars ($2,250,000) is hereby appropriated from the General Fund

to the Superintendent of Public Instruction for the 1996–97 fiscal year only, for allocation to the Los Angeles Unified School District for the purpose of providing an early intervention program for at-risk pupils in grades 6 to 8, inclusive, who are otherwise eligible to be served by community day schools pursuant to Section 48662 of the Education Code. This early intervention program shall include the following:

(1) Pupil attendance at an intensive residential program located at a site other than the regular campus for a five-week period. The program shall include at least 175 hours of direct instruction, 25 hours of study hall, counseling services, and instruction in conflict resolution.

(2) Attendance by participating pupils in a course of study determined by the school district to be appropriate for pupils identified pursuant to Section 48662 of the Education Code for the remainder of the school year.

(3) Twelve hours of training for parents of pupils attending the residential program.

(b) The Los Angeles Unified School District may contract with an outside public entity for the provision of the intensive residential program specified in subdivision (a) if the public entity has provided that type of service for at least two years, and can demonstrate that attendance by pupils in the residential program has improved pupils' regular school attendance and has lowered the number of pupil suspensions or pupil referrals for disciplinary action by at least 60 percent.

(c) The State Department of Education shall conduct a review of the early intervention program operated by the Los Angeles Unified School District and shall report the findings of the review to the Legislature on or before January 31, 1997.

(d) For purposes of making 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. 159. Any section of any act enacted by the Legislature during the 1997 calendar year that takes effect on or before January 1, 1998, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is 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, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 1997 calendar year and takes

effect on or before January 1, 1998, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

CHAPTER 18

An act to amend Section 1377 of the Penal Code, relating to criminal procedure.

[Approved by Governor June 6, 1997. Filed with Secretary of State June 6, 1997.]

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

SECTION 1. Section 1377 of the Penal Code is amended to read:

1377. When the person injured by an act constituting a misdemeanor has a remedy by a civil action, the offense may be compromised, as provided in Section 1378, except when it is committed as follows:

(a) By or upon an officer of justice, while in the execution of the duties of his or her office.

(b) Riotously.

(c) With an intent to commit a felony.

(d) In violation of any court order as described in Section 273.6.

(e) By or upon any family or household member, or upon any person, when the violation involves any person described in Section 6211 of the Family Code or subdivision (b) of Section 13700 of this code.

CHAPTER 19

An act to amend Sections 1343 and 1345 of the Penal Code, relating to criminal procedure.

[Approved by Governor June 6, 1997. Filed with Secretary of State June 6, 1997.]

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

SECTION 1. Section 1343 of the Penal Code is amended to read:

1343. The testimony given by the witness shall be reduced to writing and authenticated in the same manner as the testimony of a witness taken in support of an information. Additionally, the testimony may be video-recorded.

SEC. 2. Section 1345 of the Penal Code is amended to read:

1345. The deposition, or a certified copy of it, may be read in evidence, or if the examination was video-recorded, that video-recording may be shown by either party at the trial if the court finds that the witness is unavailable as a witness within the meaning of Section 240 of the Evidence Code. The same objections may be taken to a question or answer contained in the deposition or video-recording as if the witness had been examined orally in court.

CHAPTER 20

An act to add Section 24045.16 to the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 6, 1997. Filed with Secretary of State June 6, 1997.]

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

SECTION 1. Section 24045.16 is added to the Business and Professions Code, to read:

24045.16. Notwithstanding any other provision of this division, the department may issue an on-sale general bona fide public eating place license as defined by Section 23038 to any nonprofit charitable arts trust that is exempt from the payment of income taxes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. For the purposes of this section, "arts trust" means an entity devoted to the arts and humanities which operates two or more museums, one of which is located on a site of at least 100 acres, and is within a facility of not less than 450,000 square feet in the County of Los Angeles.

An arts trust holding a license under this section may, subject to Section 25631, sell and serve alcoholic beverages to the public. In addition, a licensee under this section may, subject to Section 25631, directly or indirectly, give or furnish alcoholic beverages to persons at events for consumption on the premises. A premises licensed pursuant to this section shall not be entitled to a caterer's permit pursuant to Section 23399, and shall not be entitled to exercise any off-sale privileges pursuant to Section 23401.

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 application of provisions of the Alcoholic Beverage Control Act to events sponsored by arts trusts be clarified at the

earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 21

An act to add Section 23399.7 to, and to repeal Section 23433.5 of, the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 6, 1997. Filed with Secretary of State June 6, 1997.]

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

SECTION 1. Section 23399.7 is added to the Business and Professions Code, to read:

23399.7. Any license issued to any golf course facility, or any license issued to a licensee that operates at any golf course facility, entitles the licensee to make sales of alcoholic beverages from any golf cart, as defined in Section 345 of the Vehicle Code, that the licensee operates on the golf course premises.

SEC. 2. Section 23433.5 of the Business and Professions Code is repealed.

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:

As a result of inadvertent error, the intent of Chapter 82 of the Statutes of 1996, which was to allow all golf course facilities, not only golf clubs, to make sales of alcoholic beverages from a golf cart, was not completely effectuated. In order to implement that intent as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 22

An act to add Section 939.71 to the Penal Code, relating to grand juries.

[Approved by Governor June 10, 1997. Filed with Secretary of State June 11, 1997.]

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

SECTION 1. Section 939.71 is added to the Penal Code, to read:

939.71. (a) If the prosecutor is aware of exculpatory evidence, the prosecutor shall inform the grand jury of its nature and existence. Once the prosecutor has informed the grand jury of exculpatory evidence pursuant to this section, the prosecutor shall inform the grand jury of its duties under Section 939.7. If a failure to comply with the provisions of this section results in substantial prejudice, it shall be grounds for dismissal of the portion of the indictment related to that evidence.

(b) It is the intent of the Legislature by enacting this section to codify the holding in Johnson v. Superior Court, 15 Cal. 3d 248, and to affirm the duties of the grand jury pursuant to Section 939.7.

CHAPTER 23

An act to amend Section 655 of the Harbors and Navigation Code, relating to vessels.

[Approved by Governor June 10, 1997. Filed with Secretary of State June 11, 1997.]

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

SECTION 1. Section 655 of the Harbors and Navigation Code is amended to read:

655. (a) No person shall use any vessel or manipulate water skis, an aquaplane, or a similar device in a reckless or negligent manner so as to endanger the life, limb, or property of any person. The department shall adopt regulations for the use of vessels, water skis, aquaplanes, or similar devices in a manner that will minimize the danger to life, limb, or property consistent with reasonable use of the equipment for the purpose for which it was designed.

(b) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or the combined influence of an alcoholic beverage and any drug.

(c) No person shall operate any recreational vessel or manipulate any water skis, aquaplane, or similar device if the person has an alcohol concentration of 0.08 percent or more in his or her blood.

(d) No person shall operate any vessel other than a recreational vessel if the person has an alcohol concentration of 0.04 percent or more in his or her blood.

(e) No person shall operate any vessel, or manipulate water skis, an aquaplane, or a similar device who is addicted to the use of any drug. This subdivision does not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(f) No person shall operate any vessel or manipulate water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage, any drug, or under the combined influence of an alcoholic beverage and any drug, and while so operating, do any act forbidden by law, or neglect any duty imposed by law in the use of the vessel, water skis, aquaplane, or similar device, which act or neglect proximately causes bodily injury to any person other than himself or herself.

(g) Notwithstanding any other provision of law, information, verbal or otherwise, which is obtained from a commissioned, warrant, or petty officer of the United States Coast Guard who directly observed the offense may be used as the sole basis for establishing the necessary reasonable cause for a peace officer of this state to make an arrest pursuant to the United States Constitution, the California Constitution, and Section 836 of the Penal Code for violations of subdivisions (b), (c), (d), and (e) of this section.

(h) In any prosecution under subdivision (c), it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of operation of a recreational vessel if the person had an alcohol concentration of 0.08 percent or more in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(i) In any prosecution under subdivision (d), it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of operation of a vessel other than a recreational vessel if the person had an alcohol concentration of 0.04 percent or more in his or her blood at the time of the performance of a chemical test within three hours after the operation.

(j) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person who was operating a vessel or manipulating water skis, an aquaplane, or a similar device while under the influence of an alcoholic beverage in violation of subdivision (b) or (f), the amount of alcohol in the person's blood at the time of the test, as shown by a chemical test of that person's blood, breath, or urine, shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent, by weight, of alcohol in the person's blood, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(2) If there was at that time 0.05 percent or more, but less than 0.08 percent, by weight, of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but the fact may be considered with other competent evidence in determining whether

the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(3) If there was at that time 0.08 percent or more, by weight, of alcohol in the person's blood, it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(k) This section does not limit the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

(*l*) This section applies to foreign vessels using waters subject to state jurisdiction.

CHAPTER 24

An act to amend Section 11167.5 of the Penal Code, relating to child abuse and neglect.

[Approved by Governor June 10, 1997. Filed with Secretary of State June 11, 1997.]

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

SECTION 1. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Sections 11166 and 11166.2 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars ($500), or by both that imprisonment and fine.

(b) Reports of suspected child abuse and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.

(3) Persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.

(6) The State Department of Social Services or any county licensing agency which has contracted with the state, as specified in paragraph (3) of subdivision (b) of Section 11170, when an individual

has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse by an operator or employee of an out-of-home care facility.

(7) Hospital scan teams. As used in this paragraph, “hospital scan team” means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse. The disclosure authorized by this section includes disclosure among hospital scan teams located in the same county.

(8) Coroners and medical examiners when conducting a postmortem examination of a child.

(9) The Board of Prison Terms, who may subpoena an employee of a county welfare department who can provide relevant evidence and reports that (A) are not unfounded, pursuant to Section 11165.12, and (B) concern only the current incidents upon which parole revocation proceedings are pending against a parolee charged with child abuse. The reports and information shall be confidential pursuant to subdivision (d) of Section 11167.

(c) Authorized persons within county health departments shall be permitted to receive copies of any reports made by health practitioners, as defined in Section 11165.8, pursuant to Section 11165.13, and copies of assessments completed pursuant to Sections 10900 and 10901 of the Health and Safety Code, to the extent permitted by federal law. Any information received pursuant to this subdivision is protected by subdivision (e).

(d) Nothing in this section shall be interpreted to require the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(e) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse.

CHAPTER 25

An act to amend Section 1714.45 of the Civil Code, relating to liability, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 12, 1997. Filed with Secretary of State June 12, 1997.]

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

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

(a) That the Attorney General of the State of California has not joined the 22 other state attorneys general who have filed civil actions against tobacco companies to recover the tobacco-related costs incurred by their states because the Attorney General asserts that a clarification of Section 1714.45 of the Civil Code is necessary before such a civil action can be filed.

(b) That, although there is a difference of opinion over whether any clarification of Section 1714.45 is necessary, the Legislature recognizes that the filing of such a civil action would be facilitated by a clarification of the law relating to tobacco products.

SEC. 2. Section 1714.45 of the Civil Code is amended to read:

1714.45. (a) In a product liability action, a manufacturer or seller shall not be liable if:

(1) The product is inherently unsafe and the product is known to be unsafe by the ordinary consumer who consumes the product with the ordinary knowledge common to the community; and

(2) The product is a common consumer product intended for personal consumption, such as sugar, castor oil, alcohol, tobacco, and butter, as identified in comment i to Section 402A of the Restatement (Second) of Torts.

(b) For purposes of this section, the term "product liability action" means any action for injury or death caused by a product, except that the term does not include an action based on a manufacturing defect or breach of an express warranty.

(c) This section is intended to be declarative of and does not alter or amend existing California law, including Cronin v. J.B.E. Olson Corp., (1972) 8 Cal. 3d 121, and shall apply to all product liability actions pending on, or commenced after, January 1, 1988.

(d) This section does not apply to, and never applied to, an action brought by a public entity to recover the value of benefits provided to individuals injured by a tobacco-related illness caused by the tortious conduct of a tobacco company or its successor in interest, including, but not limited to, an action brought pursuant to Section 14124.71 of the Welfare and Institutions Code. In such an action brought by a public entity, the fact that the injured individual's claim against the defendant may be barred by this section shall not be a defense. This subdivision does not constitute a change in, but is declaratory of, existing law relating to tobacco products.

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 California files a civil action similar to the civil actions filed by 22 other states and recovers tobacco-related costs

incurred by the state at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 26

An act to amend Section 25611.1 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor June 26, 1997. Filed with Secretary of State June 26, 1997.]

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

SECTION 1. Section 25611.1 of the Business and Professions Code is amended to read:

25611.1. Any manufacturer, winegrower, manufacturer's agent, rectifier, distiller, bottler, importer, or wholesaler, or any officer, director, or agent of any such person, may furnish, give, lend, or rent:

(a) Interior signs, advertising either wine or distilled spirits, for use in on-sale retail premises, each of which shall not exceed 630 square inches in size. This limitation on the size of interior signs, advertising either wine or distilled spirits, shall not be applicable to off-sale retail premises.

(b) Interior signs advertising beer in on-sale or off-sale retail premises which shall bear conspicuous notice of the beer manufacturer's name, brand name, trade name, slogans, markings, trademarks, or other symbols commonly associated with and generally used by the beer manufacturer in identifying the beer manufacturer's name or product, and which may bear graphic or pictorial advertising representations. These signs shall include, but are not limited to, posters, placards, stickers, decals, shelf strips, wall panels, plaques, shadow boxes, mobiles, dummy bottles, bottle toppers, case wrappers, brand-identifying statuettes, tap markers, and table tents. These interior signs advertising beer shall not be deemed of intrinsic or utilitarian value.

(c) Interior signs advertising beer for use in on-sale or off-sale retail premises, which are illuminated or mechanized, and which shall principally bear a conspicuous notice of the beer manufacturer's name, brand name, trade name, slogans, markings, trademarks, or other symbols commonly associated with and generally used by the beer manufacturer in identifying the beer manufacturer's name or product, and which may bear graphic or pictorial advertising representations. These illuminated or mechanized interior signs advertising beer shall not be deemed of intrinsic or utilitarian value.

(d) Signs or other advertising matter for exterior use at any on-sale or off-sale retail premises as may be permitted by this division and rules of the department adopted pursuant thereto.

CHAPTER 27

An act to make an appropriation in augmentation of Items 5240-101-0001, 5460-001-0001, 6110-001-0890, 9840-001-0001, 9840-001-0494, and 9840-001-0988 of Section 2.00 of the Budget Act of 1996, relating to contingencies, emergencies, and deficiencies, to take effect immediately as an appropriation for the usual current expenses of the state.

[Approved by Governor June 26, 1997. Filed with Secretary of State June 26, 1997.]

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

SECTION 1. The sum of four hundred sixty-six million one hundred fifty-nine thousand dollars ($466,159,000) is hereby appropriated for expenditure in the 1996–97 fiscal year in augmentation, and for the purposes of, contingencies or emergencies as provided in Items 9840-001-0001, 9840-001-0494, and 9840-001-0988 of Section 2.00 of the Budget Act of 1996 (Ch. 162, Stats. 1996), in accordance with the following schedule:

(1) Four hundred forty-seven million six hundred eighty-four thousand dollars ($447,684,000) from the General Fund to the Reserve for Contingencies or Emergencies in Item 9840-001-0001.

(2) Seventeen million two hundred fifty-five thousand dollars ($17,255,000) from unallocated special funds to the Reserve for Contingencies or Emergencies in Item 9840-001-0494.

(3) One million two hundred twenty thousand dollars ($1,220,000) from unallocated nongovernmental cost funds to the Reserve for Contingencies or Emergencies in Item 9840-001-0988.

(b) The Director of Finance may withhold authorization for the expenditure of funds provided in this section until such time as, and to the extent that, preliminary estimates of potential deficiencies are verified.

SEC. 2. The sum of ten million dollars ($10,000,000) is hereby appropriated, as a loan, from the General Fund for support of the Department of the Youth Authority in augmentation of Item 5460-001-0001 of Section 2.00 of the Budget Act of 1996 (Ch. 162, Stats. 1996). The purpose of this loan is to allow the department to meet operational cash-flow needs resulting from delays in the department's recovery of reimbursements. Notwithstanding any other provision of law, the loan authorized by this section shall be repaid by the department no later than a date six months after the

date any funds under the loan are initially made available to the department, except that the department is not required to make any payment for interest on the loan.

SEC. 3. The sum of four hundred fifty-nine thousand dollars ($459,000) is hereby appropriated from the Federal Trust Fund, in augmentation of Item 6110-001-0890 of Section 2.00 of the Budget Act of 1996 (Ch. 162, Stats. 1996), for administrative costs of the State Department of Education for mediation and fair hearing services activities under special education programs for exceptional children (Item 6110-161-0890, Sec. 2.00, Budget Act of 1996). Notwithstanding any other provision of law, the administrative expenses restrictions set forth in Provision 1 of Item 6110-161-0890 of Section 2.00 of the Budget Act of 1996 do not apply to the appropriation made by this section.

SEC. 4. The sum of eleven million five hundred forty thousand dollars ($11,540,000) is hereby appropriated from the General Fund to the Department of Corrections in augmentation of Item 5240-101-0001 of Section 2.00 of the Budget Act of 1996 (Ch. 162, Stats. 1996). The funds appropriated by this section shall be expended to make immediate payment pursuant to that item of the unpaid claims of counties; of these funds, five million nine hundred eighty thousand dollars ($5,980,000) shall be allocated under Schedule (a) of that item, relating to the Institution Program, and five million five hundred sixty thousand dollars ($5,560,000) shall be allocated under Schedule (b) of that item, relating to the Community Correctional Program.

SEC. 5. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the California Constitution and shall go into immediate effect.

CHAPTER 28

An act to amend Sections 10163.2, 10489.2, and 10489.3 of the Insurance Code, relating to insurance.

[Approved by Governor June 26, 1997. Filed with Secretary of State June 26, 1997.]

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

SECTION 1. Section 10163.2 of the Insurance Code is amended to read:

10163.2. (a) This section shall apply to all policies issued on or after the operative date of this section as defined herein. Except as provided in subdivision (g), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for

each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (1) the then present value of the future guaranteed benefits provided for by the policy; (2) 1 percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and (3) 125 percent of the nonforfeiture net level premium as hereinafter defined. Provided, however, that in applying the percentage specified in (3) no nonforfeiture net level premium shall be deemed to exceed 4 percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

(b) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy, divided by the present value, at the date of issue of the policy, of an annuity of 1 percent per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(c) In the case of policies which cause on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(d) Except as otherwise provided in subdivision (g), the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of (1) the sum of (A) the then present value of the then future guaranteed benefits provided for by the policy and (B) the additional expense allowance, if any, over (2) the

then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(e) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (1) 1 percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (2) 125 percent of the increase, if positive, in the nonforfeiture net level premium.

(f) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (1) by (2) where:

(1) It equals the sum of:

(A) The nonforfeiture net level premium applicable prior to the change times the present value of an annuity of 1 percent per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

(B) The present value of the increase in future guaranteed benefits provided for by the policy, and

(2) It equals the present value of an annuity of 1 percent per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(g) Notwithstanding any other provisions of this section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(h) All adjusted premiums and present values referred to in this article shall for all policies of ordinary insurance be calculated on the basis of (1) the Commissioners 1980 Standard Ordinary Mortality Table or (2) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section for policies issued in that calendar year. Provided, however, that:

(1) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined

in this section, for policies issued in the immediately preceding calendar year.

(2) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by Section 10160, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(3) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(4) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(5) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(6) Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that are approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.

(7) Any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that are approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

(i) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125 percent of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearer one-quarter of 1 percent.

(j) Notwithstanding any other provision in this code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(k) After the effective date of this section, any company may file with the commissioner a written notice of its election to comply with the provision of this section after a specified date before January 1, 1989, which shall be the operative date of this section for such company. If a company makes no such election, the operative date of this section for such company shall be January 1, 1989.

SEC. 2. Section 10489.2 of the Insurance Code is amended to read:

10489.2. Except as otherwise provided in Sections 10489.3, 10489.4, and 10489.95, the minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation methods defined in Sections 10489.5, 10489.6, 10489.9, and 10489.95, $3^1/_2$ percent per annum interest, except that the interest specified in subdivisions (c) and (d) may be used for certain annuity and pure endowment contracts, 4 percent per annum interest for such policies issued or contracts entered into on or after January 1, 1970, but prior to January 1, 1980, $5^1/_2$ percent per annum interest may be used for single premium life insurance policies and $4^1/_2$ percent per annum interest for all other such policies issued on or after January 1, 1980, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies—the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of subdivision (a) of Section 10163.1, and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date and prior to the operative date of Section 10163.2, provided that for any category of such policies issued on female risks, all modified net premiums and present values referred to in Sections 10489.5, and 10489.9 may be calculated, at the option of the insurer, according to an age not more than six years younger than the actual age of the insured; and for such policies issued on or after the operative date of Section 10163.2, as amended (i) the Commissioners 1980 Standard Ordinary Mortality Table, or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (iii) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of subdivision (b) of Section 10163.1, and for such policies issued on or after such operative date the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor that is

approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts issued prior to the compliance date of Section 10489.3, excluding any disability and accidental death benefits in such policies—the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, ultimate, or any modification of these tables approved by the commissioner. However, the minimum standard for such contracts issued from January 1, 1968, through December 31, 1968, with commencement of benefits deferred not more than one year from date of issue, may be, at the option of the company, 4 percent per annum interest, and for contracts issued from January 1, 1969, to the compliance date of Section 10489.3, with commencement of benefits deferred not more than 10 years from date of issue and with premiums payable in one sum may be, at the option of the company, 5 percent per annum interest.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, any of the tables or modifications of the tables specified for individual annuity and pure endowment contracts. However, the minimum standard for annuities and pure endowments purchased or to be purchased prior to the compliance date of Section 10489.3, under group annuity and pure endowment contracts with considerations received on or after January 1, 1968, through December 31, 1968, may be, at the option of the company, 4 percent per annum interest, and for annuities and pure endowments purchased or to be purchased prior to the compliance date of Section 10489.3, under group annuity and pure endowment contracts with considerations received from January 1, 1969, to the compliance date of Section 10489.3, may be at the option of the company, 5 percent per annum interest.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that are approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to

January 1, 1961, the Class (3) Disability Table (1926). Any such table shall for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner.

(h) With the adoption of tables by the National Association of Insurance Commissioners after 1980, the commissioner may, by regulation or bulletin, withdraw approval of the use of previously adopted tables replaced by the newly adopted tables.

SEC. 3. Section 10489.3 of the Insurance Code is amended to read:

10489.3. Except as provided in Section 10489.4, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the compliance date of Section 10489.3, and for all annuities and pure endowments purchased on or after the compliance date of Section 10489.3, under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in Sections 10489.5 and 10489.6, and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued prior to January 1, 1980, excluding any disability and accidental death benefits in such contracts, the Individual Annuity Mortality Table for 1971, or any modification of such table approved by the commissioner, and an interest rate of:

(1) Six percent per annum for all such contracts with commencement of benefits deferred not more than 10 years from date of issue and with premiums payable in one sum.

(2) Four percent per annum for all other such contracts.

(b) For individual single premium immediate annuity contracts issued on or after January 1, 1980, excluding any disability and accidental death benefits in such contracts, the Individual Annuity Mortality Table for 1971 or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated or bulletin issued by the commissioner for use in

determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and $7^1/_2$ percent per annum interest.

(c) For individual annuity and pure endowment contracts issued on or after January 1, 1980, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the individual Annuity Mortality Table for 1971 or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the commissioner, and $5^1/_2$ percent per annum interest for single premium deferred annuity and pure endowment contracts and $4^1/_2$ percent per annum interest for all other such individual annuity and pure endowment contracts.

(d) For all annuities and pure endowments purchased prior to January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the Group Annuity Mortality Table for 1971, or any modification of this table approved by the commissioner, and 6 percent per annum interest.

(e) For all annuities and pure endowments purchased on or after January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the Group Annuity Mortality Table for 1971 or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, or its successor, that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the commissioner, and $7^1/_2$ percent per annum interest.

All individual annuity and pure endowment contracts entered into prior to January 1, 1980, and all annuities and pure endowments purchased prior to January 1, 1980, under group annuity and pure endowment contracts shall remain subject to the provisions of Article 3A (commencing with Section 10489.1) as it existed prior to January 1, 1980.

(f) With the adoption of tables by the National Association of Insurance Commissioners after 1980, the commissioner may, by regulation or bulletin, withdraw approval of the use of previously adopted tables replaced by the newly adopted tables.

CHAPTER 29

An act to amend Section 803 of the Penal Code, relating to sex offenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1997. Filed with Secretary of State June 30, 1997.]

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

SECTION 1. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or Section 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) Felony insurance fraud in violation of Section 548 or 550 of this code or former Section 1871.1, or Section 1871.4, of the Insurance Code.

(7) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(8) A violation of Section 22430 of the Business and Professions Code.

(9) A violation of Section 10690 of the Health and Safety Code.

(10) A violation of Section 529a.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could

have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100) of, Chapter 6.7 (commencing with Section 25280) of, or Chapter 6.8 (commencing with Section 25300) of, Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of, the Health and Safety Code, or under Section 386.

(f) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a responsible adult or agency by a child under 18 years of age that the child is a victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) For purposes of this subdivision, a "responsible adult" or "agency" means a person or agency required to report pursuant to Section 11166. This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The defendant has committed at least one violation of Section 261, 286, 288, 288a, 288.5, 289, or 289.5 against the same victim within the limitation period specified for that crime in either Section 800 or 801.

(3) (A) This subdivision applies to a cause of action arising before, on, or after January 1, 1990, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, but a new complaint or indictment is or was filed no later than 180 days after the date on which either a

published opinion of the California Supreme Court, deciding whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(B) (i) If the victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, including any review proceeding, shall not be binding upon refiling.

(g) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a California law enforcement agency by a person of any age alleging that he or she, while under the age of 18 years, was the victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The crime involved substantial sexual conduct, as described in subdivision (b) of Section 1203.066, excluding masturbation that is not mutual, and there is independent evidence that clearly and convincingly corroborates the victim's allegation. No evidence may be used to corroborate the victim's allegation that otherwise would be inadmissible during trial. Independent evidence does not include the opinions of mental health professionals.

(3) (A) This subdivision applies to a cause of action arising before, on, or after January 1, 1994, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this subdivision is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, but a new complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this subdivision is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(B) (i) If the victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, by any trial court or any intermediate appellate court, shall not be binding upon refiling.

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 authorize the filing of criminal prosecutions within the time periods specified in this act, it is necessary for this act to take effect immediately.

CHAPTER 30

An act to amend Section 56728.7 of the Education Code, relating to special education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1997. Filed with Secretary of State June 30, 1997.]

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

SECTION 1. Section 56728.7 of the Education Code is amended to read:

56728.7. (a) The Superintendent of Public Instruction may conduct a pilot program for the 1992–93, 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years to enable and encourage school districts and county offices of education, either individually or through special education local plan areas, to establish programs in public schools for individuals with exceptional needs who are currently placed in nonpublic, nonsectarian schools and to develop plans for the return of these pupils to an appropriate public school program, with a view of determining whether these new programs can provide an effective mainstreaming education program in a less restrictive environment that is appropriate to each pupil's needs for services as specified in his or her written individualized education program. Services provided pursuant to this section to each pupil by an individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team. The superintendent shall select, for this purpose, no more than 10 school districts or county offices of education that are willing to participate in the pilot project, through an application process to be developed by the superintendent during the 1991–92 fiscal year in accordance with subdivision (c). A maximum of 200 pupils shall participate in the statewide pilot program at any given time. Of the 200 pupils, not more than 50 pupils shall be from any one school district, and no more than 15 pupils from any one school district shall be funded pursuant to Article 8.5 (commencing with Section 56775).

(b) In addition, the Superintendent of Public Instruction shall conduct a pilot program in San Mateo County and in the Contra Costa County special education local plan area for the 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years to encourage and enable the San Mateo County Office of Education and the Contra Costa County special education local plan area to identify pupils who currently are placed into a nonpublic school program by San Mateo County school districts or Contra Costa County school districts, respectively, but are able to be returned to an appropriate public school program, and to identify seriously emotionally disturbed pupils who currently are in a public school program who are imminently at risk of placement in a nonpublic school program or another more restrictive setting. The purpose of each pilot program is to establish new public school programs that maintain an effective mainstreaming education program that is appropriate to each pupil's needs for the services specified in a pupil's individualized education program, and thereby avoid placing those pupils in a nonpublic school setting.

Services provided to a pupil pursuant to this section according to the pupils' individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under the provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team.

(c) The superintendent shall ensure that the local application to participate in a pilot program pursuant to subdivision (a) describes the program and fiscal resources that it will use in implementing the pilot program, including, but not limited to, the establishment of the Local Pilot Program Advisory Committee and its implementing policies for the pilot program. The superintendent shall make every effort to ensure that the racial, ethnic, and socioeconomic composition of the Local Pilot Program Advisory Committee reflects the current racial, ethnic, and socioeconomic composition of the exceptional pupil population in the school districts in which the pilot programs are established.

In its preparation of the application for participation in the pilot program, the local education agency shall consult with the special education local plan area in which it is a member and describe the impact the pilot program would have on other programs and resources available within the special education local plan area.

In addition, the superintendent shall ensure that there is a sampling of multiple sizes of school districts and county offices of education, including special education local plan areas whose special education plan serves an average daily attendance of 30,000 or more. The sampling shall also include all of the following:

(1) Local education agencies in urban and rural settings.

(2) Local education agencies serving large populations of individuals with exceptional needs from low-income and ethnic and linguistic minority families.

(3) Local education agencies impacted by a large number of individuals with exceptional needs who are served by nonpublic, nonsectarian schools and agencies.

(4) Local education agencies impacted by a large number of individuals with exceptional needs who reside in a foster family home, licensed children's institution, hospital, or other similar medical facility and who are served by nonpublic, nonsectarian schools or agencies.

(d) Consistent with Section 56366 and other provisions of law, it is the intent of the Legislature that programs developed pursuant to this section shall ensure the participation of, and coordination with, local contracted nonpublic, nonsectarian schools through the establishment of a Local Pilot Program Advisory Committee in order to develop, monitor, and evaluate policies to ensure that pupils' placements are changed when adequate progress is made and readiness for placement in a less restrictive environment located in a public school is achieved.

(1) The Local Pilot Program Advisory Committee shall be comprised of representatives of local public and contracted nonpublic school programs, parents, and other local public agencies providing services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Representatives of each Local Pilot Program Advisory Committee shall include two representatives of local contracted nonpublic schools designated by the California Association of Private Specialized Education and Services without regard to membership, one of whom shall be a representative of a licensed children's institution when it is determined that pupils in a licensed children's institution in a nonpublic school program placement may be considered for placement in a mainstreaming educational program, a representative of the special education local plan area administrative unit, a teacher representative of a local public school participating in the pilot program, a parent representative of the local community advisory committee, pursuant to the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 and following), a representative of a parent advocate, a representative of the local mental health advisory board, and a representative of each local public agency providing services to exceptional pupils within the special education local plan area under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(2) Notwithstanding any other provision of law, the Local Pilot Program Advisory Committee shall advise on the development, monitoring, and evaluation of policies and procedures that are necessary to implement the pilot program. The advisement shall include, but not necessarily be limited to, the following subjects:

(A) Pupil behaviors.
(B) Pupil achievement and classroom performance reports.
(C) Curriculum and class size.
(D) Adequate support services.
(E) Personnel qualifications.

(3) The Local Pilot Program Advisory Committee shall also advise on development procedures and criteria for evaluating the effectiveness of the pilot program pursuant to paragraph (1) of subdivision (h) and shall annually submit a written evaluation of the pilot program to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall evaluate selected pilot programs, based on the report of each advisory committee of how goals for an effective mainstream education program have been met in accordance with pupils' individualized education programs.

(e) (1) Notwithstanding any other provision of law, in the 1992–93, 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years for pilot programs operated pursuant to subdivision (a) and in the 1993–94, 1994–95, 1995–96, 1996–97, and 1997–98 fiscal years for the pilot programs operated pursuant to subdivision (b), the Superintendent of Public Instruction shall apportion to each of the school districts or county offices of education selected pursuant to subdivision (a), and to the San Mateo County Office of Education and the Contra Costa County special education local plan area in addition to any funds to which that district or county office is entitled under this chapter, an apportionment for each pupil who is returned by that district or county office from a nonpublic school program pursuant to this section. The apportionment shall be equal to the average amount apportioned to the special education local plan area in which that district or county office is located for pupils under Sections 56740 and 56775 in the 1991–92 fiscal year for pilot programs operated pursuant to subdivision (a), and the average amount apportioned to the San Mateo County special education local plan area and the Contra Costa County special education local plan area, respectively, under those sections in the 1992–93 fiscal year for the pilot programs operated pursuant to subdivision(b), excluding the costs of room and board as identified by Section 56741. The costs resulting to that district or county office from the placement of any pupil in a public program operated by the district or county office pursuant to this section, including any residual nonpublic school costs for pupils transitioning into the public program, shall be funded from this apportionment. No school district or county office of education shall be entitled to receive any funding under Section 56740 or 56775 in any fiscal year based on the enrollment of any pupil for which that district or county office receives funding in that fiscal year under this subdivision.

(2) The apportionment authorized under paragraph (1) may only be provided for pupils who were enrolled in a nonpublic, nonsectarian school in the fiscal year prior to the new year in which

the pupil is returned to public school placement. Each pupil's placement shall be changed, in accordance with this part, to a public school special education program as described under this section no later than June 30, 1997, for pupils in a pilot program operated pursuant to subdivision (a) or subdivision (b).

(3) A school district or county office of education is not entitled to receive both a nonpublic school entitlement under Section 56740 or 56775, and a pilot program apportionment as authorized by paragraph (1) in any fiscal year for pupils' participation in the statewide pilot project.

(4) If a participating pupil leaves the pilot program due to age or achievement, a change of district of residence, or if it is subsequently determined by an individualized education program team that a pupil's programmatic needs cannot be successfully met in the mainstream education program, another pupil may replace that pupil if the new pupil qualifies under paragraph (2). If a pupil leaves the pilot program during any fiscal year for any of the above reasons, and the pupil cannot be replaced by another pupil who qualifies under paragraph (2), the school district or county office shall provide an adjusted full-time equivalent number of pupils who actually participated in the statewide pilot program for each fiscal year to the Superintendent of Public Instruction by no later than November 30 following each fiscal year of the pilot project. The adjusted full-time equivalent number of pupils shall be used to compute an appropriate reduction in the preceding fiscal year's annualized pilot program apportionment authorized under paragraph (1) before the adjustments, if any, as specified in paragraph (7) are performed.

(5) If a nonpublic school program is resumed for a pupil due to an unsuccessful transition to a mainstream education program, the district or county office may resume the reporting of nonpublic school costs under Sections 56740 and 56775 if the Superintendent of Public Instruction has been notified as specified in paragraph (4).

(6) For a pilot program operated pursuant to subdivision (a), the apportionment authorized under this section shall include the costs of one certificated person who shall serve as a mainstream education liaison. The workload of a mainstream education liaison shall not exceed a full-time equivalent per pupil caseload of 20.

(7) The apportionment authorized under paragraph (1) shall be used solely for purposes of providing special education programs. Any excess apportionment remaining from the costs of operating pilot programs pursuant to this section shall be adjusted from the subsequent year's apportionment which the district or county office of education may be eligible to receive. The amount of excess pilot program apportionment shall be reported to the Superintendent of Public Instruction by not later than November 30 following each fiscal year of the pilot project.

(f) Notwithstanding any other provision of law, pilot project pupils shall not be included in the calculation of the number of

instructional personnel services units to which a school district or county office is entitled, in the calculation of pupil service ratio as provided in Section 56760, or in the enrollment used to compute extended year entitlements pursuant to Section 56726.

(g) This section shall not be construed to authorize any increase in state apportionments for special education to which a participating school district or county office of education is entitled under this chapter.

(h) The Superintendent of Public Instruction shall evaluate the pilot program or programs operated pursuant to criteria developed in consultation with the participating school districts or county offices of education and a statewide representative of contracted nonpublic, nonsectarian schools. The evaluation shall include, but not necessarily be limited to, descriptive information and supporting data provided by the Local Pilot Program Advisory Committee and others as appropriate in determining whether the program operated by each participating district or county office accomplished each of the following objectives:

(A) Provided pupils who were formerly placed in nonpublic, nonsectarian schools with an appropriate and effective mainstreaming education program which is consistent with each pupil's needs as specified in his or her individualized education program and located in a less restrictive environment in a public school.

(B) Served those pupils in age-appropriate, less restrictive environments, including interaction or receiving instruction with their nonhandicapped peers.

(C) Provided pupils who were identified as being imminently at risk of nonpublic school placement with an appropriate and effective mainstreaming education program that is consistent with each pupil's needs, as specified in his or her individualized education program.

(D) Provided programs and services located in a public school to those pupils at a cost to the public that was no greater than that incurred in the nonpublic, nonsectarian school setting, from which pupils are returned and those identified as being at risk of placement under subparagraph (C), including the public program costs for instruction, designated instruction and services, direct support services, indirect support services, and the costs of services provided by local public agencies under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. It is the intent of the Legislature that the comparison of the costs for services provided by public and nonpublic school programs be based on uniform program cost accounting procedures prescribed by the Superintendent of Public Instruction pursuant to Section 56730.5.

(i) The superintendent shall report the results of the evaluation to the Legislature no later than January 1, 1998.

(j) This section shall remain in effect only until January 1, 2000, and as of that date is repealed.

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 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.

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 the pilot programs effected by this measure to continue to operate in the 1997–98 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 31

An act to add Section 89010 to the Education Code, relating to the California State University, and making an appropriation therefor.

[Approved by Governor June 30, 1997. Filed with Secretary of State June 30, 1997.]

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

SECTION 1. Section 89010 is added to the Education Code, to read:

89010. (a) Notwithstanding Article 1 (commencing with Section 11000) of Chapter 1 of Part 1, Article 2 (commencing with Section 14660) of Chapter 2 of Part 5.5., and Part 11 (commencing with Section 15850), of Division 3 of Title 2 of the Government Code, or any other provision of law to the contrary, the trustees may sell improvements located on the land at the California State University, Monterey Bay campus that was transferred to the trustees from the United States of America and used for housing purposes, in circumstances in which the underlying ownership in the land remains in the trustees. The trustees may exercise this authority without the prior approval of any other state department or agency.

(b) Moneys received by the trustees from the sale of improvements authorized in this section shall be deposited in local trust accounts. Moneys so deposited may be invested in accordance

with state law and are continuously appropriated without regard to fiscal year for the purposes of building, maintaining, and funding a campus of the California State University at Monterey Bay through expenditures for improvements to the campus, funding of scholarships, and other academic purposes of the campus.

CHAPTER 32

An act to amend Section 94990 of, and to repeal Section 94753.5 of, the Education Code, and to repeal Section 32 of Chapter 62 of the Statutes of 1996, relating to postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1997. Filed with Secretary of State June 30, 1997.]

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

SECTION 1. Section 94753.5 of the Education Code is repealed.

SEC. 2. Section 94990 of the Education Code is amended to read:

94990. This chapter shall become inoperative on July 18, 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. 3. Section 32 of Chapter 62 of the Statutes of 1996 is repealed.

SEC. 4. The provisions of this act as they relate to the application of the urgency clause are severable. If the urgency clause is deemed invalid as it relates to the extension of the operation of the Council for Private Postsecondary and Vocational Education as provided in Section 2 of this act, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application.

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.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning

of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to extend the operation of the Private Postsecondary and Vocational Education Reform Act of 1989 as soon as possible, it necessary that this act take effect immediately.

CHAPTER 33

An act to amend Section 830.8 of the Penal Code, relating to peace officers.

[Approved by Governor June 30, 1997. Filed with Secretary of State June 30, 1997.]

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

SECTION 1. Section 830.8 of the Penal Code is amended to read:

830.8. (a) Federal criminal investigators and law enforcement officers are not California peace officers, but may exercise the powers of arrest of a peace officer in any of the following circumstances:

(1) Any circumstances specified in Section 836 or Section 5150 of the Welfare and Institutions Code for violations of state or local laws.

(2) When these investigators and law enforcement officers are engaged in the enforcement of federal criminal laws and exercise the arrest powers only incidental to the performance of these duties.

(3) When requested by a California law enforcement agency to be involved in a joint task force or criminal investigation.

(4) When probable cause exists to believe there is any public offense that involves immediate danger to persons or property.

In all of these instances, the provisions of Section 847 shall apply. These investigators and law enforcement officers, prior to the exercise of these arrest powers, shall have been certified by their agency heads as having satisfied the training requirements of Section 832, or the equivalent thereof.

This subdivision does not apply to federal officers of the Bureau of Land Management or the Forest Service of the Department of Agriculture. These officers have no authority to enforce California statutes without the written consent of the sheriff or the chief of police in whose jurisdiction they are assigned.

(b) Duly authorized federal employees who comply with the training requirements set forth in Section 832 are peace officers when they are engaged in enforcing applicable state or local laws on property owned or possessed by the United States government, or on any street, sidewalk, or property adjacent thereto, and with the written consent of the sheriff or the chief of police, respectively, in whose jurisdiction the property is situated.

(c) National park rangers are not California peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 and the powers of a peace officer specified in Section 5150 of the Welfare and Institutions Code for violations of state or local laws provided these rangers are exercising the arrest powers incidental to the performance of their federal duties or providing or attempting to provide law enforcement services in response to a request initiated by California state park rangers to assist in preserving the peace and protecting state parks and other property for which California state park rangers are responsible. National park rangers, prior to the exercise of these arrest powers, shall have been certified by their agency heads as having satisfactorily completed the training requirements of Section 832.3, or the equivalent thereof.

(d) Notwithstanding any other provision of law, during a state of war emergency or a state of emergency, as defined in Section 8558 of the Government Code, federal criminal investigators and law enforcement officers who are assisting California law enforcement officers in carrying out emergency operations are not deemed California peace officers, but may exercise the powers of arrest of a peace officer as specified in Section 836 and the powers of a peace officer specified in Section 5150 of the Welfare and Institutions Code for violations of state or local laws. In these instances, the provisions of Section 847 and of Section 8655 of the Government Code shall apply.

(e) (1) Any qualified person who is appointed as a Washoe tribal law enforcement officer is not a California peace officer, but may exercise the powers of a Washoe tribal peace officer when engaged in the enforcement of Washoe tribal criminal laws against any person who is an Indian, as defined in subsection (a) of Section 450b of Title 25 of the United States Code, on Washoe tribal land. The respective prosecuting authorities, in consultation with law enforcement agencies, may agree on who shall have initial responsibility for prosecution of specified infractions. This subdivision is not meant to confer cross-deputized status as California peace officers, nor to confer California peace officer status upon Washoe tribal law enforcement officers when enforcing state or local laws in the State of California. Nothing in this section shall be construed to impose liability upon or to require indemnification by the County of Alpine or the State of California for any act performed by an officer of the Washoe Tribe. Washoe tribal law enforcement officers shall have the right to travel to and from Washoe tribal lands within California in order to carry out tribal duties.

(2) Washoe tribal law enforcement officers are exempted from the provisions of subdivision (a) of Section 12025 and subdivision (a) of Section 12031 while performing their official duties on their tribal lands or while proceeding by a direct route to or from the tribal lands. Tribal law enforcement vehicles are deemed to be emergency

vehicles within the meaning of Section 30 of the Vehicle Code while performing official police services.

(3) As used in this subdivision, the term “Washoe tribal lands” includes the following:

(A) All lands located in the County of Alpine within the limits of the reservation created for the Washoe Tribe of Nevada and California, notwithstanding the issuance of any patent and including rights-of-way running through the reservation and all tribal trust lands.

(B) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

(4) As used in this subdivision, the term “Washoe tribal law” refers to the laws codified in the Law and Order Code of the Washoe Tribe of Nevada and California, as adopted by the Tribal Council of the Washoe Tribe of Nevada and California.

CHAPTER 34

An act to amend Section 1275 of the Penal Code, relating to bail.

[Approved by Governor July 1, 1997. Filed with Secretary of State July 1, 1997.]

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

SECTION 1. Section 1275 of the Penal Code is amended to read:

1275. (a) In setting, reducing, or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of the case. The public safety shall be the primary consideration. No bail shall be accepted unless the judge or magistrate is convinced that no portion of the consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained.

In considering the seriousness of the offense charged, the judge or magistrate shall include consideration of the alleged injury to the victim, and alleged threats to the victim or a witness to the crime charged, the alleged use of a firearm or other deadly weapon in the commission of the crime charged, and the alleged use or possession of controlled substances by the defendant.

(b) In considering offenses wherein a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge or magistrate shall consider the following: (1) the alleged amounts of controlled substances involved in the commission of the offense, and (2) whether the defendant is currently released on bail for an alleged violation of Chapter 6

(commencing with Section 11350) of Division 10 of the Health and Safety Code.

(c) In any case wherein a person is arrested for a violation of Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code and the person is on probation for a violation of one of those sections or where an allegation pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code may be pleaded and proven, and a peace officer has reasonable cause to believe that the consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for bail was feloniously obtained, the peace officer shall prepare a declaration under penalty of perjury setting forth the facts and circumstances in support of his or her belief and file it with a magistrate, as defined in Section 808, in the county in which the offense is alleged to have been committed or having jurisdiction of the person of the defendant, or a commissioner of the magistrate, requesting an order denying bail. The defendant either personally, or through his or her attorney, friend, or member of his or her family, may also make application to the magistrate for release on bail. The magistrate or commissioner to whom the application is made may deny release on bail pending the hearing described in Section 825. If, after the application is made, no order granting or denying bail is issued within eight hours after booking, the defendant shall be entitled to release on posting the amount of bail set forth in the applicable bail schedule.

This subdivision shall only apply for the period described in Section 825 in which an arrestee shall be taken to a magistrate.

(d) The bail of any defendant found to have willfully mislead the court regarding the source of bail may be increased as a result of the misrepresentation. The misrepresentation may be a factor considered in any subsequent bail hearing.

(e) Before a court reduces bail below the amount established by the bail schedule approved for the county, for a person charged with a serious felony, the court shall make a finding of unusual circumstances and shall set forth those facts on the record. For purposes of this subdivision, “unusual circumstances” does not include the fact that the defendant has made all prior court appearances or has not committed any new offenses.

CHAPTER 35

An act to amend Section 1197.1 of the Labor Code, relating to employment.

[Approved by Governor July 1, 1997. Filed with Secretary of State July 1, 1997.]

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

SECTION 1. Section 1197.1 of the Labor Code is amended to read:

1197.1. (a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty as follows:

(1) For any initial violation that is intentionally committed, fifty dollars ($50) for each underpaid employee for each pay period for which the employee is underpaid.

(2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a person has paid or caused to be paid a wage less than the minimum, the Labor Commissioner may issue a citation to the person in violation. The citation may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated. The Labor Commissioner promptly shall take all appropriate action, in accordance with this section, to enforce the citation and to recover the civil penalty assessed in connection with the citation.

(c) If a person desires to contest a citation or the proposed assessment of a civil penalty therefor, the person shall, within 15 business days after service of the citation, notify the office of the Labor Commissioner that appears on the citation of his or her request for an informal hearing. The Labor Commissioner or his or her deputy or agent shall, within 30 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed.

The decision of the Labor Commissioner shall consist of a notice of findings, findings, and an order, all of which shall be served on all parties to the hearing within 15 days after the hearing by regular first-class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section 1013 of the Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing shall become due and payable 45 days after notice of the findings and written findings and order have been mailed to the party assessed. A writ of mandate may be taken from this finding to the appropriate superior court. The party shall pay any judgment and costs ultimately rendered by the court against the party for the assessment. The writ shall be taken

within 45 days of service of the notice of findings, findings, and order thereon.

(d) A person to whom a citation has been issued shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after issuance of the citation.

(e) When no petition objecting to a citation or the proposed assessment of a civil penalty is filed, a certified copy of the citation or proposed civil penalty may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the citation or proposed assessment of a civil penalty.

(f) When findings and the order thereon are made affirming or modifying a citation or proposed assessment of a civil penalty after hearing, a certified copy of these findings and the order entered thereon may be entered by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has property or in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(g) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by the law on other judgments rendered for claims for taxes. The clerk shall make no charge for the service provided by this section to be performed by him or her.

(h) The civil penalties provided for in this section are in addition to any other penalty provided by law.

(i) This section shall not apply to any order of the commission relating to household occupations.

CHAPTER 36

An act to amend Section 87202 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 1, 1997. Filed with Secretary of State July 1, 1997.]

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

SECTION 1. Section 87202 of the Government Code is amended to read:

87202. (a) Every person who is elected to an office specified in Section 87200 shall, within 30 days after assuming the office, file a statement disclosing his or her investments and his or her interests in real property held on the date of assuming office, and income received during the 12 months before assuming office. Every person who is appointed or nominated to an office specified in Section 87200 shall file such a statement not more than 30 days after assuming office, provided, however, that a person appointed or nominated to such an office who is subject to confirmation by the Commission on Judicial Appointments or the State Senate shall file such a statement no more than 10 days after the appointment or nomination.

The statement shall not be required if the person has filed, within 60 days prior to assuming office, a statement for the same jurisdiction pursuant to Section 87203.

(b) Every elected state officer who assumes office during the month of December or January shall file a statement pursuant to Section 87203 instead of this section, except that:

(1) The period covered for reporting investments and interests in real property shall begin on the date the person filed his or her declarations of candidacy.

(2) The period covered for reporting income shall begin 12 months prior to the date the person assumed office.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 37

An act to amend Sections 12302.3 and 22003 of the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1997. Filed with Secretary of State July 1, 1997.]

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

SECTION 1. Section 12302.3 of the Welfare and Institutions Code is amended to read:

12302.3. (a) Notwithstanding any other provision of this article, and in a manner consistent with the powers available to public authorities created under this article, the City and County of San Francisco may:

(1) Increase the wages of all in-home supportive services providers in the 1995–96 fiscal year, the 1996–97 fiscal year, and the 1997–98 fiscal year.

(2) Subject to the requirements of federal law, use county-only funds to fund county and state shares to meet federal financial participation requirements necessary to obtain any available Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396, et seq.) (Medicaid) personal care services reimbursement.

(3) Provide in-home supportive services workers with any wage increase the city and county may appropriate, as long as this amount is in accordance with the provisions of the Medi-Cal State Plan Amendment 94-006, as approved by the federal Health Care Financing Administration. The county-only funds shall be used exclusively to increase workers wages and to pay any proportionate share of employer taxes and current benefits, and to pay for the cost of state and county administration of these activities as provided for in paragraph (5). Notwithstanding Section 12302.1, any wage increase for those workers employed under contract shall be passed through by the contractor to the workers, subject to the limitations specified in this paragraph. The state shall continue to provide payroll functions for all workers who are currently individual providers unless and until the in-home supportive services public authority is operational.

(4) Claim the administrative costs of the wage passthrough in accordance with the department's claiming requirements.

(5) In the event that federal financial participation is available for county-only payroll moneys, the following shall apply:

(A) If additional payroll costs will be incurred by the state due to the receipt and payment of federal funds, the department shall provide the city and county with a detailed estimate of the additional costs of the provision of payroll functions associated with the processing of federal funds. If the city and county elects to pay the additional costs, the department will provide these payroll functions. If the city and county does not elect to pay the additional costs, the department and the city and county may seek another, mutually satisfactory arrangement.

(B) In the event that federal financial participation is not available, the department shall continue to perform the existing payroll functions provided on July 28, 1995, at no additional cost to the city and county.

(b) (1) This section shall not be implemented with respect to any particular wage increase pursuant to subdivision (a) unless the department has obtained the approval of the State Department of Health Services for that wage increase 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 (42 U.S.C. Sec. 1396, et seq.).

(2) The Director of Health Services shall seek any federal waivers or approvals necessary for implementation of this section under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396, et seq.).

SEC. 2. Section 22003 of the Welfare and Institutions Code is amended to read:

22003. (a) Individuals who participate in the pilot program and have resources above the eligibility levels for receipt of medical assistance under Title XIX of the Social Security Act (Subchapter XIX (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code) shall be eligible to receive those in-home supportive services benefits specified by the State Department of Social Services, and those Medi-Cal benefits specified by the State Department of Health Services, for which they would otherwise be eligible, if, prior to becoming eligible for benefits, they have purchased a long-term care insurance policy or a health care service plan contract covering long-term care that has been certified by the State Department of Health Services pursuant to Section 22005.

(b) Individuals may purchase certified long-term care insurance policies or health care service plan contracts which cover long-term care services in amounts equal to the resources they wish to protect, so long as the amount of insurance purchased exceeds the minimum level set by the program.

(c) The resource protection provided by this division shall be effective only for long-term care policies, and health care service plan contracts that cover long-term care services, when the policy or contract is delivered, issued for delivery, or renewed during an enrollment period of July 1, 1993, to June 30, 2000, inclusive, or before the termination of the pilot program, whichever is sooner.

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

In order to implement changes to social services programs contained in this act necessary for the protection of the health and well-being of elderly and disabled persons, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 38

An act to amend Section 4000 of the Elections Code, to amend Section 54954.6 of, to add Section 5854 to, and to add Article 4.3 (commencing with Section 53739) and Article 4.6 (commencing with Section 53750) to Chapter 4 of Part 1 of Division 2 of Title 5 of, the Government Code, and to amend Section 9525 of the Streets and Highways Code, relating to local government taxes, charges, and assessments, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 1, 1997. Filed with Secretary of State July 1, 1997.]

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

SECTION 1. This act shall be entitled the Proposition 218 Omnibus Implementation Act.

SEC. 2. Section 4000 of the Elections Code is amended to read:

4000. Any local, special, or consolidated election may be conducted wholly by mail provided that all of the following conditions apply:

(a) The governing body of the local agency authorizes the use of mailed ballots for the election.

(b) The election does not occur on the same date as a statewide direct primary election or statewide general election.

(c) The election is one of the following:

(1) An election in which no more than 1,000 registered voters are eligible to participate.

(2) A maximum property tax rate election as provided for in Section 2287 of the Revenue and Taxation Code.

(3) An election on a measure or measures restricted to (A) the imposition of special taxes, or (B) expenditure limitation overrides, or (C) both (A) and (B), in a city, county, or special district with 5,000 or less registered voters calculated as of the time of the last report of registration by the county elections official to the Secretary of State.

(4) An election on the issuance of a general obligation water bond in accordance with Section 12944.5 of the Water Code.

(5) An election of the Directors of the Monterey Peninsula Water Management District as authorized in Section 122 of Chapter 527 of the Statutes of 1977, known as the Monterey Peninsula Water Management District Law.

(6) An election of the Aliso Water Management Agency, or its affected member agencies, pursuant to Sections 13416 and 13417 of the Water Code.

(7) An election of the San Jacinto Mountain Area Water Study Agency pursuant to Sections 13416 and 13417 of the Water Code.

(8) An election of the San Lorenzo Valley Water District pursuant to Sections 13416 and 13417 of the Water Code.

(9) Any election or assessment ballot proceeding required or authorized by Article XIII C or XIII D of the California Constitution. However, when an assessment ballot proceeding is conducted by mail pursuant to this section, the following rules shall apply:

(A) The proceeding shall be denominated an "assessment ballot proceeding" rather than an election.

(B) Ballots shall be denominated "assessment ballots."

SEC. 3. Section 5854 is added to the Government Code, to read:

5854. Section 3 of Article XIII C of the California Constitution, as adopted at the November 5, 1996, general election, shall not be construed to mean that any owner or beneficial owner of a municipal security, purchased before or after that date, assumes the risk of, or in any way consents to, any action by initiative measure that

constitutes an impairment of contractual rights protected by Section 10 of Article I of the United States Constitution.

SEC. 4. Article 4.3 (commencing with Section 53739) is added to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 4.3. Local Levies

53739. (a) An ordinance or resolution presented for voter approval pursuant to this article or to Article XIII C or XIII D of the California Constitution may state a range of rates or amounts. If the ordinance or resolution is approved by the requisite number of votes at an election held for that purpose, the governing board of the adopting local government may thereafter impose the tax, assessment, or property-related fee or charge at any rate or amount that is less than or equal to the maximum amount authorized by the voter-approved ordinance or resolution.

(b) (1) Except as provided in paragraph (2), an ordinance or resolution presented for voter approval pursuant to Article XIII C or XIII D of the California Constitution may provide that the tax, assessment, or property-related fee or charge rates or amounts stated in that ordinance or resolution may be adjusted for inflation pursuant to a clearly identified formula stated in that ordinance or resolution. If an ordinance or resolution described in the preceding sentence is approved by the requisite number of votes at an election held for that purpose, the governing board of the adopting local government may thereafter impose the tax, assessment, or property-related fee or charge at any rate or amount that is less than or equal to the inflation-adjusted maximum amount authorized by the voter-approved ordinance or resolution.

(2) Notwithstanding the authority established in paragraph (1), if the amount or rate of a tax, assessment, or property-related fee or charge is determined by using a percentage calculation, the ordinance imposing the tax, assessment, or property-related fee or charge may not provide that the percentage will be adjusted for inflation.

SEC. 5. Article 4.6 (commencing with Section 53750) is added to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 4.6. Proposition 218 Omnibus Implementation Act

53750. For purposes of Article XIII C and Article XIII D of the California Constitution and this article:

(a) “Agency” means any local government as defined in subdivision (b) of Section 1 of Article XIII C of the California Constitution.

(b) "Assessment" means any levy or charge by an agency upon real property that is based upon the special benefit conferred upon the real property by a public improvement or service, that is imposed to pay the capital cost of the public improvement, the maintenance and operation expenses of the public improvement, or the cost of the service being provided. "Assessment" includes, but is not limited to, "Special Assessment," "Benefit Assessment," "Maintenance Assessment," and "Special Assessment Tax."

(c) "District" means an area that is determined by an agency to contain all of the parcels that will receive a special benefit from a proposed public improvement or service.

(d) "Drainage system" means any system of public improvements that is intended to provide for erosion control, landslide abatement, or for other types of water drainage.

(e) "Extended," when applied to an existing tax or fee or charge, means a decision by an agency to extend the stated effective period for the tax or fee or charge, including, but not limited to, amendment or removal of a sunset provision or expiration date.

(f) "Flood control" means any system of public improvements that is intended to protect property from overflow by water.

(g) "Identified parcel" means a parcel of real property that an agency has identified as having a special benefit conferred upon it and upon which a proposed assessment is to be imposed, or a parcel of real property upon which a proposed property-related fee or charge is proposed to be imposed.

(h) (1) "Increased," when applied to a tax, assessment, or property-related fee or charge, means a decision by an agency that does either of the following:

(A) Increases any applicable rate used to calculate the tax, assessment, fee or charge.

(B) Revises the methodology by which the tax, assessment, fee or charge is calculated, if that revision results in an increased amount being levied on any person or parcel.

(2) A tax, fee, or charge is not deemed to be "increased" by an agency action that does either or both of the following:

(A) Adjusts the amount of a tax or fee or charge in accordance with a schedule of adjustments, including a clearly defined formula for inflation adjustment that was adopted by the agency prior to November 6, 1996.

(B) Implements or collects a previously approved tax, or fee or charge, so long as the rate is not increased beyond the level previously approved by the agency, and the methodology previously approved by the agency is not revised so as to result in an increase in the amount being levied on any person or parcel.

(3) A tax, assessment, fee or charge is not deemed to be "increased" in the case in which the actual payments from a person or property are higher than would have resulted when the agency approved the tax, assessment, or fee or charge, if those higher

payments are attributable to events other than an increased rate or revised methodology, such as a change in the density, intensity, or nature of the use of land.

(i) "Notice by mail" means any notice required by Article XIII C or XIII D of the California Constitution that is accomplished through a mailing, postage prepaid, deposited in the United States Postal Service and is deemed given when so deposited. Notice by mail may be included in any other mailing to the record owner that otherwise complies with Article XIII C or XIII D of the California Constitution and this article, including, but not limited to, the mailing of a bill for the collection of an assessment or a property-related fee or charge.

(j) "Record owner" means the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the State of California, or the United States, means the representative of that public entity at the address of that entity known to the agency.

(k) "Registered professional engineer" means an engineer registered pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).

(*l*) "Vector control" means any system of public improvements or services that is intended to provide for the surveillance and control of vectors as defined in subdivision (f) of Section 2200 of the Health and Safety Code.

(m) "Water" means any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water.

53753. (a) The notice, protest, and hearing requirements imposed by this section supersede any statutory provisions applicable to the levy of a new or increased assessment that is in existence on the effective date of this section, whether or not that provision is in conflict with this article. Any agency that complies with the notice, protest, and hearing requirements of this section shall not be required to comply with any other statutory notice, protest, and hearing requirements that would otherwise be applicable to the levy of a new or increased assessment, with the exception of Division 4.5 (commencing with Section 3100) of the Streets and Highways Code. If the requirements of that division apply to the levy of a new or increased assessment, the levying agency shall comply with the notice, protest, and hearing requirements imposed by this section as well as with the requirements of that division.

(b) Prior to levying a new or increased assessment, or an existing assessment that is subject to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution, an agency shall give notice by mail to the record owner of each identified parcel. Each notice shall include the total amount of the proposed assessment chargeable to the entire district, the amount chargeable to the record owner's parcel, the duration of the

payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, and the date, time, and location of a public hearing on the proposed assessment. Each notice shall also include, in a conspicuous place thereon, a summary of the procedures for the completion, return, and tabulation of the assessment ballots required pursuant to subdivision (c), including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected property. An agency shall give notice by mail at least 45 days prior to the date of the public hearing upon the proposed assessment.

(c) Each notice given pursuant to subdivision (b) shall contain an assessment ballot that includes the agency's address for receipt of the form and a place where the person returning the assessment ballot may indicate his or her name, a reasonable identification of the parcel, and his or her support or opposition to the proposed assessment. Each assessment ballot shall be signed and either mailed or otherwise delivered to the address indicated on the assessment ballot. Regardless of the method of delivery, all assessment ballots shall be received at the address indicated, or the site of the public testimony, in order to be included in the tabulation of a majority protest pursuant to subdivision (e). An assessment ballot may be submitted, changed, or withdrawn prior to the conclusion of the public testimony on the proposed assessment at the hearing. An agency may provide an envelope for the return of the assessment ballot.

(d) At the time, date, and place stated in the notice mailed pursuant to subdivision (b), the agency shall conduct a public hearing upon the proposed assessment. At the public hearing, the agency shall consider all objections or protests, if any, to the proposed assessment. At the public hearing, any interested person shall be permitted to present written or oral testimony. The public hearing may be continued from time to time.

(e) (1) At the conclusion of the public hearing conducted pursuant to subdivision (d), the agency shall tabulate the assessment ballots submitted, and not withdrawn, in support of or opposition to the proposed assessment. The agency may use technological methods of tabulating the assessment ballots, including, but not limited to, punchcard or optically readable (bar-coded) assessment ballots.

In the event that more than one of the record owners of an identified parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the identified parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the agency by documentation provided by those record owners.

(2) A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in its favor, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

(3) If there is a majority protest against the imposition of a new assessment, or the extension of an existing assessment, or an increase in an existing assessment, the agency shall not impose, extend, or increase the assessment.

(4) The majority protest proceedings described in this subdivision shall not constitute an election or voting for purposes of Article II of the California Constitution or of the California Elections Code.

53753.5. (a) If an agency has complied with the notice, protest, and hearing requirements of Section 53753, or if an agency is not required to comply with those requirements because the assessment is exempt from the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution, then those requirements shall not apply in subsequent fiscal years unless the assessment methodology is changed to increase the assessment, or the amount of that assessment is proposed to exceed an assessment formula or range of assessments adopted by an agency in accordance with Article XIII D of the California Constitution or Section 53753.

(b) Notwithstanding subdivision (a), the following assessments existing on the effective date of Article XIII D of the California Constitution shall be exempt from the procedures and approval process set forth in Section 4 of that article:

(1) Any assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems, or vector control.

(2) Any assessment imposed pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment is initially imposed.

(3) Any assessment the proceeds of which are exclusively used to repay bonded indebtedness of which the failure to pay would violate the Contract Impairment Clause of the Constitution of the United States.

(4) Any assessment that previously received majority voter approval from the voters voting in an election on the issue of the assessment.

Any subsequent increases in an assessment listed in paragraph (1), (2), or (4) shall be subject to the procedures and approval process set forth in Section 4 of Article XIII D of the California Constitution.

(c) For purposes of this section, the following words and phrases shall have the following meanings:

(1) “Assessments existing on the effective date of Article XIII D of the California Constitution” means assessments levied by the legislative body of the agency on or before November 6, 1996.

(2) "Procedures and approval process set forth in Section 4 of Article XIII D" means all of the requirements set forth in Section 4 of Article XIII D of the California Constitution, including, but not limited to, the requirement to separate general and special benefits and the requirement to assess parcels that are owned or used by an agency, the State of California, or the United States of America.

SEC. 6. Section 54954.6 of the Government Code is amended to read:

54954.6. (a) (1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision.

Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from

the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIII C or XIII D of the California Constitution is not subject to the notice and hearing requirements of this section.

SEC. 7. Section 9525 of the Streets and Highways Code is amended to read:

9525. (a) If the legislative body finds that all of the following conditions are satisfied, it may approve and confirm the report prepared pursuant to Section 9523 and proceed to authorize, issue, and sell refunding bonds pursuant to Chapter 3 (commencing with Section 9600):

(1) That each estimated annual installment of principal and interest on the reassessment, as set forth pursuant to subdivision (d) of Section 9523, is less than the corresponding annual installment of principal and interest on the portion of the original assessment being superseded and supplanted, as set forth in subdivision (c) of Section 9523, by the same percentage for all subdivisions of land within the district. Any amount added to the annual installments on the reassessment due to a delinquency in payment on the original assessment need not be considered in this calculation.

(2) That the number of years to maturity of all refunding bonds is not more than the number of years to the last maturity of the bonds being refunded.

(3) That the principal amount of the reassessment on each subdivision of land within the district is less than the unpaid principal amount of the portion of the original assessment being superseded and supplanted by the same percentage for each subdivision of land within the district. Any amount added to a reassessment because of a delinquency in payment on the original assessment need not be considered in this calculation.

(b) Any reassessment that is approved and confirmed pursuant to this section shall not be deemed to be an assessment within the meaning of, and may be ordered without compliance with the procedural requirements of, Article XIII D of the California Constitution.

SEC. 8. The provisions of this act are severable. In the event that any provision of this act is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall not invalidate or render unenforceable any other provision of this act.

SEC. 9. The provisions of this act shall be liberally construed to effectuate its purposes of limiting local government revenue and enhancing taxpayer consent.

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:

The voters of California recently adopted Proposition 218, "The Right to Vote on Taxes Act," which comprises Articles XIII C and XIII D of the California Constitution. That proposition took effect on November 6, 1996, and certain of its provisions are effective on July 1, 1997. The proposition is inconsistent with numerous preexisting statutes affecting local government finance. It is necessary that this legislation take immediate effect to clarify the law so that local governments can adopt budgets for the 1997–98 fiscal year to provide essential local services in compliance with Proposition 218 without needless confusion, duplication of effort, and uncertainty.

CHAPTER 39

An act to amend Section 656 of the Unemployment Insurance Code, relating to unemployment compensation.

[Approved by Governor July 1, 1997. Filed with Secretary of State July 2, 1997.]

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

SECTION 1. Section 656 of the Unemployment Insurance Code is amended to read:

656. "Employment" does not include professional services performed by a consultant working as an independent contractor.

For the purpose of this section, there shall be a rebuttable presumption that services provided by an individual engaged in work requiring specialized knowledge and skills attained through completion of recognized courses of instruction or experience are rendered as an independent contractor. These services shall be limited to those provided by attorneys, physicians, dentists, engineers, architects, accountants, chiropractors, and the various types of physical, chemical, natural, and biological scientists. Professional services shall not include services generally provided by persons who do not have a degree from a four-year institution of higher learning relating to the specialized knowledge and skills of the professional service being provided.

For the purposes of this section, the rebuttable presumption shall not apply to an individual who enters into a contract agreement with the recipient of the professional services which establishes an employer-employee relationship. However, the existence of a contract between a nonprofit, licensed, primary care clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code, and a health care practitioner who is licensed as a physician and surgeon, osteopathic physician and surgeon, podiatrist,

optometrist, chiropractor, or psychologist shall not constitute an employer-employee relationship if the contract stipulates that the professional services rendered to the clinic are by an independent contractor, not an employee. Independent contractors who conform to the provisions of this section or primary care clinics that contract with these individuals or organizations shall not be liable for any payments that may be required under an employer-employee relationship pursuant to this code.

CHAPTER 40

An act to amend Section 25503.2 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 1, 1997. Filed with
Secretary of State July 2, 1997.]

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

SECTION 1. Section 25503.2 of the Business and Professions Code is amended to read:

25503.2. (a) Notwithstanding any other provision in this division, any winegrower, wine blender, beer manufacturer, brandy manufacturer, distilled spirits manufacturer, distilled spirits manufacturer's agent, rectifier, distilled spirits wholesaler, and beer and wine wholesaler, or the authorized agent or agents or representative or representatives of that licensee, may perform any of the following services for off-sale retail licensees at or on the premises of the off-sale retail licensee with the retail licensee's permission:

(1) Stack or arrange cases of the brand or brands of alcoholic beverages owned or sold by the licensee performing the service in the storeroom or warehouse where the off-sale retail licensee stores the brand or brands.

(2) Rotate the brand or brands owned or sold by the licensee performing the service on shelves and in refrigerated boxes, and rearrange bottles or packages of the brand or brands by moving the bottles or packages horizontally or vertically from shelf to shelf in the space and shelves allocated to the brand or brands. This paragraph does not permit the removal of any brand or brands of alcoholic beverages, except beer, which are owned or sold by the licensee performing the service, from the storeroom or other place belonging to an off-sale retailer for the purpose of replacing alcoholic beverages on or restocking shelves or refrigerated boxes.

(3) Take an inventory of an off-sale retailer's stock of a brand or brands of alcoholic beverages which are owned or sold by the licensee

performing the service and which are in the stockroom or other place belonging to the off-sale retailer.

(4) Service the brand or brands of alcoholic beverages owned or sold by the licensee performing the service which are on shelves, fixtures, or other display pieces at the off-sale retail premises, including, but not limited to dusting bottles and shelves and refrigerated boxes allocated to the brand or brands at the retail premises. The licensees authorized to render services by this section and their agents and representatives may not price-mark individual containers of the brand of alcoholic beverages, except beer, owned or sold by the licensee performing the service, except for individual bottles used on floor displays.

(b) Notwithstanding any other provision in this division, any beer manufacturer or beer and wine wholesaler, or the authorized agent or agents or representative or representatives of that licensee, may perform any of the services specified in paragraphs (1) to (4), inclusive, of subdivision (a), with respect to beer, for on-sale retail licensees at or on the premises of the on-sale retail licensee with the retail licensee's permission.

CHAPTER 41

An act to amend Section 38131 of the Education Code, relating to the Civic Center Act.

[Approved by Governor July 1, 1997. Filed with Secretary of State July 2, 1997.]

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

SECTION 1. Section 38131 of the Education Code is amended to read:

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 38134.

(4) Child care or day care programs to provide supervision and activities for children of preschool and elementary schoolage.

(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) A community youth center.

(8) Other purposes deemed appropriate by the governing board.

CHAPTER 42

An act to add and repeal Section 33334.21 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 1, 1997. Filed with Secretary of State July 2, 1997.]

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

SECTION 1. Section 33334.21 is added to the Health and Safety Code, to read:

33334.21. (a) The Legislature finds and declares all of the following:

(1) Violent crimes, burglaries, robberies, drug dealing, prostitution, and other criminal activities are so prevalent and substantial in some urban neighborhoods that they constitute a serious threat to the public safety and welfare, resulting in blight.

(2) Criminal activity is so prevalent and substantial in some urban neighborhoods that it becomes an economic burden that cannot be reasonably expected to be reversed or alleviated by private enterprise or government action, or both, without redevelopment.

(3) The presence of peace officers who also reside in urban neighborhoods can reduce criminal activities.

(4) Communities in California and other states have successfully attracted peace officers to buy homes and reside in urban neighborhoods as an effective deterrent to crime.

(5) Economic, physical, and social conditions can discourage peace officers from purchasing homes in the communities that employ them.

(6) It is the intent of the Legislature in enacting this section to establish a pilot program that permits agencies to encourage peace officers to buy homes and reside in urban neighborhoods.

(b) From the Low- and Moderate-Income Housing Fund or any other source, an agency may provide up to 100 percent of the downpayment for the purchase of a principal residence by a peace officer in an urban neighborhood in the community. The downpayment shall not exceed 20 percent of the purchase price of the residence. The peace officer shall occupy the residence as his or her principal residence for at least 10 years. An agency may adopt any rules, regulations, or limitations necessary to implement this section.

(c) An agency in a community that contracts for law enforcement services with a county may provide downpayments pursuant to this section to county peace officers who are assigned to that community.

(d) If, during those 10 years, the peace officer ceases to be employed by the community or establishes another principal residence, the peace officer shall repay the agency a prorated amount of the downpayment, based on the time remaining.

(e) If, during those 10 years, a county peace officer who resides in a community that contracts for law enforcement services with a county ceases to be employed by the county or if it is necessary for the county peace officer to move from his or her principal residence because the county assigns the county peace officer to another community, the county peace officer shall repay the agency a prorated amount of the downpayment, based on the time remaining.

(f) If, during those 10 years, it is necessary for the peace officer to move from his or her principal residence because the officer has received a credible threat that a life threatening action may be taken against the officer or his or her immediate family because of the peace officer's employment, the provisions of Section 832.9 of the Penal Code shall apply.

(g) If the value of the residence declines on resale within those 10 years, the peace officer and the agency shall share the loss in proportion to each party's contribution to the original purchase price.

(h) Subdivision (f) of Section 33334.3 does not apply to a residence purchased by a peace officer pursuant to this section. To the extent that this section conflicts with other provisions of this part, this section shall prevail.

(i) This section may be used only by agencies that are located in the Counties of Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, and Ventura, and by agencies within cities that are located in other counties if the city has a population that is greater than 100,000 residents.

(j) As used in this section:

(1) "Crimes" means those crimes reported in the California Crime Index prepared by the Department of Justice.

(2) "Peace officer" means a peace officer as defined in Section 830 of the Penal Code who is employed by the community and whose income at the time of the purchase does not exceed 120 percent of the area median income, adjusted for family size by the department pursuant to Section 50093.

(3) "Urban neighborhood" means territory within a project area that is all or a portion of a census tract designated by the agency, after consulting with the community's law enforcement officials, where the number of crimes per capita in the census tract over the last year is at least 10 percent greater than the number of crimes per capita countywide, over the last year.

(k) If a redevelopment agency provides downpayments pursuant to this section, the agency shall transmit a report, on or before January 1, 2002, to the Chair of the Assembly Housing and Community Development Committee and the Chair of the Senate Housing and Land Use Committee regarding the number of downpayments provided and the change in the number of crimes per capita in the urban neighborhood and the change in the number of crimes per capita countywide after providing the downpayments.

(*l*) 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 before January 1, 2003, deletes or extends that date.

SEC. 2. The Legislature finds and declares that, because of the unique circumstances applicable only to the Counties of Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, and Ventura, and within cities in other counties, if the city has a population greater than 100,000 residents, 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 43

An act to amend Sections 31591 and 31706 of, and to add Section 31783.5 to, the Government Code, relating to county employees.

[Approved by Governor July 1, 1997. Filed with Secretary of State July 2, 1997.]

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

SECTION 1. Section 31591 of the Government Code is amended to read:

31591. (a) Regular interest shall be credited semiannually on June 30th and December 31st to all contributions in the retirement fund which have been on deposit for six months immediately prior to that date. Interest at the rate of $2^1/_2$ percent per annum, until otherwise determined by the board, compounded semiannually, shall be used in the calculation of benefits under any mortality table adopted by the board of supervisors.

(b) No interest shall be credited to a member's account after the membership of the member in the retirement association has ceased, except under any of the following circumstances:

(1) The former member has left his or her accumulated contributions in the retirement fund and has either elected, in writing, a deferred retirement allowance, or is eligible to so elect under Section 31700 but has failed to do so.

(2) The surviving spouse of a deceased member or the legally appointed guardian of the member's unmarried children under age 18 has elected to leave a death benefit on deposit as provided for in Section 31781.2.

(3) The former member, regardless of service, has left his or her accumulated contributions in the retirement fund and has not terminated employment.

SEC. 2. Section 31706 of the Government Code is amended to read:

31706. Any member who has left county service and has elected to leave accumulated contributions in the retirement fund or who is deemed to have elected a deferred retirement pursuant to subdivision (b) of Section 31700 and has attained age 70 but has not yet applied for a deferred retirement allowance and who is not a reciprocal member of a retirement system established pursuant to this chapter or the Public Employees' Retirement Law shall be notified in writing by the treasurer, or other entity authorized by the board, that the member is eligible to apply for and shall begin receiving a deferred retirement allowance by April 1 of the year following the year in which the member attains age $70^1/_2$. The notification shall be made at the time the deferred member attains age 70 and shall be sent by certified mail to the member's last known address, or to the member's last known employer, as shown by the records of the retirement system. If the member can be located but does not make proper application for a deferred retirement allowance with retirement to be effective by April 1 of the year in which the member attains age $70^1/_2$, the retirement system shall

commence paying an unmodified allowance to the member. If the member cannot be located by April 1 of the year following the year in which the member attains age $70^1/_2$, all of the member's accumulated contributions and interest thereon shall be deposited in, and become a part of, the current pension reserve fund of the retirement system. The board may at any time after transfer of proceeds to the reserve fund upon receipt of proper information satisfactory to it, redeposit the proceeds to the credit of the claimant, to be administered in the manner provided under this law. This section shall not apply to a member while the member is actively employed past mandatory retirement age in a retirement system established under the provisions of this chapter or the Public Employees' Retirement Law.

SEC. 3. Section 31783.5 is added to the Government Code, to read:

31783.5. (a) Whenever a person or estate entitled to payment of a member's accumulated contributions or any other benefit fails to claim the payment or cannot be located, the amount owed from the retirement fund shall be administered in accordance with subdivision (c).

(b) The board shall attempt to locate the claimant through such means as the board in its sound discretion deems reasonable including, but not limited to a registered or certified letter, return receipt requested, mailed to the last known address of the claimant.

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivision (a) shall be held for the claimant. If the amounts are not claimed within five years after the last attempted contact with the claimant, the amounts shall be deposited in and become a part of the pension reserve fund. The board may at any time after transfer of unclaimed amounts upon receipt of information satisfactory to it, authorize the return of amounts so held in reserve to the credit of the claimant. Those amounts shall be paid only to claimants who have not yet attained the age for mandatory distribution under the Internal Revenue Code.

CHAPTER 44

An act to amend Section 60606 of the Education Code, relating to the Statewide Assessment Review Panel, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 3, 1997. Filed with Secretary of State July 7, 1997.]

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

SECTION 1. Section 60606 of the Education Code is amended to read:

60606. (a) Prior to approving any available tests of academic achievement for use in kindergarten and grades 1 to 12, inclusive, or adopting any assessments of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board of Education shall submit those tests or assessments to the Statewide Pupil Assessment Review Panel, which is hereby established, for review by the panel.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent of Public Instruction. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the tests or assessments specified in subdivision (a) in order to ensure that the content of the tests or assessments complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's tests or assessments comply with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the State Board of Education within 60 days of its receipt of each test or assessment. If the panel fails to report within the required 60 days, the test or assessment shall be deemed acceptable to the panel.

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 publishers to be able to provide necessary information to the Statewide Pupil Assessment Review Panel without compromising the security of their questions or publicly revealing proprietary information that could cause them a competitive disadvantage, it is necessary that this act take effect immediately.

CHAPTER 45

An act to amend Section 99233 of, and to add Section 99233.11 to, the Public Utilities Code, relating to transportation.

[Approved by Governor July 3, 1997. Filed with Secretary of State July 7, 1997.]

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

SECTION 1. Section 99233 of the Public Utilities Code is amended to read:

99233. Except as provided in Section 99233.11, the fund shall be allocated by the designated transportation planning agency for the purposes specified in Sections 99233.1 to 99233.9, inclusive, in the sequence provided in those sections.

SEC. 2. Section 99233.11 is added to the Public Utilities Code, to read:

99233.11. Funds made available to the County of Stanislaus and the cities in that county shall be allocated in the following order:

(a) To the Stanislaus Area Association of Governments, the County of Stanislaus, and the cities in that county, an amount deemed necessary for the administration of this chapter.

(b) To the Stanislaus Area Association of Governments, an amount approved by that association, but not more than 3 percent of annual revenues, to conduct the transportation planning and programming process, unless a greater amount is approved by the director.

(c) To pedestrian and bicycle facilities, not more than 2 percent of the funds remaining, in accordance with Section 99233.3.

(d) To the Stanislaus Area Association of Governments, an amount deemed necessary for intracity, intercity, and interregional transit services and rail passenger services, when a claim is filed under Section 99234.9, Article 4 (commencing with Section 99260), or Article 8 (commencing with Section 99400), consistent with the cost-sharing criteria approved by the association. Apportionments and allocations from those funds made by the association to the county and the cities in the county also shall be in accordance with the cost-sharing criteria approved by the association.

CHAPTER 46

An act to amend Sections 54120 and 54262 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 7, 1997. Filed with Secretary of State July 7, 1997.]

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

SECTION 1. Section 54120 of the Food and Agricultural Code is amended to read:

54120. The bylaws may prescribe the amount of any dividends that may be declared on the stock or membership capital. To the extent that dividends are payable out of the excess of association income over association expenses attributable to business transacted with or for members, dividends shall not exceed 8 percent per annum. Dividends are in the nature of interest, and do not affect the nonprofit character of any association that is organized pursuant to this chapter.

SEC. 2. Section 54262 of the Food and Agricultural Code is amended to read:

54262. The contract may provide that the association may sell or resell any product that is delivered by its members, with or without taking title to that product, and pay over to its members, the resale price, after deducting all of the following:

(a) Necessary selling, overhead, and other costs and expenses.

(b) Proper reserves for retiring stock, if any.

(c) Dividends not exceeding 8 percent per annum upon stock or membership capital.

CHAPTER 47

An act to amend Sections 29550.1 and 29550.2 of the Government Code, relating to criminal justice administration fees.

[Approved by Governor July 8, 1997. Filed with Secretary of State July 8, 1997.]

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

SECTION 1. Section 29550.1 of the Government Code is amended to read:

29550.1. Any city, special district, school district, community college district, college, university, or other local arresting agency whose officer or agent arrests a person is entitled to recover any criminal justice administration fee imposed by a county from the arrested person if the person is convicted of any criminal offense related to the arrest. A judgment of conviction shall contain an order for payment of the amount of the criminal justice administration fee by the convicted person, and execution shall be issued on the order in the same manner as a judgment in a civil action, but the order shall not be enforceable by contempt. The court shall, as a condition of probation, order the convicted person to reimburse the city, special district, school district, community college district, college,

university, or other local arresting agency for the criminal justice administration fee.

SEC. 2. Section 29550.2 of the Government Code is amended to read:

29550.2. (a) Any person booked into a county jail pursuant to any arrest by any governmental entity not specified in Section 29550 or 29550.1 is subject to a criminal justice administration fee for administration costs incurred in conjunction with the arresting and booking if the person is convicted of any criminal offense relating to the arrest and booking. The fee which the county is entitled to recover pursuant to this subdivision shall not exceed the actual administrative costs, as defined in subdivision (c), including applicable overhead costs as permitted by federal Circular A 87 standards, incurred in booking or otherwise processing arrested persons. If the person has the ability to pay, a judgment of conviction shall contain an order for payment of the amount of the criminal justice administration fee by the convicted person, and execution shall be issued on the order in the same manner as a judgment in a civil action, but the order shall not be enforceable by contempt. The court shall, as a condition of probation, order the convicted person to reimburse the county for the criminal justice administration fee.

(b) All fees collected by a county as provided in this section and Section 29550, may be deposited into a special fund in that county which shall be used exclusively for the operation, maintenance, and construction of county jail facilities.

(c) As used in this section, "actual administrative costs" include only those costs for functions that are performed in order to receive an arrestee into a county detention facility. Operating expenses of the county jail facility including capital costs and those costs involved in the housing, feeding, and care of inmates shall not be included in calculating "actual administrative costs." "Actual administrative costs" may include any one or more of the following as related to receiving an arrestee into the county detention facility:

(1) The searching, wristbanding, bathing, clothing, fingerprinting, photographing, and medical and mental screening of an arrestee.

(2) Document preparation, retrieval, updating, filing, and court scheduling related to receiving an arrestee into the detention facility.

(3) Warrant service, processing, and detainer.

(4) Inventory of an arrestee's money and creation of cash accounts.

(5) Inventory and storage of an arrestee's property.

(6) Inventory, laundry, and storage of an arrestee's clothing.

(7) The classification of an arrestee.

(8) The direct costs of automated services utilized in paragraphs (1) to (7), inclusive.

(9) Unit management and supervision of the detention function as related to paragraphs (1) to (8), inclusive.

(d) It is the Legislature's intent in providing the definition of "actual administrative costs" for purposes of this section that this definition be used in determining the fees for the governmental entities referenced in subdivision (a) only. In interpreting the phrases "actual administrative costs," "criminal justice administration fee," "booking," or "otherwise processing" in Section 29550 or 29550.1, it is the further intent of the Legislature that the courts shall not look to this section for guidance on what the Legislature may have intended when it enacted those sections.

CHAPTER 48

An act to amend Section 136.2 of the Penal Code, relating to crimes.

[Approved by Governor July 8, 1997. Filed with Secretary of State July 8, 1997.]

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

SECTION 1. Section 136.2 of the Penal Code is amended to read:

136.2. Upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, any court with jurisdiction over a criminal matter may issue orders including, but not limited to, the following:

(a) Any order issued pursuant to Section 6320 of the Family Code.

(b) An order that a defendant shall not violate any provision of Section 136.1.

(c) An order that a person before the court other than a defendant, including, but not limited to, a subpoenaed witness or other person entering the courtroom of the court, shall not violate any provisions of Section 136.1.

(d) An order that any person described in this section shall have no communication whatsoever with any specified witness or any victim, except through an attorney under any reasonable restrictions that the court may impose.

(e) An order calling for a hearing to determine if an order as described in subdivisions (a) to (d), inclusive, should be issued.

(f) An order that a particular law enforcement agency within the jurisdiction of the court provide protection for a victim or a witness, or both, or for immediate family members of a victim or a witness who reside in the same household as the victim or witness or within reasonable proximity of the victim's or witness's household, as determined by the court. The order shall not be made without the consent of the law enforcement agency except for limited and specified periods of time and upon an express finding by the court of a clear and present danger of harm to the victim or witness or immediate family members of the victim or witness.

For purposes of this subdivision, “immediate family members” include the spouse, children, or parents of the victim or witness.

(g) Any order protecting victims of violent crime from contact, with the intent to annoy, harass, threaten, or commit acts of violence, by the defendant.

Any person violating any order made pursuant to subdivisions (a) to (g), inclusive, may be punished for any substantive offense described in Section 136.1, or for a contempt of the court making the order. No finding of contempt shall be a bar to prosecution for a violation of Section 136.1. However, any person so held in contempt shall be entitled to credit for any punishment imposed therein against any sentence imposed upon conviction of an offense described in Section 136.1. Any conviction or acquittal for any substantive offense under Section 136.1 shall be a bar to a subsequent punishment for contempt arising out of the same act.

(h) (1) In all cases where the defendant is charged with a crime of domestic violence, as defined in Section 13700, the court shall consider issuing the above-described orders on its own motion. In order to facilitate this, the court’s records of all criminal cases involving domestic violence shall be marked to clearly alert the court to this issue.

(2) In those cases in which a complaint, information, or indictment charging a crime of domestic violence, as defined in Section 13700, has been issued, a restraining order or protective order against the defendant issued by the criminal court in that case has precedence over any other outstanding court order against the defendant.

(i) The Judicial Council shall adopt forms for orders under this section.

CHAPTER 49

An act to add Section 17039 to the Health and Safety Code, relating to housing.

[Approved by Governor July 8, 1997. Filed with
Secretary of State July 8, 1997.]

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

SECTION 1. Section 17039 is added to the Health and Safety Code, to read:

17039. (a) Every occupant of employee housing shall properly use the facilities furnished and shall comply with the relevant maintenance and sanitation provisions of this part.

(b) The provisions of Chapter 6 (commencing with Section 17060) do not apply to this section.

CHAPTER 50

An act to amend Sections 1695.4, 1695.5, 1695.6, 2945.3, and 2945.6 of the Civil Code, relating to real property.

[Approved by Governor July 8, 1997. Filed with Secretary of State July 8, 1997.]

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

SECTION 1. Section 1695.4 of the Civil Code is amended to read:

1695.4. (a) In addition to any other right of rescission, the equity seller has the right to cancel any contract with an equity purchaser until midnight of the fifth business day following the day on which the equity seller signs a contract that complies with this chapter or until 8 a.m. on the day scheduled for the sale of the property pursuant to a power of sale conferred in a deed of trust, whichever occurs first.

(b) Cancellation occurs when the equity seller personally delivers written notice of cancellation to the address specified in the contract or sends a telegram indicating cancellation to that address.

(c) A notice of cancellation given by the equity seller need not take the particular form as provided with the contract and, however expressed, is effective if it indicates the intention of the equity seller not to be bound by the contract.

SEC. 2. Section 1695.5 of the Civil Code is amended to read:

1695.5. (a) The contract shall contain in immediate proximity to the space reserved for the equity seller's signature a conspicuous statement in a size equal to at least 12-point bold type, if the contract is printed or in capital letters if the contract is typed, as follows:

"You may cancel this contract for the sale of your house without any penalty or obligation at any time before

____.

(Date and time of day)

See the attached notice of cancellation form for an explanation of this right."

The equity purchaser shall accurately enter the date and time of day on which the rescission right ends.

(b) The contract shall be accompanied by a completed form in duplicate, captioned “notice of cancellation” in a size equal to 12−point bold type, if the contract is printed or in capital letters if the contract is typed, followed by a space in which the equity purchaser shall enter the date on which the equity seller executes any contract. This form shall be attached to the contract, shall be easily detachable, and shall contain in type of at least 10−point, if the contract is printed or in capital letters if the contract is typed, the following statement written in the same language as used in the contract:

“NOTICE OF CANCELLATION

____

(Enter date contract signed)

You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before

____.

(Enter date and time of day)

To cancel this transaction, personally deliver a signed and dated copy of this cancellation notice, or send a telegram

to ____,

(Name of purchaser)

at ____

(Street address of purchaser’s place of business)

NOT LATER THAN ________________________.

(Enter date and time of day)

I hereby cancel this transaction ________________________.

(Date)

________________________________”

(Seller’s signature)

(c) The equity purchaser shall provide the equity seller with a copy of the contract and the attached notice of cancellation.

(d) Until the equity purchaser has complied with this section, the equity seller may cancel the contract.

SEC. 3. Section 1695.6 of the Civil Code is amended to read:

1695.6. (a) The contract as required by Sections 1695.2, 1695.3, and 1695.5, shall be provided and completed in conformity with those sections by the equity purchaser.

(b) Until the time within which the equity seller may cancel the transaction has fully elapsed, the equity purchaser shall not do any of the following:

(1) Accept from any equity seller an execution of, or induce any equity seller to execute, any instrument of conveyance of any interest in the residence in foreclosure.

(2) Record with the county recorder any document, including, but not limited to, any instrument of conveyance, signed by the equity seller.

(3) Transfer or encumber or purport to transfer or encumber any interest in the residence in foreclosure to any third party, provided no grant of any interest or encumbrance shall be defeated or affected as against a bona fide purchaser or encumbrancer for value and without notice of a violation of this chapter, and knowledge on the part of any such person or entity that the property was "residential real property in foreclosure" shall not constitute notice of a violation of this chapter. This section shall not be deemed to abrogate any duty of inquiry which exists as to rights or interests of persons in possession of the residential real property in foreclosure.

(4) Pay the equity seller any consideration.

(c) Within 10 days following receipt of a notice of cancellation given in accordance with Sections 1695.4 and 1695.5, the equity purchaser shall return without condition any original contract and any other documents signed by the equity seller.

(d) An equity purchaser shall make no untrue or misleading statements regarding the value of the residence in foreclosure, the amount of proceeds the equity seller will receive after a foreclosure sale, any contract term, the equity seller's rights or obligations incident to or arising out of the sale transaction, the nature of any document which the equity purchaser induces the equity seller to sign, or any other untrue or misleading statement concerning the sale of the residence in foreclosure to the equity purchaser.

(e) Whenever any equity purchaser purports to hold title as a result of any transaction in which the equity seller grants the residence in foreclosure by any instrument which purports to be an absolute conveyance and reserves or is given by the equity purchaser an option to repurchase such residence, the equity purchaser shall not cause any encumbrance or encumbrances to be placed on such property or grant any interest in such property to any other person without the written consent of the equity seller. Nothing in this subdivision shall preclude the application of paragraph (3) of subdivision (b).

SEC. 4. Section 2945.3 of the Civil Code is amended to read:

2945.3. (a) Every contract shall be in writing and shall fully disclose the exact nature of the foreclosure consultant's services and the total amount and terms of compensation.

(b) The following notice, printed in at least 14-point boldface type and completed with the name of the foreclosure consultant, shall be printed immediately above the statement required by subdivision (c):

“NOTICE REQUIRED BY CALIFORNIA LAW

______________________________________ or anyone working
(Name)
for him or her CANNOT:

(1) Take any money from you or ask you for money
until ____ has
(Name)
completely finished doing everything he or she said he or she would do; and

(2) Ask you to sign or have you sign any lien, deed of trust, or deed.”

(c) The contract shall be written in the same language as principally used by the foreclosure consultant to describe his services or to negotiate the contract; shall be dated and signed by the owner; and shall contain in immediate proximity to the space reserved for the owner’s signature a conspicuous statement in a size equal to at least 10-point bold type, as follows: “You, the owner, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”

(d) The contract shall contain on the first page, in a type size no smaller than that generally used in the body of the document, each of the following:

(1) The name and address of the foreclosure consultant to which the notice or cancellation is to be mailed.

(2) The date the owner signed the contract.

(e) The contract shall be accompanied by a completed form in duplicate, captioned “notice of cancellation”, which shall be attached to the contract, shall be easily detachable, and shall contain in type of at least 10-point the following statement written in the same language as used in the contract:

“NOTICE OF CANCELLATION

____
(Enter date of transaction) (Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to ____
(Name of foreclosure consultant)

at ____
(Address of foreclosure consultant's place of business)

NOT LATER THAN MIDNIGHT OF ____________________ .
(Date)

I hereby cancel this transaction ________________________.
(Date)

_____________________________"
(Owner's signature)

(f) The foreclosure consultant shall provide the owner with a copy of the contract and the attached notice of cancellation.

(g) Until the foreclosure consultant has complied with this section, the owner may cancel the contract.

SEC. 5. Section 2945.6 of the Civil Code is amended to read:

2945.6. (a) An owner may bring an action against a foreclosure consultant for any violation of this chapter. Judgment shall be entered for actual damages, reasonable attorneys' fees and costs, and appropriate equitable relief. The court also may, in its discretion, award exemplary damages and shall award exemplary damages equivalent to at least three times the compensation received by the foreclosure consultant in violation of subdivision (a), (b), or (d) of Section 2945.4, and three times the owner's actual damages for any violation of subdivision (c), (e), or (g) of Section 2945.4, in addition to any other award of actual or exemplary damages.

(b) The rights and remedies provided in subdivision (a) are cumulative to, and not a limitation of, any other rights and remedies provided by law. Any action brought pursuant to this section shall be commenced within four years from the date of the alleged violation.

SEC. 6. It is the intent of the Legislature in enacting this bill to abrogate the holding in Boquilon v. Beckwith (1996) 49 Cal. App. 4th 1697, 1713-1716, as it related to the relationship between paragraph (3) of subdivision (b) of Section 1695.6 of the Civil Code and subdivision (e) of that section.

CHAPTER 51

An act to add Section 4730.65 to the Health and Safety Code, relating to sanitation districts.

[Approved by Governor July 8, 1997. Filed with Secretary of State July 8, 1997.]

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

SECTION 1. Section 4730.65 is added to the Health and Safety Code, to read:

4730.65. (a) Notwithstanding Sections 4730, 4730.1 and 4730.2, or any other provision of law, a sanitation district in Orange County, that has been created by the consolidation, pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000), Title 6, Gov. C.), of one or more sanitation districts, originally established pursuant to Section 4730, and one or more sanitation districts, originally established pursuant to Section 4730.1, shall be referred to, for purposes of this section only, as a consolidated sanitation district and the governing body shall be constituted in accordance with subdivision (b).

(b) The governing body of the consolidated sanitation district shall be a board of directors composed of all of the following:

(1) One member of the city council of each city located wholly or partially within the district's boundaries provided, however, a city within the consolidated district, the sewered portion of which city lies entirely within another sanitary district, shall have no representation on the board.

(2) One member of the county board of supervisors.

(3) One member of the governing body of each sanitary district, the whole or part of which is included in the consolidated sanitation district.

(4) One member of the governing body of a public agency empowered to and engaged in the collection, transportation, treatment, or disposal of sewage and which was a member agency of a sanitation district consolidated into a consolidated sanitation district.

(c) The governing body of the county and each city, sanitary district, and public agency that is a member agency having a representative on the board of directors of the consolidated sanitation district, may designate one of its members to act in the place of its regular member in his or her absence or his or her inability to act.

(d) No action shall be taken at any meeting of the consolidated district's board of directors unless a majority of all authorized members of the board of directors is in attendance.

(e) A majority of the members of the board of directors present shall be required to approve or otherwise act on any matter except as otherwise required by law.

CHAPTER 52

An act to amend Section 11123 of the Government Code, relating to meetings.

[Approved by Governor July 8, 1997. Filed with Secretary of State July 8, 1997.]

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

SECTION 1. Section 11123 of the Government Code is amended to read:

11123. (a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b) (1) Nothing in this article shall be construed to prohibit a state body from holding an open or closed meeting by teleconference if the convening at one location of a quorum of the state body is difficult or impossible, subject to all of the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) Each teleconference location shall be identified in the notice of the meeting and shall be accessible to the public.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5 of the Government Code.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a conference of individuals in different locations, connected by electronic means, through either audio or video, or both.

CHAPTER 53

An act to add Section 33216.1 to the Health and Safety Code, relating to redevelopment.

[Approved by Governor July 8, 1997. Filed with Secretary of State July 8, 1997.]

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

SECTION 1. Section 33216.1 is added to the Health and Safety Code, to read:

33216.1. (a) The Legislature finds and declares all of the following:

(1) The Orange County Board of Supervisors established the Neighborhood Development and Preservation Project on June 28, 1988.

(2) The Orange County Neighborhood Development and Preservation Project consists of 13 independent areas either within the territorial jurisdiction of incorporated cities or the sphere of influence of existing cities.

(3) The County of Orange and affected cities are in agreement that the territorial jurisdiction for the Neighborhood Development and Preservation Project areas for those areas presently within the boundaries of an incorporated city, and areas which upon their annexation or inclusion otherwise are included within the boundaries of an incorporated city should be transferred to the appropriate city.

(b) If any portion, including a subarea of the Orange County Neighborhood Development and Preservation Project, of the territory is currently within the boundaries of a city, or is subsequently annexed to a city or otherwise included within the boundaries of a city, the territorial jurisdiction of the agency of the county over that portion including a subarea of the project area, of the territory in the Orange County Neighborhood Development and Preservation Project may be transferred from the agency of the county to the agency of the city pursuant to Section 33216, except as provided below:

(1) If any portion, including a subarea of the Orange County Neighborhood Development and Preservation Project is transferred from the agency of the county to the agency of the city pursuant to this subdivision, the city ordinance adopting the same redevelopment plan as adopted by the board of supervisors may include an amendment to the plan. Any public notice required to amend the plan shall apply only to the portion, including a subarea, jurisdictionally transferred to the agency of the city.

(2) Notwithstanding paragraph (4) of subdivision (c) of Section 33216, any amendment adopted by the agency of the city shall not require the approval of the board of supervisors, unless that amendment would violate any agreement entered into by the agency of the county or the board of supervisors, as determined by the board of supervisors, prior to the effective date of the transfer of territorial jurisdiction.

SEC. 2. The Legislature finds and declares that, because of the unique circumstances applicable only to the County of Orange, 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 54

An act to amend Section 5224.1 of the Education Code, relating to schools.

[Approved by Governor July 9, 1997. Filed with Secretary of State July 10, 1997.]

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

SECTION 1. Section 5224.1 of the Education Code is amended to read:

5224.1. Section 5224 does not apply to a school district that is situated in a city governed by a charter that provides for a governing board consisting of not less than seven members who are elected from districts that contain, as nearly as practicable, equal fractions of the total population of the school district. The governing board of the school district shall be elected and constituted as provided in the charter and other applicable law.

CHAPTER 55

An act to amend Section 17980 of, and to add Section 17980.9 to, the Health and Safety Code, relating to buildings.

[Approved by Governor July 9, 1997. Filed with Secretary of State July 10, 1997.]

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

SECTION 1. Section 17980 of the Health and Safety Code is amended to read:

17980. (a) If any building is constructed, altered, converted, or maintained in violation of any provision of, or of any order or notice giving a reasonable time to correct that violation issued by an enforcement agency pursuant to, this part, the building standards published in the California Building Standards Code, or other rules and regulations adopted pursuant to this part, or if a nuisance exists in any building or upon the lot on which it is situated, the enforcement agency shall, after 30 days' notice to abate the nuisance, institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance.

(b) (1) Whenever the enforcement agency has inspected or caused to be inspected any building and has determined that the building is a substandard building, the enforcement agency shall commence proceedings to abate the violation by repair, rehabilitation, vacation, or demolition of the building. The enforcement agency shall not require the vacating of a residential building unless it concurrently requires expeditious demolition or repair to comply with this part, the building standards published in the California Building Standards Code, or other rules and regulations adopted pursuant to this part. The owner shall have the choice of repairing or demolishing. However, if the owner chooses to repair, the enforcement agency shall require that the building be brought into compliance according to a reasonable and feasible schedule for expeditious repair. The enforcement agency may require vacation and demolition or may itself vacate the building, repair, demolish, or institute any other appropriate action or proceeding, if any of the following occur:

(A) The repair work is not done as scheduled.

(B) The owner does not make a timely choice of repair or demolition.

(C) The owner selects an option which cannot be completed within a reasonable period of time, as determined by the department, for any reason, including, but not limited to, an outstanding judicial or administrative order.

(2) In deciding whether to require vacation of the building or to repair as necessary, the enforcement agency shall give preference to the repair of the building whenever it is economically feasible to do so without having to repair more than 75 percent of the dwelling, as determined by the enforcement agency, and shall give full consideration to the needs for housing as expressed in the local jurisdiction's housing element.

(c) (1) Notwithstanding subdivision (b) and notwithstanding local ordinances, tenants in a residential building shall be provided notice of any violation described in subdivision (a) which affects the health and safety of the occupants and which violates Section 1941.1 of the Civil Code, an order of the code enforcement agency issued after inspection of the premises declaring the dwelling to be substandard, the enforcement agency's decision to repair or demolish, or the issuance of a building or demolition permit following the abatement order of an enforcement agency.

(2) Notice pursuant to this subdivision may be provided either by first-class mail to each affected residential unit, or by posting a copy of the notice in a prominent place on the affected residential unit at the discretion of the enforcement agency.

(d) All notices issued by the enforcement agency to correct violations or to abate nuisances shall contain a provision notifying the owner that, in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code, a tax deduction may not be allowed for

interest, taxes, depreciation, or amortization paid or incurred in the taxable year.

(e) The enforcement agency may charge the owner of the building for its postage or mileage cost for sending or posting the notices required to be given by this section.

SEC. 2. Section 17980.9 is added to the Health and Safety Code, to read:

17980.9. Notwithstanding Section 17980, whenever the enforcement agency inspects any vacant single-family dwelling within the City of Los Angeles pursuant to this chapter, all of the following shall apply:

(a) If any vacant single-family dwelling is constructed, altered, converted, or maintained in violation of any provision of, or of any order or notice giving a reasonable time to correct that violation issued by an enforcement agency pursuant to this part, the building standards published in the California Building Standards Code, or other rules and regulations adopted pursuant to this part, or if a nuisance exists in any single-family dwelling or upon the lot on which it is situated, the enforcement agency shall, after 30 days' notice to abate the nuisance, institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation or nuisance.

(b) (1) Whenever the enforcement agency has inspected or caused to be inspected any vacant single-family dwelling and has determined that the building is a substandard dwelling, the enforcement agency shall commence proceedings to abate the violation by repair, rehabilitation, or demolition of the building. The owner shall have the choice of repairing or demolishing. However, if the owner chooses to repair, the enforcement agency shall require that the building be brought into compliance according to a reasonable and feasible schedule for expeditious repair. The enforcement agency may require demolition or may itself repair, demolish, or institute any other appropriate action or proceeding, if any of the following occur:

(A) The repair work is not done as scheduled.

(B) The owner does not make a timely choice of repair or demolition.

(C) The owner selects an option that cannot be completed within a reasonable period of time, as determined by the department, for any reason, including, but not limited to, an outstanding judicial or administrative order.

(2) In deciding whether to repair as necessary, the enforcement agency shall give preference to the repair of the building whenever it is economically feasible to do so without having to repair more than 50 percent of the dwelling, as determined by the enforcement agency, and shall give full consideration to the needs for housing as expressed in the local jurisdiction's housing element.

(c) All notices issued by the enforcement agency to correct violations or to abate nuisances shall contain a provision notifying the

owner that, in accordance with Sections 17274 and 24436.5 of the Revenue and Taxation Code, a tax deduction may not be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year.

(d) The enforcement agency may charge the owner of the building for its postage or mileage cost for sending or posting the notices required to be given by this section.

SEC. 3. (a) The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the City of Los Angeles. The facts constituting the special circumstances are:

(1) The City of Los Angeles has a large number of vacant, rundown houses in many neighborhoods.

(2) These severely distressed properties pose significant health and safety problems.

(b) The enactment of Section 2 of this act is therefore necessary.

CHAPTER 56

An act to amend Section 2337 of the Family Code, relating to family law.

[Approved by Governor July 9, 1997. Filed with Secretary of State July 10, 1997.]

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

SECTION 1. Section 2337 of the Family Code is amended to read:

2337. (a) In a proceeding for dissolution of marriage, the court, upon noticed motion, may sever and grant an early and separate trial on the issue of the dissolution of the status of the marriage apart from other issues.

(b) A preliminary declaration of disclosure with a completed schedule of assets and debts shall be served on the nonmoving party with the noticed motion unless it has been served previously, or unless the parties stipulate in writing to defer filing the preliminary declaration of disclosure until a later time.

(c) The court may impose upon a party any of the following conditions on granting a severance of the issue of the dissolution of the status of the marriage, and in case of that party's death, an order of any of the following conditions continues to be binding upon that party's estate:

(1) The party shall indemnify and hold the other party harmless from any taxes, reassessments, interest, and penalties payable by the other party if the dissolution of the marriage before the division of the parties' community estate results in a taxable event to either of the

parties by reason of the ultimate division of their community estate, which taxes would not have been payable if the parties were still married at the time the division was made.

(2) Until judgment has been entered on all remaining issues and has become final, the party shall maintain all existing health and medical insurance coverage for the other party and the minor children as named dependents, so long as the party is legally able to do so. At the time the party is no longer legally eligible to maintain the other party as a named dependent under the existing health and medical policies, the party or the party's estate shall, at the party's sole expense, purchase and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage. If comparable insurance coverage is not obtained, the party or the party's estate is responsible for the health and medical expenses incurred by the other party which would have been covered by the insurance coverage, and shall indemnify and hold the other party harmless from any adverse consequences resulting from the lack of insurance.

(3) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in a termination of the other party's right to a probate homestead in the residence in which the other party resides at the time the severance is granted.

(4) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in the loss of the rights of the other party to a probate family allowance as the surviving spouse of the party.

(5) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any adverse consequences resulting to the other party if the bifurcation results in the loss of the other party's rights to pension benefits, elections, or survivors' benefits under the party's pension or retirement plan to the extent that the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(6) Prior to entry of judgment terminating status, both of the following shall occur:

(A) The party's retirement or pension plan shall be joined as a party to the proceeding for dissolution.

(B) If applicable, an order pursuant to Section 2610 shall be entered with reference to the defined benefit or similar plan pending the ultimate resolution of the distribution of benefits under the employee benefit plan.

(7) The party shall indemnify and hold the other party harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the other

party would have been entitled to those benefits or elections as the surviving spouse of the party.

(8) Any other condition the court determines is just and equitable.

(d) A judgment granting a dissolution of the status of the marriage shall expressly reserve jurisdiction for later determination of all other pending issues.

(e) If the party dies after the entry of judgment granting a dissolution of marriage, any obligation imposed by this section shall be enforceable against any asset, including the proceeds thereof, against which these obligations would have been enforceable prior to the person's death.

CHAPTER 57

An act to add Section 81371.5 to the Education Code, and to amend Section 2 of Chapter 7 of the 1995–96 Second Extraordinary Session, relating to postsecondary education.

[Approved by Governor July 9, 1997. Filed with Secretary of State July 10, 1997.]

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

SECTION 1. Section 81371.5 is added to the Education Code, to read:

81371.5. Notwithstanding any other provision of this article, the board of governors may authorize the governing board of any community college district within Orange County to enter into a negotiated sale of real property owned by the district if that governing board previously opened the bidding process two or more times to sell the real property and did not accept any bids.

SEC. 2. Section 2 of Chapter 7 of the 1995–96 Second Extraordinary Session is amended to read:

Sec. 2. Notwithstanding Section 81363 of the Education Code, a community college district that is in Orange County may deposit the proceeds derived from the sale of surplus property into the general fund of the district and use the proceeds for general fund purposes if all of the following conditions are met:

(a) As a result of the financial crisis in Orange County that led to the filing of the petition for the declaration of bankruptcy of the county, the community college district is unable to access all or a portion of the funds of the community college district that were deposited into the county treasury.

(b) The governing board of the community college district has determined that the use of proceeds derived from the sale of surplus property for general fund purposes is necessary because the community college district is not able to access all or a portion of the

funds of the community college district that were deposited into the county treasury as a result of the financial crisis leading to the filing of the petition for declaration of bankruptcy of Orange County.

(c) Proceeds derived from the sale of surplus property shall first be used to replenish fully any capital outlay funds or accounts that were lost due to the Orange County financial crisis.

(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.

SEC. 3. The Legislature finds and declares that, due to the unique circumstances concerning community college districts in Orange County, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 58

An act relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 9, 1997. Filed with Secretary of State July 10, 1997.]

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

SECTION 1. (a) A charter school operating under a charter approved before June 1, 1997, by the county board of education of a county of the first class to serve at-risk pupils, may operate until June 30, 1999.

(b) This act shall not be construed to authorize a county board of education to grant, or to prohibit a county board of education from granting, a charter that has not been denied by a school district.

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 continued delivery of educational services to pupils served by county community schools, it is necessary that this act take effect immediately.

CHAPTER 59

An act to add Section 43.3 to the Civil Code, relating to personal rights.

[Approved by Governor July 14, 1997. Filed with
Secretary of State July 14, 1997.]

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

SECTION 1. Section 43.3 is added to the Civil Code, to read:

43.3. Notwithstanding any other provision of law, a mother may breastfeed her child in any location, public or private, except the private home or residence of another, where the mother and the child are otherwise authorized to be present.

CHAPTER 60

An act to add Section 20434.5 to the Government Code, relating to public employees.

[Approved by Governor July 14, 1997. Filed with
Secretary of State July 14, 1997.]

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

SECTION 1. Section 20434.5 is added to the Government Code, to read:

20434.5. "Local firefighter" also means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of hazardous materials services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of hazardous materials services, but not excepting persons employed and qualifying as firefighters of equal or higher rank, irrespective of the duties to which they are assigned.

This section shall not apply to the employees of any contracting agency nor to any contracting agency unless and until the contracting agency elects to be subject to this section by amendment to its contract with the board, made pursuant to Section 20474 or by express provision in its contract with the board.

CHAPTER 61

An act to amend Sections 1203.4 and 4852.01 of the Penal Code, relating to crimes.

[Approved by Governor July 14, 1997. Filed with
Secretary of State July 14, 1997.]

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

SECTION 1. Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor which is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, to any violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, or to any infraction.

(c) A person who petitions for a change of plea or setting aside of a verdict under this section 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), and to reimburse any city 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 city council 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 established pursuant to this subdivision.

(d) No relief shall be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(e) If, after receiving notice pursuant to subdivision (d), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

(f) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

SEC. 2. Section 4852.01 of the Penal Code is amended to read:

4852.01. (a) Any person convicted of a felony who has been released from a state prison or other state penal institution or agency in California, whether discharged on completion of the term for which he or she was sentenced or released on parole prior to May 13, 1943, who has not been incarcerated in a state prison or other state penal institution or agency since his or her release and who presents satisfactory evidence of a three-year residence in this state immediately prior to the filing of the petition for a certificate of rehabilitation and pardon provided for by this chapter, may file the petition pursuant to the provisions of this chapter.

(b) Any person convicted of a felony who, on May 13, 1943, was confined in a state prison or other institution or agency to which he or she was committed and any person convicted of a felony after that date who is committed to a state prison or other institution or agency may file a petition for a certificate of rehabilitation and pardon pursuant to the provisions of this chapter.

(c) Any person convicted of a felony or any person who is convicted of a misdemeanor violation of any sex offense specified in Section 290, the accusatory pleading of which has been dismissed pursuant to Section 1203.4, may file a petition for certificate of rehabilitation and pardon pursuant to the provisions of this chapter if the petitioner has not been incarcerated in any prison, jail, detention facility, or other penal institution or agency since the dismissal of the accusatory pleading and is not on probation for the commission of any other felony, and the petitioner presents satisfactory evidence of five years residence in this state prior to the filing of the petition.

(d) This chapter shall not apply to persons serving a mandatory life parole, persons committed under death sentences, persons convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, or persons in the military service.

(e) Notwithstanding the above provisions or any other provision of law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

CHAPTER 62

An act to add Section 2954.12 to the Civil Code, relating to deeds of trust.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Section 2954.12 is added to the Civil Code, to read:

2954.12. (a) Notwithstanding Section 2954.7, and except when a statute, regulation, rule, or written guideline promulgated by an institutional third party applicable to notes or evidence of indebtedness secured by a deed of trust or mortgage purchased in whole or in part by an institutional third party specifically prohibits cancellation during the term of the indebtedness, the lender or servicer of a loan evidenced by a note or other evidence of indebtedness that is secured by a deed of trust or mortgage on the subject property may not charge or collect future payments from a borrower for private mortgage insurance or mortgage guaranty insurance as defined in subdivision (a) of Section 12640.02 of the Insurance Code, if all of the following conditions are satisfied:

(1) The loan is for personal, family, household, or purchase money purposes, the subject property is owner-occupied, one-to-four unit

residential real property, and the outstanding principal balance of the note or evidence of indebtedness secured by the senior deed of trust or mortgage on the subject property is equal to or less than 75 percent of the lesser of (A) if the loan was made for purchase of the property, the sales price of the property under such purchase; or (B) the appraised value of the property, as determined by the appraisal conducted in connection with the making of the loan.

(2) The borrower's scheduled payment of monthly installments of principal, interest, and escrow obligations is current at the time the right to cancellation of mortgage insurance accrues.

(3) During the 12 months prior to the date upon which the right to cancellation accrues, the borrower has not been assessed more than one late penalty for any scheduled payment and has not made any scheduled payment more than 30 days late.

(4) The loan evidenced by a note or evidence of indebtedness was made or executed on or after January 1, 1998.

(5) No notice of default has been recorded against the real property pursuant to Section 2924, as a result of a nonmonetary default on the extension of credit by the borrower during the last 12 months prior to the accrual of the borrower's right to cancellation.

(b) This section does not apply to any of the following:

(1) A note or evidence of indebtedness secured by a deed of trust or mortgage, or mortgage insurance, executed under the authority of Part 3 (commencing with Section 50900) or Part 4 (commencing with Section 51600) of Division 31 of the Health and Safety Code.

(2) Any note or evidence of indebtedness secured by a deed of trust or mortgage that is funded in whole or in part pursuant to authority granted by statute, regulation, or rule that, as a condition of that funding, prohibits or limits termination of payments for private mortgage insurance or mortgage guaranty insurance during the term of the indebtedness.

(c) If the note secured by the deed of trust or mortgage will be or has been sold in whole or in part to an institutional third party, adherence to the institutional third party's standards for termination of future payments for private mortgage insurance or mortgage guaranty insurance shall be deemed in compliance with the requirements of this section.

(d) For the purposes of this section, "institutional third party" means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association and other substantially similar institutions, whether public or private, provided the institutions establish and adhere to rules applicable to the right of cancellation of private mortgage insurance or mortgage guaranty insurance, which are the same or substantially the same as those utilized by the above-named institutions.

CHAPTER 63

An act to amend Section 7660 of the Probate Code, relating to probate.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Section 7660 of the Probate Code is amended to read:

7660. (a) If a public administrator takes possession or control of, or is appointed personal representative of, an estate pursuant to this chapter, the public administrator may summarily dispose of the estate in the manner provided in this article in either of the following circumstances:

(1) The total value of the property in the decedent's estate does not exceed the amount prescribed in Section 13100. The authority provided by this paragraph may be exercised only upon order of the court. The order may be made upon ex parte application. The fee to be allowed to the clerk for the filing of the application shall be set by the court.

(2) The total value of the property in the decedent's estate does not exceed ten thousand dollars ($10,000). The authority provided by this paragraph may be exercised without court authorization.

(b) Summary disposition may be made notwithstanding the existence of the decedent's will, if the will does not name an executor or if the named executor refuses to act.

(c) Nothing in this article precludes the public administrator from filing a petition with the court under any other provision of this code concerning the administration of the decedent's estate.

(d) Petitions filed pursuant to this article shall contain the information required by Section 8002.

SEC. 1.5. Section 7660 of the Probate Code is amended to read:

7660. (a) If a public administrator takes possession or control of, or is appointed personal representative of, an estate pursuant to this chapter, the public administrator may summarily dispose of the estate in the manner provided in this article in either of the following circumstances:

(1) The total value of the property in the decedent's estate does not exceed the amount prescribed in Section 13100. The authority provided by this paragraph may be exercised only upon order of the court. The order may be made upon ex parte application. The fee to be allowed to the clerk for the filing of the application shall be set by the court.

(2) The total value of the property in the decedent's estate does not exceed twenty thousand dollars ($20,000). The authority

provided by this paragraph may be exercised without court authorization.

(b) Summary disposition may be made notwithstanding the existence of the decedent's will, if the will does not name an executor or if the named executor refuses to act.

(c) Nothing in this article precludes the public administrator from filing a petition with the court under any other provision of this code concerning the administration of the decedent's estate.

(d) Petitions filed pursuant to this article shall contain the information required by Section 8002.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 7660 of the Probate Code proposed by both this bill and SB 696. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 7660 of the Probate Code, and (3) this bill is enacted after SB 696, in which case Section 2 of this bill shall not become operative.

CHAPTER 64

An act to add Section 31678.1 to the Government Code, relating to county employees.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Section 31678.1 is added to the Government Code, to read:

31678.1. (a) In a county of the 14th class, as defined by Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28035, as amended by Chapter 1204 of the Statutes of 1971, Section 31678 shall only be applicable to persons who first became members of the retirement system on and after January 1, 1994.

(b) This section shall not be operative in that county until the board of supervisors, by resolution, adopted by a majority vote, makes this section applicable in that county.

(c) Notwithstanding any other provision of law, this section shall only apply to members who retire on or after January 1, 1996.

CHAPTER 65

An act to amend Section 19568 of the Business and Professions Code, relating to horseracing.

[Approved by Governor July 14, 1997. Filed with
Secretary of State July 14, 1997.]

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 horseracing 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, with the consent of the board, may be eliminated for that day and a substitute race provided.

(b) The total amount distributed to horsemen and horsewomen for California-bred stakes races from the purse account, including overnight stakes, shall be not less than 10 percent of the total amount distributed for all stakes races from the purse account, including overnight stakes races, at that meeting of the racing association licensed to conduct live racing.

(c) It is 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.

CHAPTER 66

An act to amend Section 6103.5 of the Government Code, relating to courts.

[Approved by Governor July 14, 1997. Filed with
Secretary of State July 14, 1997.]

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

SECTION 1. Section 6103.5 of the Government Code is amended to read:

6103.5. (a) Whenever a judgment is recovered by a public agency named in Section 6103, either as plaintiff or petitioner or as defendant or respondent, in any action or proceeding to begin, or to defend, which under the provisions of Section 6103 no fee for any official service rendered by the clerk of the court, including, but not

limited to, the services of filing, certifying, and preparing transcripts, nor fee for service of process or notices by a sheriff or marshal has been paid, other than in a condemnation proceeding, quiet title action, action for the forfeiture of a fish net or nets or action for the forfeiture of an automobile or automobiles, the clerk entering the judgment shall include as a part of the judgment the amount of the filing fee, and the amount of the fee for the service of process or notices which would have been paid but for Section 6103, designating it as such. The clerk entering the judgment shall include as part of the judgment the amount of the fees for certifying and preparing transcripts if the court has, in its discretion, ordered those fees to be paid.

(b) When an amount equal to the clerk's fees and the fees for service of process and notices is collected upon a judgment pursuant to subdivision (a), those amounts shall be due and payable to the clerk and the serving officer respectively. The clerk shall ascertain from the serving officer's return the amount of fees he or she would have charged had it not been for the provisions of Section 6103. Remittances of the amounts so due shall be made within 45 days by the fiscal officer of the plaintiff or petitioner or respondent or defendant in the action or proceeding unless those fees have been collected by the levying officer and remitted to the court. No interest shall be computed or charged on the amount of the fee. If the judgment pursuant to subdivision (a) consists only of the amount of the filing fee, it shall be at the public agency's discretion whether to seek collection. If the public agency determines not to seek collection of the filing fee, it shall notify the clerk and no further action as provided for in this section may be brought against the public agency.

(c) If the remittance is not received within 45 days of the filing of a partial satisfaction of judgment in an amount at least equal to the fees due to the clerk or a satisfaction of judgment has been filed, notwithstanding any other provision of law and except as provided in subdivision (b), the court may issue a writ of execution for recovery from the public agency of those fees plus the fees for issuance and execution of the writ plus a fee for administering this section.

(d) The board of supervisors shall set a fee, not to exceed the actual costs of administering this section, up to a maximum of twenty-five dollars ($25), which shall be added to the writ of execution.

CHAPTER 67

An act to add Section 85320 to the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Section 85320 is added to the Government Code, to read:

85320. (a) No foreign government or foreign principal shall make any contribution, expenditure, or independent expenditure in connection with the qualification or support of, or opposition to, any state or local initiative, recall, or referendum measure.

(b) No person and no committee shall solicit or accept a contribution from a foreign government or foreign principal in connection with the qualification or support of, or opposition to, any state or local initiative, recall, or referendum measure.

(c) For purposes of this section, a foreign principal is a person defined in 22 U.S.C. 611(b).

(d) This section shall not prohibit a contribution, expenditure, or independent expenditure made by a domestic subsidiary of a foreign corporation if the decision to contribute or expend funds is made by an officer, director, or management employee of the corporation who is a United States citizen or lawfully admitted permanent resident.

(e) Any person who violates this section shall be guilty of a misdemeanor and shall be fined an amount equal to the amount contributed or expended.

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

CHAPTER 68

An act to add and repeal Section 24177.5 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Section 24177.5 is added to the Health and Safety Code, to read:

24177.5. (a) This chapter shall not apply to any medical experimental treatment that benefits a patient subject to a life-threatening emergency if all of the following conditions are met:

(1) Care is provided in accordance with the procedures and the additional protections of the rights and welfare of the patient set forth in Part 50 of Title 21 of, and Part 46 of Title 45 of, the Code of Federal Regulations, in effect on January 1, 1997.

(2) The patient is in a life-threatening situation necessitating urgent intervention and available treatments are unproven or unsatisfactory.

(3) The patient is unable to give informed consent as a result of the patient's medical condition.

(4) Obtaining informed consent from the patient's legally authorized representatives is not feasible before the treatment must be administered. The proposed investigational plan shall define the length of time of the potential therapeutic window based on scientific evidence, and the investigator shall commit to attempting to contact a legally authorized representative for each subject within that length of time and, if feasible, to asking the legally authorized representative contacted for consent within that length of time rather than proceeding without consent.

(5) There is no reasonable way to identify prospectively the individuals likely to become eligible for participation in the clinical investigation.

(6) Valid scientific studies have been conducted that support the potential for the intervention to provide a direct benefit to the patient. Risks associated with the investigation shall be reasonable in relation to what is known about the medical condition of the potential class of subjects, the risks and benefits of standard therapy, if any, and what is known about the risks and benefits of the proposed intervention or activity.

(b) Nothing in this section is intended to relieve any party of any other legal duty, including, but not limited to, the duty to act in a nonnegligent manner.

(c) 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. 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:

California law must be amended as soon as possible to comply with recently adopted federal regulations that allow the use of a new drug or device where the patient is unable to consent due to life-threatening emergencies in order to improve medical interventions and patient outcomes. In order to save as many persons' lives who are in life-threatening emergency medical situations as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 69

An act to amend Section 1050 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Section 1050 of the Penal Code is amended to read:

1050. (a) The welfare of the people of the State of California requires that all proceedings in criminal cases shall be set for trial and heard and determined at the earliest possible time. To this end the Legislature finds that the criminal courts are becoming increasingly congested with resulting adverse consequences to the welfare of the people and the defendant. Excessive continuances contribute substantially to this congestion and cause substantial hardship to victims and other witnesses. Continuances also lead to longer periods of presentence confinement for those defendants in custody and the concomitant overcrowding and increased expenses of local jails. It is therefore recognized that the people, the defendant, and the victims and other witnesses have the right to an expeditious disposition, and to that end it shall be the duty of all courts and judicial officers and of all counsel, both for the prosecution and the defense, to expedite these proceedings to the greatest degree that is consistent with the ends of justice. In accordance with this policy, criminal cases shall be given precedence over, and set for trial and heard without regard to the pendency of, any civil matters or proceedings.

(b) To continue any hearing in a criminal proceeding, including the trial, (1) a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary; and (2), within two court days of learning that he or she has a conflict in the scheduling of any court hearing, including a trial, an attorney shall notify the calendar clerk of each court involved, in writing, indicating which hearing was set first. A party shall not be deemed to have been

served within the meaning of this section until that party actually has received a copy of the documents to be served, unless the party, after receiving actual notice of the request for continuance, waives the right to have the documents served in a timely manner. Regardless of the proponent of the motion, the prosecuting attorney shall notify people's witnesses and the defense attorney shall notify defense's witnesses of the notice of motion, the date of the hearing, and the witnesses' right to be heard by the court. The superior and municipal courts of a county may adopt rules, which shall be consistent, regarding the method of giving the notice or waiver of service required by this subdivision, where a continuance is sought because of a conflict between scheduled appearances in the courts of that county.

(c) Notwithstanding subdivision (b), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for the failure to comply with those requirements, the court may impose sanctions as provided in Section 1050.5.

(d) When a party makes a motion for a continuance without complying with the requirements of subdivision (b), the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of the finding and a statement of facts proved shall be entered in the minutes. If the moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.

(e) Continuances shall be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is in and of itself good cause.

(f) At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of facts proved shall be entered in the minutes.

(g) When deciding whether or not good cause for a continuance has been shown, the court shall consider the general convenience and prior commitments of all witnesses, including peace officers. Both the general convenience and prior commitments of each witness also shall be considered in selecting a continuance date if the motion is granted. The facts as to inconvenience or prior commitments may be offered by the witness or by a party to the case.

For purposes of this section, "good cause" includes, but is not limited to, those cases involving allegations that a violation of one or more of the sections specified in subdivision (a) of Section 11165.1 or Section 11165.6, or domestic violence as defined in Section 13700, has occurred and the prosecuting attorney assigned to the case has

another trial, preliminary hearing, or motion to suppress in progress in that court or another court. A continuance under this paragraph shall be limited to a maximum of 10 additional court days.

(h) Upon a showing that the attorney of record at the time of the defendant's first appearance in the superior court is a Member of the Legislature of this state and that the Legislature is in session or that a legislative interim committee of which the attorney is a duly appointed member is meeting or is to meet within the next seven days, the defendant shall be entitled to a reasonable continuance not to exceed 30 days.

(i) A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the court shall state on the record the facts proved that justify the length of the continuance, and those facts shall be entered in the minutes.

(j) Whenever it shall appear that any court may be required, because of the condition of its calendar, to dismiss an action pursuant to Section 1382, the court must immediately notify the Chairman of the Judicial Council.

(k) This section shall not apply when the preliminary examination is set on a date less than 10 court days from the date of the defendant's arraignment on the complaint, and the prosecution or the defendant moves to continue the preliminary examination to a date not more than 10 court days from the date of the defendant's arraignment on the complaint.

CHAPTER 70

An act to amend Section 57092 of, and to add Section 61210.1 to, the Government Code, relating to local government.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Section 57092 of the Government Code is amended to read:

57092. (a) Notwithstanding Section 57081, 57083, 57087, 57087.5, or 57089, for any proposal that was initiated by the commission pursuant to subdivision (a) of Section 56375, the conducting authority shall order the change of organization or reorganization subject to confirmation by the voters if the conducting authority finds either of the following:

(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:

(A) At least 10 percent of the number of landowners within any affected district within the affected territory who own at least 10 percent of the assessed value of land within the territory. However, if the number of landowners within an affected district is less than 300, the petition requesting the proposal to be submitted to the voters shall be signed by at least 25 percent of the landowners who own at least 25 percent of the assessed value of land within the territory of the affected district.

(B) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory. However, if the number of voters entitled to vote within an affected district is less than 300, the petition requesting the proposal to be submitted to the voters shall be signed by at least 25 percent of the voters entitled to vote.

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 10 percent of the number of landowners within any affected district within the affected territory, owning at least 10 percent of the assessed value of land within the territory. However, if the number of voters entitled to vote within an affected district is less than 300, the petition requesting the proposal to be submitted to the voters shall be signed by at least 25 percent of the voters entitled to vote.

(b) The petition shall be filed with the conducting authority within 30 days after the public hearing required pursuant to this chapter has been held. If a petition has been filed, the conducting authority shall approve the proposal subject to confirmation by the voters.

SEC. 2. Section 61210.1 is added to the Government Code, to read:

61210.1. (a) Notwithstanding Sections 61200 and 61210, the local agency formation commission, in approving either a consolidation or reorganization of two or more districts into a single community services 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 seven, nine, or eleven, 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 specified by the local agency formation commission in approving the consolidation or reorganization.

(c) In addition to the powers granted under Section 1780, 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) This section shall only apply to a consolidation or reorganization in which each subject agency was an independent special district prior to initiation of the consolidation or reorganization.

(e) For purposes of this section: "consolidation" means consolidation as defined in Section 56030 ; "district" or "special district" means a district or special district as defined in Section 56036; "independent special district" means an independent special district as defined in Section 56044; and "reorganization" means a reorganization as defined in Section 56073.

CHAPTER 71

An act to amend Section 1102 of the Civil Code, and to amend Section 18160 of the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Section 1102 of the Civil Code is amended to read:

1102. (a) Except as provided in Section 1102.2, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, 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.

(b) This article shall be applicable to the resale on or after January 1, 1999, of a manufactured home, as defined in Section 18007 of the Health and Safety Code, which is classified as personal property, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, which is classified as personal property.

(c) Any waiver of the requirements of this article is void as against public policy.

SEC. 2. Section 18160 of the Health and Safety Code is amended to read:

18160. (a) It is the intent of the Legislature in enacting the requirements of subdivision (b) of Section 1102 of the Civil Code, relating to disclosure in the resale of manufactured homes and mobilehomes, that the Senate and the Assembly jointly appoint an advisory task force, composed of representatives of mobilehome owners, mobilehome park owners, mobilehome dealers, real estate brokers, the Department of Housing and Community Development, and other organizations or persons knowledgeable about manufactured homes and mobilehomes, to review and propose modifications or additions to Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code, including changes to the disclosure form set forth in Section 1102.6 of the Civil Code that may be necessary to make Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code fully applicable to manufactured homes or mobilehomes, which are not classified as real property. The advisory task force shall, no later than January 1, 1998, report its findings and recommendations to the Legislature.

(b) This chapter shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

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

In order to clarify that real estate disclosure requirements are currently, rather than on or after January 1, 1999, applicable to mobilehomes and manufactured homes which are classified as real property, it is necessary that this act take effect immediately.

CHAPTER 72

An act to amend Sections 799, 799.1, 799.3, 799.4, 799.5, and 799.7 of the Civil Code, relating to mobilehomes.

[Approved by Governor July 14, 1997. Filed with
Secretary of State July 14, 1997.]

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

SECTION 1. Section 799 of the Civil Code is amended to read:

799. As used in this article:

(a) “Ownership or management” means the ownership or management of a subdivision, cooperative, or condominium for mobilehomes, or of a resident-owned mobilehome park.

(b) “Resident” means a person who maintains a residence in a subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park.

(c) “Resident-owned mobilehome park” means any entity other than a subdivision, cooperative, or condominium for mobilehomes, through which the residents have an ownership interest in the mobilehome park.

SEC. 2. Section 799.1 of the Civil Code is amended to read:

799.1. This article shall govern the rights of a resident who has an ownership interest in the subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park in which his or her mobilehome is located or installed. In a subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park, Articles 1 (commencing with Section 798) to 8 (commencing with Section 798.84), inclusive, shall apply only to a resident who does not have an ownership interest in the subdivision, cooperative, or condominium for mobilehomes, or the resident-owned mobilehome park, in which his or her mobilehome is located or installed.

SEC. 3. Section 799.3 of the Civil Code is amended to read:

799.3. The ownership or management shall not require the removal of a mobilehome from a subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park in the event of its sale to a third party.

SEC. 4. Section 799.4 of the Civil Code is amended to read:

799.4. The ownership or management may require the right to prior approval of the purchaser of a mobilehome that will remain in the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park and that the selling resident, or his or her agent give notice of the sale to the ownership or management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the fees and charges of the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park unless the ownership or management reasonably determines that, based on the purchaser’s prior residences, he or she will not comply with the rules and regulations of the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park.

SEC. 5. Section 799.5 of the Civil Code is amended to read:

799.5. The ownership or management may require that a purchaser of a mobilehome that will remain in the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park comply with any rule or regulation limiting residency based on age requirements for housing for older persons, provided that the rule or regulation complies with the provisions of the federal Fair Housing Act, as amended by Public Law 104-76, and implementing regulations.

SEC. 6. Section 799.7 of the Civil Code is amended to read:

799.7. The ownership or management shall provide, by posting notice on the mobilehomes of all affected homeowners and residents, at least 72 hours' written advance notice of an interruption in utility service of more than two hours for the maintenance, repair, or replacement of facilities of utility systems over which the management has control within the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park, if the interruption is not due to an emergency. The ownership or management shall be liable only for actual damages sustained by a homeowner or resident for violation of this section.

"Emergency," for purposes of this section, means the interruption of utility service resulting from an accident or act of nature, or cessation of service caused by other than the management's regular or planned maintenance, repair, or replacement of utility facilities.

SEC. 7. Section 799.9 is added to the Civil Code, to read:

799.9. (a) A senior homeowner may share his or her mobilehome with any person 18 years of age or older if that person is providing live-in health care, live-in supportive care, or supervision to the homeowner pursuant to a written treatment plan prepared by a physician and surgeon. A fee shall not be charged by management for that person. That person shall have no rights of tenancy in, and shall comply with the rules and regulations of, the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park. As used in this subdivision, "senior homeowner" means a homeowner or resident who is 55 years of age or older.

(b) A senior homeowner who resides in a subdivision, cooperative, or condominium for mobilehomes, or a resident-owned mobilehome park, that has implemented rules or regulations limiting residency based on age requirements for housing for older persons, pursuant to Section 799.5, may share his or her mobilehome with any person 18 years of age or older if this person is a parent, sibling, child, or grandchild of the senior homeowner and requires live-in health care, live-in supportive care, or supervision pursuant to a written treatment plan prepared by a physician and surgeon. A fee shall not be charged by management for that person. Unless otherwise agreed upon, the management shall not be required to manage, supervise, or provide for this person's care during his or her stay in the subdivision, cooperative or condominium for mobilehomes, or resident-owned mobilehome park. That person shall have no rights of tenancy in, and shall comply with the rules and regulations of, the subdivision, cooperative, or condominium for mobilehomes, or resident-owned mobilehome park. As used in this subdivision, "senior homeowner" means a homeowner or resident who is 55 years of age or older.

CHAPTER 73

An act to add Article 3.7 (commencing with Section 53270) to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, relating to firefighters, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Article 3.7 (commencing with Section 53270) is added to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 3.7. Employment of Firefighters

53270. (a) The Legislature hereby finds that the hiring of civilian federal firefighters by local agencies as 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) Notwithstanding any other provision of law, upon approval by its governing body, a fire protection district or the fire department of a city, including a charter city, county, or city and county, when hiring additional firefighters, may appoint as a member or officer of that fire protection district or fire department any person who meets all of the following criteria:

(1) Was serving as a civilian federal firefighter in good standing at any United States military installation within the state.

(2) Has satisfactorily completed all firefighter training required for employment as a civilian federal firefighter.

(3) Was, as a consequence of the closure of a federal military installation, terminated as a civilian federal firefighter within 48 months prior to the appointment.

(c) The appointment authority created by this section shall take precedence over any provision of, or any condition or circumstance arising from a provision of, a charter, ordinance, or resolution that governs employment of firefighters, that would otherwise frustrate the purpose of this section, including, but not limited to, the following:

(1) The fire protection district or fire department maintains a civil service or merit system governing the appointment of firefighters.

(2) The fire protection district or fire department has available to it an eligible or regular reemployment list of persons eligible for such appointments.

(3) The appointed person is not on any eligible list.

(d) A fire protection district or fire department may not employ a person pursuant to this section if a special reemployment list is in existence for the firefighter position to be filled.

(e) If a fire protection district or fire department determines to appoint a person pursuant to this section, it shall give first priority to residents of the district or city, and second priority to residents of the county not residing in the district or city.

(f) The seniority, seniority-related privileges, and rank that a civilian federal firefighter possessed while employed at a federal military installation shall not be required to be transferred to a position in a fire protection district or fire department obtained pursuant to the provisions of this section.

(g) To effectuate the purposes of this section, the California Firefighter Joint Apprenticeship Program may prepare and circulate to fire districts and fire departments a list of civilian federal firefighters eligible for appointment pursuant to this section.

Placement on the list compiled by the California Firefighter Joint Apprenticeship Program shall be governed by length of service as a federal firefighter. A federal firefighter may apply for placement on the list after he or she receives a notice of termination of position or a priority placement notice, and shall remain on the list for a period of 48 months.

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 fire protection districts and fire departments to hire qualified firefighters who have and continue to become unemployed as a result of ongoing military base closures, it is necessary that this act take effect immediately.

CHAPTER 74

An act to amend Sections 1058.5, 2924c, 2924d, 2924f, 2924g, 2924(*l*), and 2941 of the Civil Code, relating to real property.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Section 1058.5 of the Civil Code is amended to read:

1058.5. (a) A notice of nonacceptance of a recorded deed executed by a holder of a security interest, which notice identifies the security interest, contains a legal description of the property, properly identifies the parties to the deed, the date of recordation of the deed, the county in which the project is located, and the county

assessor's parcel number of the real property referenced in the deed, may be recorded in the office of the county recorder where the real property is located.

(b) Where a trustee's deed is invalidated by a pending bankruptcy or otherwise, recordation of a notice of rescission of the trustee's deed, which notice properly identifies the deed of trust, the identification numbers used by the recorder or the books and pages at which the trustee's deed and deed of trust are recorded, the names of all trustors and beneficiaries, the location of the property subject to the deed of trust, and the reason for rescission, shall restore the condition of record title to the real property described in the trustee's deed and the existence and priority of all lienholders to the status quo prior to the recordation of the trustee's deed upon sale. Only the trustee or beneficiary who caused the trustee's deed to be recorded, or his or her successor in interest, may record a notice of rescission.

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. For purposes of this subdivision, a trustee or beneficiary may purchase a trustee's sale guarantee at a rate meeting the standards contained in Sections 12401.1 and 12401.3 of the Insurance Code.

(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. For purposes of this subdivision, the unpaid principal sum secured shall be determined as of the date the notice of default is recorded.

(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.

SEC. 3. Section 2924d of the Civil Code is amended to read:

2924d. (a) Commencing with the date that the notice of sale is deposited in the mail, as provided in Section 2924b, and until the property is sold pursuant to the power of sale contained in the mortgage or deed of trust, a beneficiary, trustee, mortgagee, or his or her agent or successor in interest, may demand and receive from a trustor, mortgagor, or his or her agent or successor in interest, or any beneficiary under a subordinate deed of trust, or any other person having a subordinate lien or encumbrance of record those reasonable costs and expenses, to the extent allowed by subdivision (c) of Section 2924c, which are actually incurred in enforcing the terms of the obligation and trustee’s or attorney’s fees which are hereby authorized to be in an amount which does not exceed three hundred fifty dollars ($350) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus 1 percent of any portion 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-half 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-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). For purposes of this subdivision, the unpaid principal sum secured shall be determined as of the date the notice of default is recorded. Any charge for trustee’s or attorney’s fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where that charge does not exceed the amounts authorized herein. Any charge for trustee’s or attorney’s fees made pursuant to this subdivision shall be in lieu of and not in addition to those charges authorized by subdivision (d) of Section 2924c.

(b) Upon the sale of property pursuant to a power of sale, a trustee, or his or her agent or successor in interest, may demand and receive from a beneficiary, or his or her agent or successor in interest, or may deduct from the proceeds of the sale, those reasonable costs and expenses, to the extent allowed by subdivision (c) of Section 2924c, which are actually incurred in enforcing the terms of the obligation and trustee’s or attorney’s fees which are hereby authorized to be in an amount which does not exceed three hundred fifty dollars ($350) or one percent of the unpaid principal sum secured, whichever is greater. For purposes of this subdivision, the unpaid principal sum secured shall be determined as of the date the notice of default is recorded. Any charge for trustee’s or attorney’s fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where that charge does not exceed the amount authorized herein. Any charges for trustee’s or attorney’s fees made

pursuant to this subdivision shall be in lieu of and not in addition to those charges authorized by subdivision (a) of this section and subdivision (d) of Section 2924c.

(c) (1) No person shall pay or offer to pay or collect any rebate or kickback for the referral of business involving the performance of any act required by this article.

(2) Any person who violates this subdivision shall be liable to the trustor for three times the amount of any rebate or kickback, plus reasonable attorney's fees and costs, in addition to any other remedies provided by law.

(3) No violation of this subdivision shall affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value without notice.

(d) It shall not be unlawful for a trustee to pay or offer to pay a fee to an agent or subagent of the trustee for work performed by the agent or subagent in discharging the trustee's obligations under the terms of the deed of trust. Any payment of a fee by a trustee to an agent or subagent of the trustee for work performed by the agent or subagent in discharging the trustee's obligations under the terms of the deed of trust shall be conclusively presumed to be lawful and valid if the fee, when combined with other fees of the trustee, does not exceed in the aggregate the trustee's fee authorized by subdivision (d) of Section 2924c or subdivision (a) or (b) of this section.

(e) When a court issues a decree of foreclosure, it shall have discretion to award attorney's fees, costs, and expenses as are reasonable, if provided for in the note, deed of trust, or mortgage, pursuant to Section 580c of the Code of Civil Procedure.

SEC. 4. Section 2924f of the Civil Code is amended to read:

2924f. (a) As used in this section and Sections 2924g and 2924h, "property" means real property or a leasehold estate therein, and "calendar week" means Monday through Saturday, inclusive.

(b) (1) Except as provided in subdivision (c), before any sale of property can be made under the power of sale contained in any deed of trust or mortgage, or any resale resulting from a rescission for a failure of consideration pursuant to subdivision (c) of Section 2924h, notice of the sale thereof shall be given by posting a written notice of the time of sale and of the street address and the specific place at the street address where the sale will be held, and describing the property to be sold, at least 20 days before the date of sale in one public place in the city where the property is to be sold, if the property is to be sold in a city, or, if not, then in one public place in the judicial district in which the property is to be sold, and publishing a copy once a week for three consecutive calendar weeks, the first publication to be at least 20 days before the date of sale, in a newspaper of general circulation published in the city in which the property or some part thereof is situated, if any part thereof is situated in a city, if not, then in a newspaper of general circulation

published in the judicial district in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district, as the case may be, in a newspaper of general circulation published in the county in which the property or some part thereof is situated, or in case no newspaper of general circulation is published in the city or judicial district or county, as the case may be, in a newspaper of general circulation published in the county in this state that (A) is contiguous to the county in which the property or some part thereof is situated and (B) has, by comparison with all similarly contiguous counties, the highest population based upon total county population as determined by the most recent federal decennial census published by the Bureau of the Census. A copy of the notice of sale shall also be posted in a conspicuous place on the property to be sold at least 20 days before the date of sale, where possible and where not restricted for any reason. If the property is a single-family residence the posting shall be on a door of the residence, but, if not possible or restricted, then the notice shall be posted in a conspicuous place on the property; however, if access is denied because a common entrance to the property is restricted by a guard gate or similar impediment, the property may be posted at that guard gate or similar impediment to any development community. Additionally, the notice of sale shall conform to the minimum requirements of Section 6043 of the Government Code and be recorded with the county recorder of the county in which the property or some part thereof is situated at least 14 days prior to the date of sale. The notice of sale shall contain the name, street address, and telephone number of the trustee or other person conducting the sale, and the name of the original trustor, and also shall contain the statement required by paragraph (3) of subdivision (c). In addition to any other description of the property, the notice shall describe the property by giving its street address, if any, or other common designation, if any, and a county assessor's parcel number; but if the property has no street address or other common designation, the notice shall contain a legal description of the property, the name and address of the beneficiary at whose request the sale is to be conducted, and a statement that directions may be obtained pursuant to a written request submitted to the beneficiary within 10 days from the first publication of the notice. Directions shall be deemed reasonably sufficient to locate the property if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If a legal description or a county assessor's parcel number and either a street address or another common designation of the property is given, the validity of the notice and the validity of the sale shall not be affected by the fact that the street address, other common designation, name and address of the beneficiary, or the directions obtained therefrom are erroneous or that the street address, other common designation,

name and address of the beneficiary, or directions obtained therefrom are omitted. The term "newspaper of general circulation," as used in this section, has the same meaning as defined in Article 1 (commencing with Section 6000) of Chapter 1 of Division 7 of Title 1 of the Government Code.

The notice of sale shall contain a statement of the total amount of the unpaid balance of the obligation secured by the property to be sold and reasonably estimated costs, expenses, advances at the time of the initial publication of the notice of sale, and, if republished pursuant to a cancellation of a cash equivalent pursuant to subdivision (d) of Section 2924h, a reference of that fact; provided, that the trustee shall incur no liability for any good faith error in stating the proper amount, including any amount provided in good faith by or on behalf of the beneficiary. An inaccurate statement of this amount shall not affect the validity of any sale to a bona fide purchaser for value, nor shall the failure to post the notice of sale on a door as provided by this subdivision affect the validity of any sale to a bona fide purchaser for value.

(2) If the sale of the property is to be a unified sale as provided in subparagraph (ii) of paragraph (a) of subdivision (4) of Section 9501 of the Commercial Code, the notice of sale shall also contain a description of the personal property or fixtures to be sold. In the case where it is contemplated that all of the personal property or fixtures are to be sold, the description in the notice of the personal property or fixtures shall be sufficient if it is the same as the description of the personal property or fixtures contained in the agreement creating the security interest in or encumbrance on the personal property or fixtures or the filed financing statement relating to the personal property or fixtures. In all other cases, the description in the notice shall be sufficient if it would be a sufficient description of the personal property or fixtures under Section 9110 of the Commercial Code. Inclusion of a reference to or a description of personal property or fixtures in a notice of sale hereunder shall not constitute an election by the secured party to conduct a unified sale pursuant to subparagraph (ii) of paragraph (a) of subdivision (4) of Section 9501 of the Commercial Code, shall not obligate the secured party to conduct a unified sale pursuant to subparagraph (ii) of paragraph (a) of subdivision (4) of Section 9501 of the Commercial Code, and in no way shall render defective or noncomplying either that notice or a sale pursuant to that notice by reason of the fact that the sale includes none or less than all of the personal property or fixtures referred to or described in the notice. This paragraph shall not otherwise affect the obligations or duties of a secured party under the Commercial Code.

(c) (1) This subdivision applies only to deeds of trust or mortgages which contain a power of sale and which are secured by real property containing a single-family, owner-occupied residence, where the obligation secured by the deed of trust or mortgage is

contained in a contract for goods or services subject to the provisions of the Unruh Act (Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3).

(2) Except as otherwise expressly set forth in this subdivision, all other provisions of law relating to the exercise of a power of sale shall govern the exercise of a power of sale contained in a deed of trust or mortgage described in paragraph (1).

(3) If any default of the obligation secured by a deed of trust or mortgage described in paragraph (1) has not been cured within 30 days after the recordation of the notice of default, the trustee or mortgagee shall mail to the trustor or mortgagor, at his or her last known address, a copy of the following statement:

YOU ARE IN DEFAULT UNDER A

____,

(Deed of trust or mortgage)

DATED _____________. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER.

(4) All sales of real property pursuant to a power of sale contained in any deed of trust or mortgage described in paragraph (1) shall be held in the county where the residence is located and shall be made to the person making the highest offer. The trustee may receive offers during the 10-day period immediately prior to the date of sale and if any offer is accepted in writing by both the trustor or mortgagor and the beneficiary or mortgagee prior to the time set for sale, the sale shall be postponed to a date certain and prior to which the property may be conveyed by the trustor to the person making the offer according to its terms. The offer is revocable until accepted. The performance of the offer, following acceptance, according to its terms, by a conveyance of the property to the offeror, shall operate to terminate any further proceeding under the notice of sale and it shall be deemed revoked.

(5) In addition to the trustee fee pursuant to Section 2924c, the trustee or mortgagee pursuant to a deed of trust or mortgage subject to this subdivision shall be entitled to charge an additional fee of fifty dollars ($50).

(6) This subdivision applies only to property on which notices of default were filed on or after the effective date of this subdivision.

SEC. 5. Section 2924g of the Civil Code is amended to read:

2924g. (a) All sales of property under the power of sale contained in any deed of trust or mortgage shall be held in the county where the property or some part thereof is situated, and shall be

made at auction, to the highest bidder, between the hours of 9 a.m. and 5 p.m. on any business day, Monday through Friday.

The sale shall commence at the time and location specified in the notice of sale. Any postponement shall be announced at the time and location specified in the notice of sale for commencement of the sale or pursuant to paragraph (1) of subdivision (c).

If the sale of more than one parcel of real property has been scheduled for the same time and location by the same trustee, (1) any postponement of any of the sales shall be announced at the time published in the notice of sale, (2) the first sale shall commence at the time published in the notice of sale or immediately after the announcement of any postponement, and (3) each subsequent sale shall take place as soon as possible after the preceding sale has been completed.

(b) When the property consists of several known lots or parcels they shall be sold separately unless the deed of trust or mortgage provides otherwise. When a portion of the property is claimed by a third person, who requires it to be sold separately, the portion subject to the claim may be thus sold. The trustor, if present at the sale, may also, unless the deed of trust or mortgage otherwise provides, direct the order in which property shall be sold, when the property consists of several known lots or parcels which may be sold to advantage separately, and the trustee shall follow that direction. After sufficient property has been sold to satisfy the indebtedness no more can be sold.

If the property under power of sale is in two or more counties the public auction sale of all of the property under the power of sale may take place in any one of the counties where the property or a portion thereof is located.

(c) (1) There may be a postponement of the sale proceedings at any time prior to the completion of the sale at the discretion of the trustee, or upon instruction by the beneficiary to the trustee that the sale proceedings be postponed.

There may be a maximum of three postponements of the sale proceedings pursuant to this subdivision. In the event that the sale proceedings are postponed more than three times, the scheduling of any further sale proceedings shall be preceded by the giving of a new notice of sale in the manner prescribed by Section 2924f.

(2) The trustee shall postpone the sale upon the order of any court of competent jurisdiction, or where stayed by operation of law, or by the mutual agreement, whether oral or in writing, of any trustor and any beneficiary or any mortgagor and any mortgagee. Any postponement pursuant to this paragraph shall not be a postponement for purposes of determining the maximum number of postponements permitted pursuant to this subdivision nor shall a postponement resulting from the prohibition upon a sale within seven days from the expiration of an injunction, restraining order, or stay as provided in subdivision (d) be deemed a postponement for

purposes of this subdivision. In addition, one postponement by the trustee based upon a reasonable belief that a petition for bankruptcy has been filed shall not be a postponement for purposes of determining the maximum number of postponements permitted pursuant to this subdivision.

(d) The notice of each postponement and the reason therefor shall be given by public declaration by the trustee at the time and place last appointed for sale. A public declaration of postponement shall also set forth the new date, time, and place of sale and the place of sale shall be the same place as originally fixed by the trustee for the sale. No other notice of postponement need be given. However, the sale shall be conducted no sooner than on the seventh day after the earlier of (1) dismissal of the action or (2) expiration or termination of the injunction, restraining order, or stay (which required postponement of the sale), whether by entry of an order by a court of competent jurisdiction, operation of law, or otherwise, unless the injunction, restraining order, or subsequent order expressly directs the conduct of the sale within that seven-day period. For purposes of this subdivision, the seven-day period shall not include the day on which the action is dismissed, or the day on which the injunction, restraining order, or stay expires or is terminated. If the sale had been scheduled to occur, but this subdivision precludes its conduct during that seven-day period, a new notice of postponement shall be given if the sale had been scheduled to occur during that seven-day period. The trustee shall maintain records of each postponement and the reason therefor.

SEC. 6. Section 2924*l* of the Civil Code is amended to read:

2924l. (a) In the event that a trustee under a deed of trust is named in an action or proceeding in which that deed of trust is the subject, and in the event that the trustee maintains a reasonable belief that it has been named in the action or proceeding solely in its capacity as trustee, and not arising out of any wrongful acts or omissions on its part in the performance of its duties as trustee, then, at any time, the trustee may file a declaration of nonmonetary status. The declaration shall be served on the parties in the manner set forth in Chapter 5 (commencing with Section 1010) of Title 14 of the Code of Civil Procedure.

(b) The declaration of nonmonetary status shall set forth the status of the trustee as trustee under the deed of trust that is the subject of the action or proceeding, that the trustee knows or maintains a reasonable belief that it has been named as a defendant in the proceeding solely in its capacity as a trustee under the deed of trust, its reasonable belief that it has not been named as a defendant due to any acts or omissions on its part in the performance of its duties as trustee, the basis for that knowledge or reasonable belief, and that it agrees to be bound by whatever order or judgment is issued by the court regarding the subject deed of trust.

(c) The parties who have appeared in the action or proceeding shall have 15 days from the service of the declaration by the trustee in which to object to the nonmonetary judgment status of the trustee. Any objection shall set forth the factual basis on which the objection is based and shall be served on the trustee.

(d) In the event that no objection is served within the 15-day objection period, then the trustee shall not be required to participate any further in the action or proceeding, shall not be subject to any monetary awards as and for damages, attorneys fees or costs, shall be required to respond to any discovery requests as a nonparty, and shall be bound by any court order relating to the subject deed of trust that is the subject of the action or proceeding.

(e) In the event of a timely objection to the declaration of nonmonetary status, the trustee shall thereafter be required to participate in the action or proceeding.

Additionally, in the event that the parties elect not to, or fail to, timely object to the declaration of nonmonetary status, but later through discovery, or otherwise, determine that the trustee should participate in the action because of the performance of its duties as a trustee, the parties may file and serve on the trustee a demand to participate in the action that specifies the factual basis for the demand. Upon the filing and service of the demand, the trustee shall thereafter be required to participate in the action or proceeding.

(f) Upon the filing of the declaration of nonmonetary status, the time within which the trustee is required to file an answer or other responsive pleading shall be tolled for the period of time within which the opposing parties may respond to the declaration. Upon the timely service of an objection to the declaration on nonmonetary status, the trustee shall have 30 days from the date of service within which to file an answer or other responsive pleading to the complaint or cross-complaint.

SEC. 7. 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). However, a trustee acting in accordance with subdivision (c) shall not be deemed a violator for purposes of this subdivision.

(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 75

An act to add Section 25503.37 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 14, 1997. Filed with Secretary of State July 14, 1997.]

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

SECTION 1. Section 25503.37 is added to the Business and Professions Code, to read:

25503.37. (a) Nothing in this division shall prohibit the issuance, transfer, or renewal of any retail on-sale license to any person with respect to premises that are an integral part of an interactive entertainment facility and are owned directly or indirectly, in whole or in part, by, or operated by or on behalf of, the licensee, notwithstanding that a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler has any interest, directly or indirectly, in the premises, in the retail license, or in the retail licensee, if all of the following conditions are met:

(1) The principal business conducted within the facility is providing interactive entertainment, not the sale of alcoholic beverages.

(2) Other than as permitted in Sections 23358 and 23360 with respect to wine and brandy, the retail licensee shall purchase no beer, wine, or distilled spirits for sale in this state other than from a wholesale licensee, and the retail licensee shall purchase no alcoholic beverages for sale in this state from any wholesale licensee that has any interest, directly or indirectly, in the premises, in the retail licensee, or in the retail license.

(3) The retail licensee shall serve other brands of beer, wine, and distilled spirits in addition to the brands manufactured, produced, or distributed by any manufacturer, winegrower, manufacturer's agent,

California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler which has any interest, directly or indirectly, in the premises, in the retail licensee, or in the retail license.

(4) No more than 15 percent of the retail licensee's purchases of alcoholic beverages for sale on its licensed premises shall be products manufactured, produced, or distributed by any manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectifier, distiller, bottler, importer, or wholesaler which has any interest, directly or indirectly, in the premises, in the retail licensee, or in the retail license.

(b) For purposes of this section, "interactive entertainment facility" means premises which feature interactive computer and video entertainment attractions, themed merchandise, and food and beverages.

(c) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. Notwithstanding the foregoing, having considered the public welfare, the economic impact on the state, and the entirety of the circumstances involved, the Legislature further finds that the purpose and intent of the general prohibition against tied interests is not violated by granting the exception established by this section.

CHAPTER 76

An act to amend Sections 8102, 8103, 8105, 60041, 60201.2, 60201.3, 60472, 60501, 60502, 60505, and 60511 of, to add Sections 8108 and 8109 to, and to repeal Sections 7402, 7403, 7404, 7407, and 60510 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 16, 1997. Filed with Secretary of State July 16, 1997.]

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

SECTION 1. Section 7402 of the Revenue and Taxation Code is repealed.

SEC. 2. Section 7403 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 7404 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 7407 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 8102 of the Revenue and Taxation Code is amended to read:

8102. (a) The claimant of a refund shall present to the Controller a claim supported by the original invoice showing the purchase. The claim shall state the total amount of the fuel purchased by the claimant and the manner and the equipment in which the claimant has used the fuel. The claim shall state the total amount of motor vehicle fuel covered by the claim and if the motor vehicle fuel was exported, a statement that the claimant has proof of exportation. The claim shall state that the amounts claimed have not been previously refunded to the claimant and that there are no other claims outstanding for the amounts included in the current claim for refund. The claim shall not be under oath but shall contain, or be accompanied by, a written declaration that it is made under the penalties of perjury. If no original invoice was created, electronic invoicing shall be accepted as reflected by a computerized facsimile when accompanied by an original copy of the bill of lading or fuel manifest that can be directly tied to the electronic invoice.

(b) Each claim for refund under this section shall be made on a form prescribed by the Controller and shall be filed for a calendar year, except for claims relating to exportation of fuel. If, at the close of any of the first three quarters of the calendar year, more than seven hundred fifty dollars ($750) is refundable under this section with respect to any motor vehicle fuel used, sold, or exported during that quarter or any prior quarter during the calendar year, and for which no other claim has been filed, a claim may be filed for the quarterly period. To facilitate the administration of this section, the Controller may require the filing of claims for refund for other than yearly periods. Export claims may be filed at any time.

SEC. 6. Section 8103 of the Revenue and Taxation Code is amended to read:

8103. The Controller, upon the presentation of the properly completed claim and the invoice, shall cause to be paid to the claimant from the license taxes collected under this part an amount equal to the license taxes collected on the motor vehicle fuel in respect to which the refund is claimed. If no original invoice was created, electronic invoicing shall be accepted as reflected by a computerized facsimile when accompanied by an original copy of the bill of lading or fuel manifest that can be directly tied to the electronic invoice.

SEC. 7. Section 8105 of the Revenue and Taxation Code is amended to read:

8105. All applications for refund provided under this article shall be filed within three years from the date of the purchase of the motor vehicle fuel. Any application filed after the time prescribed shall not be considered for any purpose by the Controller, the Treasurer, or the state.

SEC. 8. Section 8108 is added to the Revenue and Taxation Code, to read:

8108. If any claim for refund of tax is paid more than 20 calendar days from the date upon which the claim was received by the Controller, interest shall be computed, allowed, and paid upon that refund of tax at the Pooled Money Investment Account's Annual Yield Rate in effect on the date prior to the date that the interest on the refund of tax begins to accrue. Interest on the refund of tax shall begin to accrue on the 21st calendar day after the date that a properly completed claim for refund is received by the Controller. The interest shall accrue through the date the Controller refunds the tax. No interest shall be granted on credits taken on tax returns.

SEC. 9. Section 8109 is added to the Revenue and Taxation Code, to read:

8109. (a) A refund filed pursuant to subdivision (b) of Section 8101 shall be paid to the claimant within 20 calendar days of the receipt of a claim for refund by the Controller.

(b) Notwithstanding subdivision (a), the claim for refund shall be submitted on a properly completed form or in substantially similar format, as prescribed by the Controller.

SEC. 10. Section 60041 of the Revenue and Taxation Code is amended to read:

60041. "Train operator" includes any person that owns, operates, or controls a diesel-powered train and is licensed as a railroad by a state or federal agency.

SEC. 11. Section 60201.2 of the Revenue and Taxation Code is amended to read:

60201.2. A supplier who sells taxable diesel fuel shall collect from the purchaser the diesel fuel tax imposed under Section 60050. At the election of the purchaser, the payment of the diesel fuel tax owed on every gallon of diesel fuel purchased from a supplier shall be remitted to the supplier on terms agreed upon between the purchaser and the supplier or on or before five working days before the last day of the calendar month following the monthly period to which it relates. This election shall be subject to a condition that the purchaser's remittances of all amounts of tax due to the seller shall be paid by electronic funds transfer. The purchaser's election may be terminated by the seller if the purchaser does not make timely payments to the seller as required by this section. This section shall not apply where the purchaser is required by a supplier to pay cash or cash equivalent for diesel fuel purchases.

SEC. 12. Section 60201.3 of the Revenue and Taxation Code is amended to read:

60201.3. (a) A supplier is relieved from liability for diesel fuel tax insofar as the sales of the diesel fuel are represented by accounts which have been found worthless and charged off for income tax purposes. If the supplier has previously paid the amount of the tax, he or she may, under the rules and regulations prescribed by the

board, take a credit in that amount. If those accounts are thereafter in whole or in part collected by the supplier, the gallons of diesel fuel represented by the amounts collected shall be included in the first return filed after that collection and the amount of the tax thereon shall be paid with the return. The board may, at its option, require the supplier to submit periodic reports listing accounts delinquent for a 90-day period or more.

(b) Any customer of a supplier who has failed to pay for diesel fuel purchased and for which the supplier has been allowed a credit under subdivision (a) is liable to the state for the diesel fuel tax as an unlicensed supplier and the tax, applicable penalties, and interest become immediately due and payable under the unlicensed persons provisions contained in Article 6 (commencing with Section 60360) of Chapter 6.

SEC. 13. Section 60472 of the Revenue and Taxation Code is amended to read:

60472. (a) If the purchaser of a business or stock of goods fails to withhold the purchase price as required, he or she becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price valued in money.

(b) (1) Within 60 days after the latest of the dates specified in paragraph (2), the board shall either issue the certificate or mail notice to the purchaser at his or her address as it appears on the records of the board of the amount that is required to be paid as a condition of issuing the certificate.

(2) For purposes of paragraph (1), the latest of the following dates shall apply:

(A) The date the board receives a written request from the purchaser for a certificate.

(B) The date the former owner's records are made available for audit.

(c) Failure of the board to mail the notice referred to in subdivision (b) shall release the purchaser from any further obligation to withhold from the purchase price under this article. The last day upon which the obligation of the successor may be enforced shall be no later than three years after the date the board is notified of the purchase of the business or stock of goods.

SEC. 14. Section 60501 of the Revenue and Taxation Code is amended to read:

60501. Persons who have paid a tax for diesel fuel used in a nontaxable use, other than on a farm for farming purposes or in an exempt bus operation, shall, except as otherwise provided in this part, be reimbursed and repaid the amount of the tax.

(a) A claim for refund with respect to diesel fuel is allowed under this section only if all of the following apply:

(1) Tax was imposed on the diesel fuel to which the claim relates.

(2) The claimant bought or produced the diesel fuel and did not sell or resell it in this state.

(3) The claimant has filed a timely claim for refund that contains the information required under subdivision (b) and the claim is supported by the original invoice showing the purchase. If no original invoice was created, electronic invoicing shall be accepted as reflected by a computerized facsimile when accompanied by an original copy of the bill of lading or fuel manifest that can be directly tied to the electronic invoice.

(4) The diesel fuel was any of the following:

(A) Used for purposes other than operating motor vehicles upon the public highways of the state.

(B) Exported for use outside of this state. Diesel fuel carried from this state in the fuel tank of a motor vehicle is not deemed to be exported from this state unless the diesel fuel becomes subject to tax as an import under the laws of the destination state.

(C) Used in any construction equipment that is exempt from vehicle registration pursuant to the Vehicle Code, while operated within the confines and limits of a construction project.

(D) Used in the operation of a motor vehicle on any highway that is under the jurisdiction of the United States Department of Agriculture and with respect to the use of the highway the claimant pays, or contributes to, the cost of construction or maintenance thereof pursuant to an agreement with, or permission of, the United States Department of Agriculture.

(E) Used in any motor vehicle owned by any county, city and county, city, district, or other political subdivision or public agency when operated by it over any highway constructed and maintained by the United States or any department or agency thereof within a military reservation in this state. If the motor vehicle is operated both over the highway and over a public highway outside the military reservation in a continuous trip the tax shall not be refunded as to that portion of the diesel fuel used to operate the vehicle over the public highway outside the military reservation.

Nothing contained in this section shall be construed as a refund of the tax for the use of diesel fuel in any motor vehicle operated upon a public highway within a military reservation, which highway is constructed or maintained by this state or any political subdivision thereof.

As used in this section, “military reservation” includes any establishment of the United States government or any agency thereof used by the armed forces of the United States for military, air, or naval operations, including research projects.

(F) Sold by a supplier to any consulate officer or consulate employee under circumstances which would have entitled the supplier to an exemption under paragraph (6) of subdivision (a) of Section 60100 if the supplier had sold the diesel fuel directly to the consulate officer or consulate employee.

(G) Lost in the ordinary course of handling, transportation, or storage.

(H) Sold by a person to the United States and its agencies and instrumentalities under circumstances that would have entitled that person to an exemption from the payment of diesel fuel tax under Section 60100 had that person been the supplier of this diesel fuel.

(I) Sold by a person to a train operator for use in a diesel-powered train or for other off-highway use under circumstances that would have entitled that person to an exemption from the payment of diesel fuel tax under Section 60100 had that person been the supplier of this diesel fuel.

(b) Each claim for refund under this section shall contain the following information with respect to all the diesel fuel covered by the claim:

(1) The name, address, telephone number, and permit number of the person that sold the diesel fuel to the claimant and the date of the purchase.

(2) A statement by the claimant that the diesel fuel covered by the claim did not contain visible evidence of dye.

(3) A statement, which may appear on the invoice or similar document, by the person that sold the diesel fuel to the claimant that the diesel fuel sold did not contain visible evidence of dye.

(4) The total amount of diesel fuel covered by the claim.

(5) The use made of the diesel fuel covered by the claim described by reference to specific categories listed in paragraph (4) of subdivision (a).

(6) If the diesel fuel covered by the claim was exported, a statement that the claimant has the proof of exportation.

(c) Each claim for refund under this section shall be made on a form prescribed by the board and shall be filed for a calendar year. If, at the close of any of the first three quarters of the calendar year, more than seven hundred fifty dollars ($750) is refundable under this section with respect to diesel fuel used or exported during that quarter or any prior quarter during the calendar year, and for which no other claim has been filed, a claim may be filed for the quarterly period. To facilitate the administration of this section, the board may require the filing of claims for refund for other than yearly periods.

SEC. 15. Section 60502 of the Revenue and Taxation Code is amended to read:

60502. (a) Any ultimate vendor who has paid a tax on diesel fuel sold to an ultimate purchaser for use on a farm for farming purposes or use in an exempt bus operation shall, except as otherwise provided in this part, be reimbursed and repaid the amount of the tax.

(b) A claim for refund with respect to diesel fuel is allowed under this section only if all of the following apply:

(1) Tax was imposed on the diesel fuel to which the claim relates.

(2) The claimant sold the diesel fuel to the ultimate purchaser for use on a farm for farming purposes or for use in an exempt bus operation.

(3) The claimant is a registered ultimate vendor.

(4) The claimant has filed a timely claim for refund that contains the information required under subdivision (c) and the claim is supported by the original invoice showing the purchase. If no original invoice was created, electronic invoicing shall be accepted as reflected by a computerized facsimile when accompanied by an original copy of the bill of lading or fuel manifest that can be directly tied to the electronic invoice.

(c) Each claim for refund under this section shall contain the following information with respect to all the diesel fuel covered by the claim:

(1) The claimant's permit number.

(2) The name, address, telephone number, and permit number of each person that sold the diesel fuel to the claimant and the date of the purchase.

(3) The name, address, telephone number, and federal taxpayer identification number of each farmer or the permit number of each exempt bus operator that bought the diesel fuel from the claimant and the number of gallons that the claimant sold to each.

(4) A statement that the diesel fuel covered by the claim did not contain visible evidence of dye.

(5) The total amount of diesel fuel covered by the claim.

(6) A statement that the claimant has not included the amount of the tax in its sales price of the diesel fuel and has not collected the amount of tax from its buyer.

(7) A statement that the claimant has in its possession an unexpired exemption certificate described in Section 60503 and the claimant has no reason to believe any information in the certificate is false.

(8) A statement that the amounts claimed have not been previously refunded to the claimant and that there are no other claims outstanding for the amounts included in the current claim.

(d) Each claim for refund under this section shall be made on a form prescribed by the board and shall be for an amount of not less than two hundred dollars ($200) and for a period of not less than one week.

SEC. 16. Section 60505 of the Revenue and Taxation Code is amended to read:

60505. The board, upon the presentation of the claim and the invoice, shall cause to be paid to the claimant from the taxes collected under this part an amount equal to the taxes collected on the diesel fuel with respect to which the refund is claimed under this article. If no original invoice was created, electronic invoicing shall be accepted as reflected by a computerized facsimile when

accompanied by an original copy of the bill of lading or fuel manifest that can be directly tied to the electronic invoice.

SEC. 17. Section 60510 of the Revenue and Taxation Code is repealed.

SEC. 18. Section 60511 of the Revenue and Taxation Code is amended to read:

60511. Interest shall be paid upon any refund of tax at the modified adjusted rate per month established pursuant to Section 6591.5 from the first day of the calendar month following the day a properly completed claim for refund was received by the board on any claim that has not been paid within 20 calendar days of the receipt of a properly completed claim form by the board.

The interest shall be paid to the last day of the month following the date upon which the claim is approved by the board.

No interest shall be granted on credits taken on tax returns.

SEC. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to avoid disruptions in the distribution of diesel fuel supplies that may occur if provisions of this act are not enacted to delete the July 1, 1997, date on which certain diesel fuel tax provisions cease to be operative, it is necessary that this act take effect immediately.

CHAPTER 77

An act to amend Sections 94892.5 and 94990 of, and to add Section 94753.5 to, the Education Code, relating to postsecondary education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 1997. Filed with Secretary of State July 18, 1997.]

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

SECTION 1. Section 94753.5 is added to the Education Code, to read:

94753.5. (a) Except as provided in subdivision (b), the council may delegate to the director any power, duty, purpose, function, or jurisdiction that the council may lawfully delegate, including the authority to enter into and sign contracts on behalf of the council. The director may redelegate any of those powers, duties, purposes, functions, or jurisdictions to his or her designee, unless by statute or regulation, the director is expressly required to act personally.

(b) The director shall obtain approval from the chair of the council, or in the chair's absence from the Undersecretary of the State and Consumer Services Agency, prior to taking any enforcement actions or prior to initiating any legal actions, or both, and that approval authority is hereby delegated to the chair, or the Undersecretary of the State and Consumer Services Agency in the chair's absence.

(c) Notwithstanding the repeal of former Section 94753.5 by Chapter 32 of the Statutes of 1997, the Legislature hereby declares that its intent in enacting this section is to reenact the authority granted to the council and the director by that former section. Any regulation adopted by the council delegating authority to the director, including Section 70030 of Title 5 of the California Code of Regulations, the authority for which was based on former Section 94753.5 or any other provision of this chapter, are deemed to be of continuing validity and the council is not required to readopt those regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 94892.5 of the Education Code is amended to read:

94892.5. (a) As used in this section, "ESL instruction" means any educational service involving instruction in English as a second language.

(b) No institution shall offer ESL instruction without the prior approval of the council.

(c) The council shall not approve an institution's offering of ESL instruction unless that institution complies with the minimum standards established in Section 94781.

(d) An institution that offers ESL instruction to a student shall not enroll the student in any educational service presented in the English language unless the student passes a test indicating that he or she has attained adequate proficiency in oral and written English to comprehend instruction in English.

(e) A student who has completed ESL instruction at an institution shall not be enrolled in any course of instruction presented in the English language at that institution unless the student passes a test indicating that he or she has attained adequate proficiency in oral and written English to be successfully trained by English language instruction to perform tasks associated with the occupations or job titles to which the educational program is represented to lead.

(f) If an institution offers ESL instruction to a student to enable the student to use already existing knowledge, training, or skills in the pursuit of an occupation, the institution shall test the student after the student completes the ESL instruction to determine that the student has attained adequate proficiency in oral and written English to use his or her existing knowledge, training, or skills. Before enrolling the student in ESL instruction, the institution shall document the nature of the student's existing knowledge, training, or skills and that the

ESL instruction is necessary to enable the student to use that existing knowledge, training, or skills.

(g) If an institution offers ESL instruction to a student in connection with a course of instruction leading to employment in any occupation requiring licensure awarded after the passage of an examination offered in English, the institution shall test the student after the student completes the ESL instruction to determine that the student has attained a level of proficiency in English reasonably equivalent to the level of English in which the licensure examination is offered.

(h) If the results of a test administered pursuant to subdivision (d), (e), (f), or (g) indicate that the student has not attained adequate English language proficiency after the completion of ESL instruction, the institution shall offer the student additional instruction without charge, for a period of up to 50 percent of the number of hours of instruction previously offered by the institution to the student, to enable the student to attain adequate English language proficiency.

(i) This section does not apply to grantees funded under Section 1672 of Title 29 of the United States Code.

(j) The institution shall, for five years, retain an exemplar of each language proficiency test administered pursuant to this section, an exemplar of the answer sheet for each test, a record of the score for each test, the answer sheets or other responses submitted by each person who took each test, and the documentation required by subdivision (f).

(k) (1) In addition to any applicable provisions of this chapter, this article, except for Sections 94866 to 94873, inclusive, subparagraph (B) of paragraph (2) of subdivision (a) of Section 94884, and Section 94898, applies to institutions offering ESL instruction.

(2) For the purpose of determining compliance with this article, ESL instruction shall be deemed a course and a charge shall be deemed to be made for ESL instruction if a student is obligated to make any payment in connection with any educational service, including, but not limited to, the ESL instruction that is offered by the institution.

(*l*) The tests used by an institution pursuant to this section shall be tests that are approved by the United States Department of Education or tests such as the Test of English as a Foreign Language and the Comprehensive Adult Student Assessment System that are generally recognized by public and private institutions of higher learning in this state for the evaluation of English language proficiency. An institution shall demonstrate to the council that the tests and passing scores that it uses establish that students have acquired the degree of proficiency in oral and written English required by subdivision (d), (e), (f), or (g), whichever is applicable.

The required level of proficiency in oral and written English shall not be lower than the sixth grade level.

(m) All tests shall be independently administered, without charge to the student and in accordance with the procedures specified by the test publisher. The tests shall not be administered by a previous or current owner, director, consultant, or representative of the institution or by any person who previously had, or currently has, a direct or indirect financial interest in the institution other than the arrangement to administer the test. The council shall adopt regulations that contain criteria to ensure independent test administration including the criteria established by the United States Department of Education and set forth on pages 52160 and 52161 of Volume 55 of the Federal Register, dated December 19, 1990.

(n) The council shall adopt regulations concerning the manner of documenting the nature of a student's existing knowledge, training, and skill and that ESL instruction offered by the institution is necessary to enable the student to use that existing knowledge, training, and skill, as prescribed in subdivision (f). The regulations shall specify all of the following:

(1) Reliable sources of information, independent of the student and the institution, from which documentation of a student's existing knowledge, training, and skill shall be obtained.

(2) Circumstances that must be documented by the institution to establish that information from a designated reliable source of information cannot reasonably be obtained.

(3) Alternate acceptable sources of information if designated reliable sources are not available.

(4) The nature of all required types of documentation.

(o) The council shall develop and distribute instructions, informational materials, or forms to assist institutions in developing the documentation described in this section. These instructions, materials, and forms shall not be subject to review or approval by the Office of Administrative Law pursuant to any provision of the Government Code.

SEC. 3. Section 94990 of the Education Code, as amended by Chapter 32 of the Statutes of 1997, is amended to read:

94990. This chapter shall remain in effect until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends that date.

SEC. 4. (a) Notwithstanding any other provision of law, if the Council for Private Postsecondary and Vocational Education, prior to the effective date of this bill, has received from an institution subject to Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code a complete application for the modification of the wording of a degree title and the council does not provide a site visit within the time prescribed by law, the council shall approve the application within 30 days after the effective date of this bill. The

approval shall be valid until the council, or its successor, the Bureau for Private Postsecondary and Vocational Education, completes the required site visit.

(b) It is the intent of the Legislature that this section continue to be operative on and after January 1, 1998.

SEC. 4.5. This act shall become operative only if Assembly Bill No. 71 of the 1997–98 Regular Session is enacted and enacts the Private Postsecondary and Vocational Education Reform Act of 1989.

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.

SEC. 6. The provisions of this act as they relate to the application of the urgency clause are severable. If the urgency clause is deemed invalid as it relates to the extension of the operation of the Council for Private Postsecondary and Vocational Education as provided in Section 3 of this act, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application.

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 extend the operation of the Private Postsecondary and Vocational Education Reform Act of 1989 and to remedy existing problems with English-as-a-second-language programs and to eliminate inconsistencies regarding the refund policies of the state and federal governments for these programs as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 78

An act to amend Sections 146, 473.1, and 473.3 of the Business and Professions Code, to repeal, add, and repeal Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to postsecondary education, and making an appropriation therefor.

[Approved by Governor July 18, 1997. Filed with
Secretary of State July 18, 1997.]

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

SECTION 1. The Legislature hereby finds and declares that the California Postsecondary Education Commission, in reviewing the effectiveness of the Private Postsecondary and Vocational Education Reform Act of 1989, adopted and issued a report on October 30, 1995, that set forth all of the following findings:

(a) The Private Postsecondary and Vocational Education Reform Act of 1989 is California's major statute for regulating and strengthening its more than 2,000 privately operated postsecondary educational institutions, as well as out-of-state public and private institutions that have operations in California. The private sector educates approximately 400,000 students: 100,000 enrolled in degree-granting institutions, and 300,000 enrolled in nondegree-granting institutions.

(b) Prior to passage of the act, some degrees and diplomas awarded by California's private postsecondary and vocational educational institutions were of questionable integrity and value. The act set minimum standards of instructional quality and institutional business practices, and mandated consumer protections for students against fraud, misrepresentation, and unfair practices by schools. These changes have restored the credibility and integrity of degrees and diplomas awarded by private schools and colleges.

(c) More broadly, the improvement of California's work force preparation programs, both public and private, is of significant value to the business community in California. By ensuring high-quality preparation and training for students entering the work force, this act benefits both employers and employees.

SEC. 2. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) or (d) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when:

(1) A complaint or a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor, or

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivisions (c) and (d) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Sections 2052 and 2054.
(2) Section 2630.
(3) Section 2903.
(4) Sections 3760 and 3761.
(5) Section 4080.
(6) Section 4825.
(7) Section 4935.
(8) Section 4980.
(9) Section 4996.
(10) Section 5536.
(11) Section 6704.
(12) Section 6980.10.
(13) Section 7317.
(14) Section 7502 or 7592.
(15) Section 7520.
(16) Section 7617 or 7641.
(17) Subdivision (a) of Section 7872.
(18) Section 8016.
(19) Section 8505.
(20) Section 8725.
(21) Section 9681.
(22) Section 9840.
(23) Section 9884.6.
(24) Subdivision (c) of Section 9891.24.
(25) Section 19049.

(d) Institutions that are required to register with the Bureau for Private Postsecondary and Vocational Education pursuant to Section 94931 of the Education Code.

(e) Notwithstanding any other provision of law, a violation of any of the sections listed in subdivision (c) or (d), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation which was the basis for his or her conviction.

SEC. 3.5. Section 473.1 of the Business and Professions Code is amended to read:

473.1. This division shall apply to all of the following:

(a) Every board, as defined in Section 22, that is scheduled to become inoperative on July 1, 1997, July 1, 1998, or July 1, 1999, and

to be repealed on either January 1, 1998, January 1, 1999, or January 1, 2000, respectively, by the act which enacted this division.

(b) The Bureau for Postsecondary and Vocational Education. For purposes of this division, "board" includes the bureau.

SEC. 3.7. Section 473.3 of the Business and Professions Code is amended to read:

473.3. (a) Prior to the termination, continuation, or reestablishment of any board or any of the board's functions, the Joint Legislative Sunset Review Committee shall, during the interim recess preceding the date upon which a board becomes inoperative, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, and the public and regulated industry. In that hearing, each board shall have the burden of demonstrating a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.

(b) In addition to subdivision (a), in the year 2001 and every four years thereafter, the committee shall hold a public hearing to receive testimony from the Director of Consumer Affairs, the Bureau for Private Postsecondary and Vocational Education, private postsecondary educational institutions regulated by the bureau, and students of those institutions. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.

SEC. 3.9. Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code is repealed.

SEC. 4. Chapter 7 (commencing with Section 94700) is added to Part 59 of the Education Code, to read:

CHAPTER 7. PRIVATE POSTSECONDARY AND VOCATIONAL INSTITUTIONS

Article 1. General Provisions

94700. This chapter shall be known, and may be cited, as the "Private Postsecondary and Vocational Education Reform Act of 1989."

94705. It is the intent of the Legislature to promote the effective integration of private postsecondary education into all aspects of California's educational system and to foster and improve the educational programs and services of these institutions while protecting the citizens of the state from fraudulent or substandard operations.

It is further the intent of the Legislature to recognize the enormous diversity of California's private postsecondary educational

enterprise, with its approximately 2,300 privately supported institutions of academic and vocational education.

It is further the intent of the Legislature to provide for the protection, education, and welfare of citizens of California, its postsecondary educational institutions, and its students by providing for all of the following:

(a) Ensuring minimum standards of instructional quality and institutional stability for all students in all types of institutions, and thereby encouraging the recognition by public and private institutions of completed coursework and degrees and diplomas issued by private institutions, to the end that students will be provided equal opportunities for equal accomplishment and ability.

(b) Establishing minimum standards concerning the quality of education, ethical and business practices, health and safety, and fiscal responsibility to provide protection against substandard, transient, unethical, deceptive, or fraudulent institutions and practices.

(c) Prohibiting the granting of false or misleading educational credentials.

(d) Prohibiting misleading literature, advertising, solicitation, or representations by private educational institutions or their agents.

(e) Recognizing the importance of providing adequate funding through application and renewal fees and federal funding for the veteran's approval process to support the state's activities in implementing this chapter.

(f) Protecting the consumer and students against fraud, misrepresentation, or other practices that may lead to an improper loss of funds paid for educational costs, whether financed through personal resources or state and federal student financial aid.

(g) Establishing a path for the development of institutions offering fields of study or methods of instruction and innovative educational delivery systems not previously recognized in order to encourage them to become fully approved institutions.

(h) Recognizing and encouraging quality nongovernmental accreditation, while not ceding to that or any other nongovernmental process the responsibility for state oversight for purposes of approval, if the accreditation process fails either to protect minimum standards of quality or to acknowledge legitimate innovative methods in postsecondary education.

(i) Establishing an administrative agency staffed by individuals who are knowledgeable about private academic and vocational education, and charged with the responsibility of developing policies and procedures for the oversight and approval of private postsecondary and vocational education, including the responsibility for managing a broadly construed policy and planning process that seeks to improve state accountability for private postsecondary and vocational education as well as to improve the articulation of private postsecondary and vocational education with the public and independent postsecondary educational community. This new body

should provide the leadership and planning needed to maintain and develop a strong private sector of this community.

Article 2. Definitions

94710. The definitions set forth in this article govern the construction of this chapter, unless the context requires otherwise.

94711. “Academic Year” for a degree-granting institution means a period including a minimum of 30 weeks of instruction.

94712. “Accredited” means that an institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the United States Department of Education, or the Committee of Bar Examiners for the State of California. It does not include those institutions that have applied for accreditation, or are identified by accrediting associations as candidates for accreditation or have provisional accreditation.

94713. “Agency” means any person or business entity, regardless of the form of organization, that employs, or in any manner contracts with, one or more agents. “Agency” does not include an institution.

94714. “Agency approval” means a written document issued by the council authorizing a business entity or an institution to engage in the recruitment of students for enrollment in private postsecondary and vocational institutions approved under this chapter.

94715. “Agent” means any person who, at a place away from the institution’s premises or site of instruction, but within the United States, for consideration, solicits, promotes, advertises, offers, or attempts to secure enrollment for an institution, refers any person to that institution, either for enrollment or to receive a solicitation for enrollment, or accepts application fees or admissions fees for education in that institution. Administrators and faculty who make informational public appearances, but whose primary task does not include service as a paid recruiter, are not agents. Publishers of directories that contain general information on institutions and their offerings and who do not otherwise engage in any of the activities described in this section are not agents.

94716. “Agent’s permit” means a nontransferable written document issued to an agent pursuant to this chapter by the council.

94717. “Applicant” means a new institution that has submitted an application but has not been evaluated by the council. An applicant institution shall not enroll students or offer educational services.

94718. “Approval” or “approval to operate” means that the council has determined and certified that an institution meets minimum standards established by the council for integrity, financial stability, and educational quality, including the offering of bona fide instruction by qualified faculty and the appropriate assessment of students’ achievement prior to, during, and at the end of its program.

94719. "Branch" means a site other than the main location or a satellite. Only educational services approved at the main location may be offered at the branch.

94719.5. "Bureau" means the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs established pursuant to Section 94770.

94720. "Certificate of authorization for service" means a written, nontransferable document issued by the council authorizing an individual to be an instructor or administrator in any private vocational postsecondary educational institution in California that is approved under Section 94915.

94721. "Change of location" means a move of up to 25 miles of the location at which an institution offers any education, training, or instruction. A change of location of 25 or more miles is deemed the establishment of a new location of instruction requiring a separate approval to operate, unless otherwise provided by the council.

94722. (a) Except as provided in subdivision (b), "continuing education" means instruction in any of the following circumstances:

(1) Only in subjects licensees are required to take as a condition of continued licensure and solely for that purpose.

(2) Only in subjects necessary to continue to practice or work in a profession such as law or medicine and solely for that purpose.

(3) To persons who are already in a particular profession, trade, or job category for the sole purpose of enhancing their skills or knowledge within that particular profession, trade, or job category.

(b) "Continuing education" does not include any of the following:

(1) Vocational diploma programs.

(2) Degree programs.

(3) An educational service any part of the charge for which is paid from the proceeds of a loan or grant subject to a governmental student financial aid program.

94723. "Correspondence school" or "home study school" means any institution that provides correspondence lessons for study and completion by a student at a location separate from the institution, including those institutions which offer that instruction by correspondence in combination with in-residence instruction.

94724. "Council" means the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs established pursuant to Section 94770.

94725. "Course of study" means either a single course or a set of related courses for which a student enrolls.

94726. "Degree" means any type of degree or honorary degree or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond

the secondary school level or is an honorary title conferred for recognition of some meritorious achievement.

94727. "Degree title" means the designated subject area of study that also appears on the face of the document awarded to a student signifying the conferring of a "degree."

94728. "Diploma" means any diploma, certificate, document, or other writing in any language other than a degree which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level.

94728.5. "Director" means the Director of Consumer Affairs.

94729. "Education," "educational services," or "educational program" includes, but is not limited to, any class, course, or program of training, instruction, or study.

94730. "Institution" means any private postsecondary educational institution. An "institution" includes its branch and satellite campuses, unless otherwise provided by the council.

94731. "Institutional approval" means an institution that has been evaluated by the council and has been found to be in compliance with the council's standards pursuant to this chapter.

94732. "Instruction" includes any specific, formal arrangement by an institution or its enrollees to participate in learning experiences in which the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

94733. "Intensive English language program" means an educational service approved by the United States Immigration and Naturalization Service solely to provide English instruction to international students for a designated period of study in the United States and that offers instruction that is nondegree granting, nonvocational, and is not represented to lead to, or offered for the purpose of preparing a student for employment in, any occupation or job title. Additionally, the educational service shall meet all of the following criteria:

(a) Students enrolling in this type of educational service are not residents of this state or citizens of the United States and are not eligible for federal or state financial aid, including loans.

(b) Coursework in this type of educational service is limited to English instruction in all areas of language skills development, including reading, writing, speaking, listening, grammar, and test preparation.

94734. "License and exam preparation" means that the educational program is either of the following:

(a) Designed to assist students to prepare for an examination for licensure.

(b) Offered for the sole purpose of providing continuing education in subjects licensees are required to take as a condition of continued licensure.

94735. "Main location" or "main site" means the institution's primary teaching location. If an institution operates at only one site, that site shall be considered its main location or main site.

94736. "Occupational Associate Degree," "Associate of Occupational Studies," or "Associate of Applied Science" designated by terms including, but not limited to, AOS (Associate Occupational Studies), AAS (Associate Applied Science), AST (Associate Specialist Technical), or ASB (Associate Specialist Business) means an associate degree that may be awarded to students who complete an occupational program that provides preparation for employment in an occupational field.

94737. "Out-of-state school" means any private postsecondary or vocational educational institution offering career or job training programs, including both an in-residence institution and a home-study institution that has its place of instruction or its principal location outside the boundaries of the state, or that offers or conducts programs of instruction or subjects on premises maintained by the school outside the boundaries of the state, or that provides correspondence or home-study lesson materials from a location outside the boundaries of this state, or that evaluates completed lesson materials or otherwise conducts its evaluation service from a location outside the boundaries of this state, or that otherwise offers or provides California students with programs of instruction or subjects through activities engaged in or conducted outside the boundaries of the state.

94738. "Person" means a natural person or any business entity, regardless of the form or organization.

94739. (a) "Private postsecondary educational institution" means any person doing business in California that offers to provide or provides, for a tuition, fee, or other charge, any instruction, training, or education under any of the following circumstances:

(1) A majority of the students to whom instruction, training, or education is provided during any 12-month period is obtained from, or on behalf of, students who have completed or terminated their secondary education or are beyond the age of compulsory high school attendance.

(2) More than 50 percent of the revenue derived from providing instruction, training, or education during any 12-month period is obtained from, or on behalf of, students who have completed or terminated their secondary education or are beyond the age of compulsory high school attendance.

(3) More than 50 percent of the hours of instruction, training, or education provided during any 12-month period is provided to students who have completed or terminated their secondary education or are beyond the age of compulsory high school attendance.

(4) A substantial portion, as determined by the council, by regulation, of the instruction, training, or education provided is

provided to students who have completed or terminated their secondary education or are beyond the age of compulsory high school attendance.

(b) The following are not considered to be private postsecondary educational institutions under this chapter:

(1) Institutions exclusively offering instruction at any or all levels from preschool through the 12th grade.

(2) Institutions offering education solely avocational or recreational in nature, and institutions offering this education exclusively.

(3) Institutions offering education sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership.

(4) Postsecondary or vocational educational institutions established, operated, and governed by the federal government or by this state, or its political subdivisions.

(5) Institutions offering continuing education where the institution or the program is approved, certified, or sponsored by any of the following:

(A) A government agency, other than the bureau, that licenses persons in a particular profession, trade, or job category.

(B) A state-recognized professional licensing body, such as the State Bar of California, that licenses persons in a particular profession, trade, or job category.

(C) A bona fide trade, business, or professional organization.

(6) A nonprofit institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization comprised of multidenominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, if the education is limited to instruction in the principles of that church, religious denomination, or religious organization, or to courses offered pursuant to Section 2789 of the Business and Professions Code, and the diploma or degree is limited to evidence of completion of that education, and the meritorious recognition upon which any honorary degree is conferred is limited to the principles of that church, religious denomination, or religious organization. Institutions operating under this paragraph shall offer degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization. The enactment of this paragraph expresses the legislative intent that the state shall not involve itself in the content of degree programs awarded by any institution operating under this paragraph, as long as the institution awards degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization. Institutions operating under this paragraph shall not award degrees in any area of physical science. Any degree or diploma granted in any

area of study under these provisions shall contain on its face, in the written description of the title of the degree being conferred, a reference to the theological or religious aspect of the degree's subject area. Degrees awarded under this paragraph shall reflect the nature of the degree title, such as "Associate of Religious Studies," or "Bachelor of Religious Studies," or "Master of Divinity" or "Doctor of Divinity." The use of the degree titles "Associate of Arts" or "Associate of Science," "Bachelor of Arts" or "Bachelor of Science," "Master of Arts" or "Master of Science," or "Doctor of Philosophy" or "Ph.D." shall only be awarded by institutions approved to operate under Article 8 (commencing with Section 94900) or meeting the requirements for an exemption under Section 94750. The enactment of this paragraph is intended to prevent any entity claiming to be a nonprofit institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization comprised of multidenominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, from marketing and granting degrees or diplomas that are represented as being linked to their church, religious denomination, or religious organization, but which, in reality, are degrees in secular areas of study. An institution operating under this paragraph shall file annually with the council evidence to demonstrate its status as a nonprofit religious corporation under the Corporations Code. A college or university operating under this paragraph shall file annually with the council evidence to demonstrate its status as a nonprofit religious corporation under the Corporation Code.

(7) (A) Public institutions accredited by the senior commission or the junior commission of the Western Association of Schools and Colleges.

(B) Institutions accredited by the senior commission or the junior commission of the Western Association of Schools and Colleges that are incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and that are not managed by any entity for profit.

(C) For-profit institutions accredited by the senior or the junior commission of the Western Association of Schools and Colleges, if the institution exclusively confers degrees upon the completion of a course of study of two or more years.

(D) Institutions accredited by the Western Association of Schools and Colleges that do not meet all of the criteria in subparagraph (B) and that are incorporated and lawfully operating as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, that have been in continuous operation since April 15, 1997, and that are not managed by any entity for profit. Notwithstanding this

subdivision, institutions that meet the criteria in this subparagraph shall be subject to Section 94831, except subdivision (c) of that section, and Sections 94832, 94834, 94838, and 94985.

94740. "Program" or "program of instruction" means a program of training, set of related courses, or education for which a student enrolls.

94740.1. "Registered," "registered institution," or "registered educational service" means any individual or organization that offers an educational service and is registered to operate under Article 9.5 (commencing with Section 94931).

94741. "Representative" means an employee, an agent as defined in Section 2295 of the Civil Code, an agent subject to Section 94940, an agency subject to Section 94942, or any person who, for compensation, does either of the following:

(a) Solicits, promotes, advertises, or refers or recruits students or prospective students for an institution.

(b) Is involved with enrollment, admissions, student attendance, administration, financial aid, instruction, or job placement assistance on behalf of an institution.

94742. "Satellite" means an auxiliary classroom or a teaching site. All of the following apply to a satellite:

(a) Only educational services that are approved at the main location shall be offered at the satellite.

(b) The institution shall maintain no permanent records of attendance or academic progress at the satellite.

(c) Advertisement of a satellite shall indicate that the satellite is an auxiliary classroom or a teaching site.

94742.1. (a) "Short-term career training" means an educational service consisting of all of the following:

(1) The total charge to the student is two thousand dollars ($2,000) or less.

(2) The length of training is less than 250 hours.

(3) The course is represented as preparing the student for any occupation or job title.

(b) "Short-term career training" does not include any of the following:

(1) Instruction leading to a degree.

(2) Instruction financed by a federal or state loan or grant.

(3) Any educational service, other than provided for in subdivision (a), consisting of more than 250 hours of instruction or costing two thousand dollars ($2,000) or more in total charges that is divided or structured into one or more segments that consists of 250 or fewer hours of instruction, the total charge for which is less than two thousand dollars ($2,000).

(4) Any educational service represented to lead to, or offered for the purpose of preparing a student for, employment as a certified nursing assistant, a private security guard, or a private patrol operator.

(c) Short-term career training may include an educational service licensed by another state agency so long as that educational service complies with subdivision (a) and Article 9.5 (commencing with Section 94931).

94742.2. (a) "Short-term seminar training" means an educational service offered at a main location, branch, or satellite, or any other location, consisting of 100 hours or less of instruction, the total charge for which is less than one thousand dollars ($1,000).

(b) "Short-term seminar training" does not include any of the following:

(1) Instruction leading to a degree.

(2) Instruction financed by a federal or state loan or grant.

(3) Instruction in how to prepare for, take, or pass a licensing examination or other test qualifying a person for employment.

(4) Instruction that is represented to lead to an occupation or job title.

(5) Any educational service consisting or more than 100 hours of instruction or costing one thousand dollars ($1,000) or more in total charges that is divided or structured into one or more segments that consist of 100 or fewer hours of instruction, the total charge for which is less than one thousand dollars ($1,000).

(c) Short-term seminar training may include an educational service licensed by another state agency so long as that educational service complies with subdivision (a) and Article 9.5 (commencing with Section 94931).

94743. "Site" means a main location, branch, or satellite campus.

94744. "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

94745. "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, or from or through which, educational services are offered or educational degrees or diplomas are offered or granted.

94746. "Vocational diploma program" means an educational program having all of the following characteristics:

(a) The educational program consists of a job-training program or other instruction, training, or education that the institution represents will lead to, fit, or prepare students for employment in any occupation.

(b) The program is offered to students who do not possess a bachelor's or graduate degree in the field of training.

(c) Students who complete all or a portion of the program are awarded a diploma, certificate, or occupational associate degree.

Article 3. Exemptions

94750. Article 4 (commencing with Section 94770), Article 8 (commencing with Section 94900), the last sentence of paragraph (6)

of subdivision (b) of Section 94739, subdivision (c) of Section 94831, and Sections 94802, 94830, 94835, 94836, 94840, 94846, 94934, 94942, 94944, 94945, 94946, 94947, 94965, and 94970 shall not apply to an institution that is a nationally accredited agency recognized by the United States Department of Education if the bureau has determined, subsequent to an onsite qualitative review and assessment of the institution conducted at least once every three years, as described in Section 94901, that the institution is in compliance with all of the following:

(a) The institution meets the financial responsibility requirements set forth in subdivision (b) of Section 94804.

(b) The faculty of the institution meets the requirements set forth in paragraph (2) of subdivision (a) of Section 94900.

(c) The institution's cohort default rate on guaranteed student loans does not exceed 15 percent for the three most recent years as published by the United States Department of Education.

(d) The institution has operated in this state for at least 15 years.

(e) The institution submits to the bureau copies of the most recent IRS Form 990 and the Integrated Postsecondary Education Data System Report of the United States Department of Education and the accumulated default rate.

(f) The institution pays fees in accordance with Section 94932.

(g) The institution exclusively confers degrees upon the completion of a course of study of two or more years.

Institutions that satisfy the requirements of this subdivision may also (1) teach state-mandated continuing education programs if the institution offers a degree for which the continuing education program is required, and (2) teach prerequisite courses for admission to a degree program offered at the institution.

(h) The institution has offered a masters, doctorate, or first professional degree program for at least five years.

(i) The institution is incorporated and lawfully operates as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and is not managed or administered by an entity for profit.

Article 3.5. Transition Provisions

94760. (a) Any institution operating on December 31, 1997, with a full, conditional, or temporary approval to operate, may continue to operate under the terms of that approval until that full, conditional, or temporary approval to operate expires or a subsequent action is taken by the bureau that affects that approval to operate, whichever comes first.

(b) Each regulation in Division 7.5 (commencing with Section 70000) of Title 5 of the California Code of Regulations in effect on June 29, 1997, shall be in full force and effect on and after January 1,

1998, to the extent the regulation is consistent with the relevant provisions in this chapter. The council may, by emergency regulation, designate which regulations are consistent with this chapter and which are not.

Article 4. Administration

94770. There is a Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The bureau shall succeed to any and all rights and claims of the former Council for Private Postsecondary and Vocational Education that may have been asserted in any judicial or administrative action pending on January 1, 1998, and shall take any action reasonably necessary to assert and realize those rights and claims in its own name. The functions of the former council and the responsibilities the former council had for the administration of former Chapter 7 (commencing with Section 94700) on June 29, 1997, are transferred to the bureau, effective January 1, 1998, as provided by this act. It is the intent of the Legislature that there be no gap in the performance of functions or the administration of the law governing private postsecondary educational institutions. Notwithstanding any other provision of law, Section 19050.9 of the Government Code shall apply regardless of the date on which former Chapter 7 (commencing with Section 94700) became inoperative or was repealed.

The bureau shall have possession and control of all records, papers, offices, equipment, supplies, or other property, real or personal, held for the benefit or use by the former council in the performance of the duties, powers, purposes, responsibilities, and jurisdictions that are vested in the bureau.

The bureau has the responsibility for approving and regulating private postsecondary educational institutions. The bureau shall have, as its objective, the development of a strong, vigorous, and widely respected sector of private postsecondary and vocational education.

94771. (a) The duty of administering and enforcing this chapter is vested in the Director of Consumer Affairs, who may assign and delegate those duties to a program administrator, subject to the other provisions of this section.

(b) Every power granted to, or duty imposed upon, the bureau under this chapter may be exercised or performed in the name of the bureau, subject to any conditions and limitations the director may prescribe. The program administrator may redelegate any of those powers or duties to his or her designee. The program administrator shall be appointed by the Governor and confirmed by the Senate, and is exempt from the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(c) The director, in accordance with the State Civil Service Act, may appoint and fix the compensation of such clerical, inspection,

investigation, evaluation, and auditing personnel, as may be necessary to carry out this chapter.

(d) The proceedings under this chapter shall be conducted by the bureau in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. To the extent of any conflict between any of the provisions of this chapter and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that Chapter 5 shall prevail.

(e) The director shall appoint an advisory committee which shall consist of representatives of institutions, student advocates, and employers who hire students, among other parties. The advisory committee shall be balanced to ensure that institutions and student advocates have approximate equal representation. Institutional representatives on the committee shall be in general proportion to the types of institutions approved or registered pursuant to this chapter and to the number of students served by each type of institution. The advisory committee shall advise the bureau concerning the bureau's administration, licensing, and enforcement functions under this chapter.

94772. It is the intent of the Legislature that the bureau's approval and regulating responsibilities be funded solely through approval fees and federal funding provided to implement the approval process for courses offered to veterans by approved institutions.

94774. The bureau shall have the following functions and responsibilities in its capacity as the statewide private postsecondary and vocational educational planning and licensing agency:

(a) The establishment of policies for the administration of this chapter.

(b) The establishment of minimum criteria for the approval of private postsecondary or vocational educational institutions to operate in California and award degrees and diplomas, and for the approval of institutions that meet the criteria.

(c) The adoption of regulations governing the conduct of institutions under this chapter, including, but not limited to, minimum state standards for refund policies, advertising, enrollment agreements and contracts, consumer information, attendance policies, and financial responsibility.

(d) The adoption of regulations for the transaction of its own affairs, and procedures necessary or appropriate for the conduct of its work and the implementation of this chapter.

(e) The publication of an Internet directory of all private postsecondary and vocational educational institutions approved to operate in California under this chapter.

(f) The impaneling of special committees of technically qualified persons to assist the bureau in the development of standards for education and educational institutions and the evaluation of an application or institutions pursuant to this chapter. The members of

the special committees shall receive no compensation but shall be reimbursed for their actual expenses for attendance at official meetings and actual expenses when on official bureau business. The members of the special committees shall serve at no expense to the state. The actual travel and per diem expenses incurred by each member of a special committee shall be reimbursed by the institution that is the subject of inspection or investigation.

94774.5. (a) For the purposes of administration and enforcement of this chapter, the Department of Consumer Affairs, the bureau, and the director and officers and employees of the department and the bureau, shall have all the powers and authority granted under this chapter and under Division 1 (commencing with Section 100) and Division 1.5 (commencing with Section 475) of the Business and Professions Code. In addition to satisfying the approval, compliance, and enforcement provisions of this chapter, the bureau shall also comply with and exercise all authority granted by Division 1 (commencing with Section 100) and Division 1.5 (commencing with Section 475) of the Business and Professions Code.

(b) The bureau shall establish a regular inspection program which shall include unannounced inspections.

(c) If the bureau determines after an investigation that an institution has violated this chapter or any of the regulations adopted by the bureau, the bureau may do any or all of the following:

(1) Place the institution on probation.

(2) Issue an order prohibiting the enrollment of new students.

(3) Issue an administrative citation and impose an administrative fine as authorized by, and in accordance with, Section 94957 of this code or Section 146, 147, or 148 of the Business and Professions Code.

(4) Issue an order of abatement or citation pursuant to Section 125.9 or 148 of the Business and Professions Code.

(5) Initiate proceedings under the Administrative Procedure Act or this chapter to revoke or suspend the institution's approval to operate.

(6) With the consent of the institution, refer an adjudicative proceeding to mediation, or binding or nonbinding arbitration, in accordance with the regulations of the Office of Administrative Hearings, the department, or the bureau.

(7) Order reimbursement of the costs of the investigation and enforcement in accordance with Section 94935 of this code or Section 125.3 of the Business and Professions Code. An institution shall not be required to pay the same costs and expenses to more than one investigating entity.

(8) Notify the telephone company to disconnect the institution's telephone as authorized by Section 149 of the Business and Professions Code.

94775. (a) Any person, serving on a special committee of the bureau pursuant to subdivision (i) of Section 94774, a visiting committee pursuant to Section 94901, or any other peer review body

impaneled by the bureau and who provides information to the bureau or its staff in the course and scope of evaluating any institution subject to this chapter or who testifies at any administrative hearing arising under this chapter, is entitled to a defense by, and indemnification from, the bureau to any action arising out of information or testimony to the bureau which that person would have if he or she were a public employee.

(b) Any defense by, or indemnification from, the bureau, as specified in subdivision (a) shall be solely with respect to that claim or action pursuant to Article 4 (commencing with Section 825) of Chapter 1 of Part 2 of, and Part 7 (commencing with Section 995) of, Division 3.6 of Title 1 of the Government Code.

94776. The director may purchase annuity contracts for permanent employees of the bureau who formerly were permanent employees of the State Department of Education and who had similar state-purchased annuity contracts prior to January 1, 1998. The bureau shall reduce the salaries of the employees for whom the contracts are purchased by the amount of the costs of the contract if all of the following conditions are met:

(a) The annuity contract is under an annuity plan that meets the requirements of subdivision (b) of Section 403 of the Internal Revenue Code.

(b) The employee applies to the director for the purchase of the contract and reduction of salary.

(c) All provisions of the Insurance Code and the Government Code applicable to the purchase of this type of annuity are satisfied.

94777. The bureau may utilize the resources of accrediting associations in gathering information about accredited postsecondary and vocational institutions, including participating as an observer on accreditation site visits. However, this section does not preclude or relieve the bureau of its responsibilities under this chapter and the bureau shall retain full authority for approving all private postsecondary and vocational institutions operating in California.

94778. (a) The bureau may adopt and enforce regulations that are necessary, appropriate, or useful to interpret and implement this chapter pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Pending the adoption of those regulations, the bureau may adopt emergency regulations that shall become effective immediately. The adoption of the emergency regulations shall be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and the emergency regulations shall only be effective until June 30, 1999, or on the effective date of the regulations adopted by the bureau to implement this chapter, whichever occurs first, at which time the emergency regulations shall be deemed to be repealed.

(b) The bureau shall adopt regulations establishing a voluntary arbitration process similar to that set forth in Article 6.2 (commencing with Section 7085) of Chapter 9 of Division 3 of the Business and Professions Code for the resolution of disputes between an institution approved to operate under this chapter and a complainant or complainants.

94779. The bureau shall make available to members of the public, upon request, the nature and disposition of all compliants on file with the bureau against an institution.

Article 5. Classification of Educational Programs Offered by Postsecondary Institutions

94780. No institution, subject to this chapter, shall offer any educational service unless the institution is first approved by the council and meets all of the requirements in the following articles:

(a) This article, Article 6 (commencing with Section 94800) except as provided for institutions approved under Article 9.5 (commencing with Section 94931), Article 10 (commencing with Section 94932), Article 11 (commencing with Section 94940), and Article 12 (commencing with Section 94944).

(b) Article 8 (commencing with Section 94900), if the institution offers degrees.

(c) Article 9 (commencing with Section 94915), if the institution does not offer degrees.

(d) Article 9.5 (commencing with Section 94931), if the institution is registered pursuant to that article.

(e) Article 7 (commencing with Section 94850), if the educational programs are not exempt under Section 94790.

94785. (a) Article 7 (commencing with Section 94850) does not apply to an institution during a calendar year if both of the following conditions are satisfied during that calendar year:

(1) The institution enrolls 100 or fewer students.

(2) No part of the charges for any educational service offered by the institution is paid from the proceeds of a loan or grant subject to a governmental student financial aid program.

(b) If the conditions specified in subdivision (a) are not satisfied for the entire calendar year, Article 7 (commencing with Section 94850) shall apply to all students enrolled during that calendar year except to the extent that the institution or its educational services are otherwise exempt.

(c) Article 7 (commencing with Section 94850) does not apply to an institution that is incorporated and has continuously lawfully operated for at least five years as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110), or as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110), of Division 2 of Title 1 of the Corporations Code and is not managed or administered by any entity for profit.

94786. Article 7 (commencing with Section 94850) does not apply to an educational service if the total charge, as defined in subdivision (k) of Section 94852, for that educational service is one thousand dollars ($1,000) or less, and no part of the total charge is paid from the proceeds of a loan or grant subject to a governmental student financial aid program.

94787. Article 7 (commencing with Section 94850) except Sections 94872 and 94873, applies to schools that offer instruction in how to prepare for, take, and pass civil service examinations or other tests qualifying a student for employment by a governmental entity. For the purpose of determining compliance with this article, schools described in this section shall be considered "institutions."

94790. Except as otherwise provided in this section, Article 7 (commencing with Section 94850) does not apply to any of the following educational services:

(a) (1) Except as provided in paragraph (2), educational services that confer degrees upon the completion of a course of study of two or more academic years that are scheduled to be completed in not less than 17 months or that confer degrees, such as master's or doctorate degrees, on students who have completed a graduate course of study of one or more years at a college or university.

(2) For educational services that consist of an AOS (Occupational Associate degrees or Associate of Occupational Studies degrees), AAS (Associate of Applied Science degrees), or any other occupational associate degree, if the institution confers diplomas or certificates to students who do not complete the degree program, Article 7 (commencing with Section 94850) shall apply to any student enrolled in any course that can be accepted to meet the requirements of the diploma or certificate program. Notwithstanding this paragraph, Article 7 (commencing with Section 94850) shall not apply to any student who continues to be enrolled in the institution one academic year after the student has commenced instruction or completed all of the courses in the diploma program or certificate program, whichever is later. Students enrolled in the degree program who are awarded a certificate or diploma after completing the certificate or diploma program, but prior to completing the degree program, may be counted by the institution towards the requirements in paragraph (1) of subdivision (a) of Section 94854 and paragraph (1) of subdivision (b) of Section 94854 for the diploma or certificate program.

(3) The requisite number of semester or quarter units for AOS, AAS, or any other occupational associate degree shall be 60 semester units or 90 quarter units. The bureau shall adopt regulations to specify the necessary classroom instruction and out-of-class learning experience for each unit or semester or quarter hour credit (combination of lecture, laboratory, practicum, or outside preparation), based on Carnegie Commission standards.

(4) This subdivision does not apply to any educational service for which a student enrolled before January 1, 1998.

(b) The educational service, as defined in subdivision (b) of Section 94734, is offered as continuing education in subjects that licensees are required to take as a condition of continued licensure.

(c) The educational service is offered exclusively to assist students to prepare for an examination for entrance into an undergraduate or graduate course of study at an accredited or approved college or university.

(d) The educational service, as defined in subdivision (a) of Section 94734, is offered exclusively to assist students, who have obtained, or who are in the process of obtaining, degrees after completing an undergraduate or graduate course of study at a college or university, to prepare for an examination for licensure in a recognized profession, such as medicine, dentistry, accounting, or law.

(e) The educational service is three or more academic years, is scheduled to be completed in not less than 27 months, the institution does not admit students to the educational service more than four times during a year, and the institution confers a diploma upon the student's completion of the educational service.

(f) The educational service offers training exclusively in the fine arts or performing arts, such as training to be an actor, dancer, author, vocal or instrumental musician, painter, sculptor, or photographer; in body arts, such as training in body piercing or massage; or in another similar field as designated by the council.

(g) The educational service is more than 30 months in length, and the total charge for the educational service is payable by the student in equal monthly installments over the entire length of the course, and the institution does not receive, and the student is not obligated to pay, an advance payment for more than one month.

(h) The educational service for all students enrolled is entirely and exclusively offered pursuant to a contract between the institution and a community college, a high school, or an employer who has the responsibility for applicable cost; and the students are not required to pay, or are not liable to pay, any part of the total charge for the educational service.

(i) Any educational service identified in this section that is exempt from Article 7 (commencing with Section 94850) does not become subject to Article 7 (commencing with Section 94850) solely because the institution offers other educational services that are identified in this section and that are also exempt from Article 7 (commencing with Section 94850).

94795. It is the intent of the Legislature that if any exception provided in this article is declared by a court to be invalid for any reason, all of the provisions of Article 7 (commencing with Section 94850) shall apply to the institutions, programs, or educational services that would otherwise be subject to that exception.

Article 6. General Standards for All Postsecondary Institutions Approved Under This Chapter

94800. All institutions approved under this chapter shall be maintained and operated, or in the case of a new institution, shall demonstrate that it will be maintained and operated, in compliance with all of the following minimum standards:

(a) That the institution is financially capable of fulfilling its commitments to its students.

(b) That upon satisfactory completion of training, the student is given an appropriate degree, diploma, or certificate by the institution, indicating that the course or courses of instruction or the program or programs of instruction or study have been satisfactorily completed by the student.

(c) That the institution provides instruction as part of its educational program. Instruction shall include any specific, formal arrangement by an institution for its enrollees to participate in learning experiences wherein the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

94802. (a) Each institution desiring to operate in this state shall make application to the council, upon forms to be provided by the council. The application shall include, as a minimum, at least all of the following:

(1) A catalog published, or proposed to be published, by the institution containing the information specified in the criteria adopted by the council. The catalog shall include specific dates as to when the catalog applies.

(2) A description of the institution's placement assistance, if any.

(3) Copies of media advertising and promotional literature.

(4) Copies of all student enrollment agreement or contract forms and instruments evidencing indebtedness.

(5) The name and California address of a designated agent upon whom any process, notice, or demand may be served.

(6) The information specified in Section 94808.

(7) The institution's most current financial report as described in Section 94806.

(b) Each application shall be signed and certified under oath by the owners of the school or, if the school is incorporated, by the principal owners of the school (those who own at least 10 percent of the stock), or by the corporate officers or their designee.

(c) Following review of the application and any other further information submitted by the applicant, or required in conformity with Article 8 (commencing with Section 94900) and Article 9 (commencing with Section 94915), and any investigation of the applicant as the council deems necessary or appropriate, the council either shall grant or deny approval to operate to the applicant.

94804. (a) The review of a private postsecondary educational institution's original application for approval, or a renewal application to the council, or an approved institution already in operation, shall include a determination of the institution's financial responsibility. An institution shall be considered financially responsible if it has sufficient assets to do all of the following:

(1) Provide the educational services stated in its official publications and statements.

(2) Comply with the standards and requirements specified in Article 8 (commencing with Section 94900), Article 9 (commencing with Section 94915), or Article 9.5 (commencing with Section 94931), whichever is applicable.

(3) Provide the administrative and financial resources to fully comply with this article.

(4) Comply with any applicable provisions of Section 94855.

(b) An institution shall not be considered financially responsible under any of the following conditions:

(1) The institution fails to have available sufficient funds and accounts receivable to pay all operating expenses due within 30 days. For the purpose of this paragraph, "funds" means cash or assets that can be converted into cash within seven days.

(2) Under generally accepted accounting principles, the institution had, at the end of its latest fiscal year, a ratio of current assets to current liabilities of less than 1.25 to 1. For the purpose of this paragraph, "current assets" does not include any of the following: (A) intangible assets, including goodwill, going concern value, organization expense, startup costs, long-term prepayment of deferred charges, and nonreturnable deposits, or (B) state or federal grant funds that are not the property of the institution but are held for future disbursement for the benefit of students. Unearned tuition shall be accounted for in accordance with generally accepted accounting principles. When another government agency requires an institution to file annual financial audit prepared by a certified public accountant, that agency's current ratio standard may apply in lieu of the ratio specified in this paragraph if the ratio of current assets to current liabilities under that standard is 1 to 1 or greater.

(c) (1) In determining an institution's compliance with subdivision (a), the council, at the institution's request, may consider the financial resources of a parent corporation if the parent corporation files with the council, and at all times complies with, an irrevocable and unconditional agreement approved by its board of directors that satisfies all of the requirements of paragraph (2):

(2) The agreement described in paragraph (1) shall provide that the parent corporation do all of the following:

(A) Consent to be sued in California.

(B) Consent to be subject to the administrative jurisdiction of the council and the Student Aid Commission in connection with the institution's compliance with this chapter.

(C) Appoint an agent for service of process in California and all notices required by this chapter.

(D) Agree to pay any refund, claim, penalty, or judgment that the institution is obligated to pay.

(E) File financial reports, maintain financial records, and permit the inspection and copying of financial records to the same extent as is required of the institution.

(3) For the purposes of this subdivision, a "parent corporation" means a corporation that owns more than 80 percent of the stock of the institution whose financial resources are at issue.

(d) If the council determines that an institution is not financially responsible, the council, under terms and conditions prescribed by the council, may require the institution to submit for its latest complete fiscal year and its current fiscal year, each of the following:

(1) A financial audit of the institution conducted by a licensed certified public accountant, in accordance with generally accepted auditing standards.

(2) The institution's financial plan for establishing financial responsibility.

(3) Any other information requested by the council.

This subdivision does not prevent the council from taking any other actions authorized under this chapter.

94806. (a) This section applies to every audit, review, and statement prepared by an independent accountant and to every financial report required to be prepared or filed by this chapter.

(b) Institutional audits and reviews of financial data, including the preparation of financial statements, shall comply with all of the following:

(1) An institution that collected seven hundred fifty thousand dollars ($750,000) or more in total student charges in its preceding fiscal year shall file financial reports prepared in accordance with generally accepted accounting principles established by the American Institute of Certified Public Accountants, and audited or reviewed by an independent certified public accountant who is not an employee, officer, or corporate director or member of the governing board of the institution.

(2) An institution that collected less than seven hundred fifty thousand dollars ($750,000) in total student charges in its preceding fiscal year shall file financial reports prepared in accordance with generally accepted accounting principles established by the American Institute of Certified Public Accountants. These financial reports may be prepared by an individual with sufficient training to adhere to the required accounting principles.

(3) Financial reports prepared on an annual basis shall include a balance sheet, statement of operations, statement of cash flow, and statement of retained earnings or capital. Nonprofit institutions shall provide this information in the manner required under generally accepted accounting principles for nonprofit organizations.

(4) The financial report shall establish whether the institution complies with subdivision (a) of Section 94804 or subdivision (a) of Section 94855, if applicable, and whether any of the circumstances described in subdivision (b) of Section 94804 or subdivision (b) of Section 94855, if applicable, exist.

(5) If an audit that is performed to determine compliance with any federal or state student financial aid program reveals any failure to comply with the requirements of the program, and the noncompliance creates any liability or potential liability for the institution, the financial report shall reflect the liability or potential liability.

(6) Work papers for the financial statements shall be retained for five years from the date of the reports and shall be made available to the council upon request after completion of the report.

(c) Any audits shall be conducted in accordance with generally accepted auditing standards and shall include the matters described in subdivision (d).

(d) If an audit is conducted, the accountant shall obtain an understanding of the institution's internal financial control structure, assess any risks, and report any material deficiencies in the internal controls.

94808. (a) Each institution approved to operate under this chapter shall be required to report to the council, by July 1 of each year, or another date designated by the council, the following information for educational programs offered in the prior fiscal year:

(1) The total number of students enrolled, by level of degree or type of diploma program.

(2) The number of degrees and diplomas awarded, by level of degree.

(3) The degree levels offered.

(4) Program completion rates.

(5) The schedule of tuition and fees required for each term, program, course of instruction, or degree offered.

(6) Financial information demonstrating compliance with subdivisions (b) and (c) of Section 94804 and subdivisions (b) and (c) of Section 94855, if applicable.

(7) Institutions having a probationary or conditional status shall submit an annual report reviewing their progress in meeting the standards required for approval status.

(8) Any additional information that the council may prescribe.

(b) Colleges and universities operating under paragraph (6) of subdivision (b) of Section 94739 shall comply with the reporting requirements of paragraphs (1), (2), (3), and (5) of subdivision (a).

(c) Program completion rates and placement data shall be reported in accordance with the standards and criteria prescribed by the council pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Section 94816 and Section 94859, if applicable. Based on the review of information submitted to fulfill the

requirements of this section, the council may initiate a compliance review and may place the institution on probation pursuant to subdivision (h) of Section 94901 and subdivision (i) of Section 94915, and may require evidence of financial stability and responsibility pursuant to Sections 94804 and 94855, if applicable.

94809. Each institution approved under this chapter shall provide the council with copies of all accrediting agency reports, including preliminary reports and reports of visiting committees, all audit reports prepared by the United States Department of Education and student loan guaranty agencies, including all preliminary reports, and the institution's written responses to the reports described in this section, if applicable. The institution shall provide a copy of each report within 15 days of the institution's receipt of the report and a copy of the institution's response within 15 days of the institution's submission of its response.

94810. (a) Any written contract or agreement for educational services with an institution shall include all of the following:

(1) On the first page of the agreement or contract, in 12-point boldface print or larger, the following statement:

"Any questions or problems concerning this school which have not been satisfactorily answered or resolved by the school should be directed to the Council for Private Postsecondary and Vocational Education, (address), Sacramento, California 95814."

(2) In underlined capital letters on the same page of the contract or agreement in which the student's signature is required, the total amount that the student is obligated to pay for the course of instruction and all other services and facilities furnished or made available to the student by the school, including any charges made by the school for tuition, room and board, books, materials, supplies, shop and studio fees, and any other fees and expenses that the student will incur upon enrollment.

(3) A list of any charges and deposits that are nonrefundable clearly identified as nonrefundable charges.

(4) The name and address of the school and the addresses where instruction will be provided.

(5) The name and description of the program of instruction, including the total number of credits, classes, hours, or lessons required to complete the program of instruction.

(6) A clear and conspicuous statement that the agreement or contract is a legally binding instrument when signed by the student and accepted by the school.

(7) A clear and conspicuous caption, "BUYER'S RIGHT TO CANCEL" under which it is explained that the student has the right to cancel the enrollment agreement and obtain a refund, the form and means of notice that the student should use in the event that he or she elects to cancel the enrollment agreement, and the title and address of the school official to whom the notice should be sent or delivered.

(8) A clear statement of the refund policy written in plain English.

(9) The signature of the student under the following statement that is presented in 12-point boldface or larger print: "My signature below certifies that I have read, understood, and agreed to my rights and responsibilities, and that the institution's cancellation and refund policies have been clearly explained to me."

(10) If the student is not a resident of California, a clear statement that the student is not eligible for protection under and recovery from the Student Tuition Recovery Fund.

(b) All contracts and enrollment agreements signed by the student shall be written in language that is capable of being easily understood. If English is not the primary language spoken by the student, the student shall have the right to obtain a clear explanation of the terms and conditions of the agreement and all cancellation and refund policies in his or her primary language.

94812. Any written contract or agreement signed by a prospective student shall not become operative until the student attends the first class or session of instruction. This provision does not apply to correspondence schools or other distance-learning programs.

94814. (a) The institution shall provide to students and other interested persons, prior to enrollment, a catalog or brochure containing at a minimum the following information:

(1) Descriptions of the instruction provided under each course offered by the institution including the length of programs offered.

(2) The number of credit hours or clock hours of instruction or training per unit or units required for completion of the educational degree or certificate program.

(3) The attendance, dropout, and leave-of-absence policies.

(4) The faculty and their qualifications.

(5) The schedule of tuition payments, fees, and all other charges and expenses necessary for the term of instruction and the completion of the course of study.

(6) The cancellation and refund policies.

(7) For institutions that participate in federal and state financial aid programs, all consumer information that the institution is required to disclose to the student.

(8) All other material facts concerning the institution and the program or course of instruction that are reasonably likely to affect the decision of the student to enroll, as prescribed by rules and regulations adopted by the council.

(b) No written contract signed by the student shall be enforceable unless the information specified in subdivision (a) has been disclosed to the student.

94816. (a) Each institution offering a degree or diploma program designed to prepare students for a particular vocational, trade, or career field shall provide to each prospective student a

school performance fact sheet disclosing all of the following information:

(1) The number and percentage of students who begin the institution's program and successfully complete the entire program. The rate shall be calculated by determining the percentage of students enrolled in the program who were originally scheduled, at the time of enrollment, to complete the program in that calendar year and who successfully completed the program.

(2) The passage rates of graduates in the program for the most recent calendar year that ended not less than six months prior to the date of disclosure on any licensure or certificate examination required by the state for employment in the particular vocational, trade, or career field and for any licensing preparation examination as required under subdivision (a) of Section 94734 for which data is available.

(3) The number and percentage of students who begin the program and secure employment in the field for which they were trained. In calculating this rate, the institution shall consider as not having obtained employment, any graduate for whom the institution does not possess evidence, documented in his or her file, showing that he or she has obtained employment in the occupation for which the program is offered.

(4) The average annual starting wages or salary of graduates of the institution's program, if the institution makes a claim to prospective students regarding the starting salaries of its graduates, or the starting salaries or local availability of jobs in a field. The institution shall disclose to the prospective student the objective sources of information necessary to substantiate the truthfulness of the claim.

Each school that offers or advertises placement assistance for any course of instruction shall file with the council its placement statistics for the 12-month period or calendar year immediately preceding the date of the school's application for annual review for every course of instruction.

The council shall develop standards and criteria to be used by each institution in determining the statistical information required by this paragraph.

(b) In addition to the fact sheet required by subdivision (a), each institution offering a degree program designed to prepare students for a particular vocation, trade, or career field and each institution subject to Article 7 (commencing with Section 94850) shall provide to each prospective student a statement in at least 12-point type that contains the following statement:

"NOTICE CONCERNING TRANSFERABILITY OF UNITS AND DEGREES EARNED AT OUR SCHOOL

Units you earn in our ________ (fill in name of program) program in most cases will probably not be transferable to any other

college or university. For example, if you entered our school as a freshman, you will still be a freshman if you enter another college or university at some time in the future even though you earned units here at our school. In addition, if you earn a degree, diploma, or certificate in our ________ (fill in name of program) program, in most cases it will probably not serve as a basis for obtaining a higher level degree at another college or university.”

The disclosures required by this section shall be signed by the institution and the student and be dated. If the solicitation or negotiation leading to the agreement for a course of instruction was in a language other than English, the disclosures shall be in that other language.

(c) The council shall take into consideration the character of the educational program in determining whether specific programs may be excluded from application of this section.

(d) Except as provided in subdivision (b), this section does not apply to educational programs subject to Article 7 (commencing with Section 94850).

94818. (a) Every institution shall designate and maintain an agent for service of process within this state and provide the name, address, and telephone number of the agent to the council. The council shall furnish the agent’s name, address, and telephone number to any person upon request.

(b) If an institution is not operating in California when it applies for approval to operate, the institution shall set forth the name, address, and telephone number of its agent for service of process in the institution’s application.

(c) If an institution fails to designate or maintain an agent for service of process pursuant to subdivision (a) and if service on the institution cannot reasonably be effected in the manner provided in Section 415.10, 415.20, 415.30, or 415.40 of the Code of Civil Procedure, the institution may be served by leaving a copy of the process or any other document in an office of the council and by sending, by first-class mail, a notice of the service upon the council and a copy of the process or other document to the institution at its last address on file with the council. Service in this manner shall be deemed complete on the 10th day after that mailing to the institution. Proof of service may be made by a declaration showing compliance with this subdivision.

94819. Within 30 days of any action by any accrediting agency that establishes, reaffirms, or publicly sanctions the accreditation of any private postsecondary educational institution operating in the state, including those institutions that satisfy the requirements of paragraph (7) of subdivision (b) of Section 94739, the accrediting agency shall notify the bureau of that action and shall provide a copy of any public statements regarding the reasons for the accrediting agency’s action.

94820. (a) The institution shall have and maintain the policy set forth in this article for the refund of the unused portion of tuition fees and other charges if the student does not register for the period of attendance or withdraws therefrom at any time prior to completion of the courses, or otherwise fails to complete the period of enrollment. The institutional refund policy for students who have completed 60 percent or less of the course of instruction shall be a pro rata refund.

(b) Except as provided in subdivision (c), the refund shall be calculated as follows:

(1) Deduct a registration fee not to exceed one hundred dollars ($100) from the total tuition charge.

(2) Divide this figure by the number of hours in the program.

(3) The quotient is the hourly charge for the program.

(4) The amount owed by the student for the purposes of calculating a refund is derived by multiplying the total hours attended by the hourly charge for instruction plus the amount of the registration fee specified in paragraph (1).

(5) The refund shall be any amount in excess of the figure derived in paragraph (4) that was paid by the student.

(c) For an educational service offered by distance learning, home study, or correspondence, the refund shall be calculated as follows:

(1) Deduct a registration fee not to exceed one hundred ($100) from the total tuition charge.

(2) Divide this figure by the number of lessons in the program.

(3) The quotient is the per-lesson charge.

(4) The amount owed by the student for the purposes of calculating a refund is derived by multiplying the total number of lessons received by the per-lesson charge calculated in paragraph (3) plus the amount of the registration fee specified in paragraph (1).

(5) The refund shall be any amount in excess of the figure derived in paragraph (4) that was paid by the student.

(d) For the purposes of this section, institutions may specify in enrollment agreements the time limits within which students are required to complete the requirements of a course in a distance learning program.

94821. Institutions offering distance learning, home study, or correspondence instruction may petition the council for an alternative method of calculating tuition refunds if they can demonstrate all of the following:

(a) The method of calculation set forth in subdivision (c) of Section 94820 cannot be utilized.

(b) The proposed alternative method will result in the calculation of a refund that is monetarily equivalent to or greater than the results achieved by the pro rata calculations described in this subdivision.

94822. Institutions, for all students, without penalty or obligation, shall refund 100 percent of the amount paid for institutional charges, less a reasonable deposit or application fee not to exceed one hundred

dollars ($100), if notice of cancellation is made prior to or on the first day of instruction. If the first lesson in a home study or correspondence course is sent to the student by mail, the institution shall send it by first-class mail, postage prepaid, documented by a certificate of mailing, and the student shall have the right to cancel until midnight of the eighth business day after the first lesson was mailed. The institution shall advise each student that any notification of withdrawal or cancellation and any request for a refund is required to be made in writing.

94823. The institution shall provide a written statement containing its refund policy, together with examples of the application of the policy, to each student prior to signing the enrollment contract, and shall make its policy known to currently enrolled students.

94824. The institution shall pay or credit refunds due on a reasonable or timely basis, not to exceed 30 days following the date upon which the student's withdrawal has been determined.

94825. The institution shall publish a current schedule of all student charges, a statement of the purpose for those charges, and a statement of the cancellation and refund policies with examples of the application of the policies, and shall provide the schedule to all current and prospective students prior to enrollment. The schedule shall clearly indicate and differentiate all mandatory and optional student charges. The institution shall include a clear statement written in English describing the procedures that a student is required to follow to cancel the contract or agreement and obtain a refund. If the institution solicited the student or negotiated the agreement in a language other than English, the notice to the student shall be in that same language. The schedule shall specify the total costs of attendance which shall include, but not be limited to, tuition, fees, equipment costs, housing, transportation, books, necessary supplies, materials, shop and studio fees, and any other fees and expenses that the student will incur upon enrollment.

The schedule shall clearly identify all charges and deposits that are nonrefundable.

94826. Where the refund calculations set forth in this article cannot be utilized because of the unique way in which an educational program is structured, the council shall determine the details of an alternative refund policy, by regulation, and shall take into consideration the contract for educational services entered into with the student, as well as the length and character of the educational program in determining standards for refunds. The decision of the council shall be final. This section does not apply to the refunds subject to Sections 94869 and 94870.

94828. In addition to withholding institutional services as described in Section 94948, an institution may withhold a student's transcript or grades if the student is in default on a student tuition contract.

If the student has made partial payment of his or her tuition obligation, the institution may only withhold that portion of the grades or transcript that corresponds on a pro rata basis to the amount of tuition or loan obligation the student has not paid. If the course of study consists of only one course, the institution may withhold the grades or the transcript until the tuition or loan obligation is paid in full.

94829. (a) Adequate and accurate records shall be maintained by the institution, in accordance with regulations adopted by the council, and satisfactory standards shall be enforced relating to attendance, progress, and performance.

(b) The institution shall maintain current records for a period of not less than five years at its principal place of business in California, that are immediately available during normal business hours for inspection and copying by the council or the Attorney General and showing all of the following:

(1) The name and addresses, both local and home, of each of its students.

(2) The programs of study offered by the institution.

(3) The names and addresses of its faculty, together with a record of the educational qualifications of each.

(4) The degrees or diplomas and honorary degrees and diplomas granted, the date of granting, together with the curricula upon which the diplomas and degrees were based.

94830. The council may refuse to issue or renew any private postsecondary or vocational educational institution's approval to operate, or may revoke any approval to operate for any one, or any combination, of the following causes:

(a) A violation of this chapter, or any standard, rule, or regulation established under this chapter, or an order of the council made under this chapter.

(b) Furnishing false, misleading, or incomplete information to the council, or the failure to furnish information requested by the council or required by this chapter.

(c) A finding that an owner, a person in control, a director, or an officer of an institution is not in compliance with this chapter or was not in compliance with applicable law while serving as an owner, person in control, director, or officer of an institution within the previous five-year period.

(d) A finding that a signatory to an application for an approval to operate was responsible for the closure of any institution in which there were unpaid liabilities to any state or federal government, or uncompensated pecuniary losses suffered by students without restitution.

(e) A finding that the applicant, owner, or persons in control have been found previously in any judicial or administrative procedure to have violated this chapter or admitted to having violated this chapter.

(f) A finding that there was either a denial of a previous application submitted by the same institution to the council or a revocation of the institution's approval and that the conditions or violations that were the cause of the denial or revocation have not been corrected.

(g) The failure of the institution to maintain the minimum educational standards prescribed by this chapter, or to maintain standards that are the same as, or substantially equivalent to, those represented in the school's applications and advertising.

(h) Presenting to prospective students information that is false or misleading relating to the school, to employment opportunities, or to enrollment opportunities in institutions of higher learning after entering into or completing courses offered by the school.

(i) The failure to maintain financial resources adequate for the satisfactory conduct of the courses of instruction offered as required by statute.

(j) The failure to provide timely and correct refunds to students.

(k) Paying a commission or valuable consideration to any persons for acts or services in violation of this chapter.

(*l*) Attempting to confer a degree, diploma, or certificate to any student in violation of this chapter.

(m) Misrepresenting to any students or prospective students that they are qualified, upon completion of any course, for admission to professional examination under any state occupational licensing provision.

(n) The failure to correct any deficiency or act of noncompliance under this chapter, or the standards, rules, regulations, and orders established and adopted under this chapter within reasonable time limits set by the council.

(o) The conducting of business or instructional services at any location not approved by the council.

(p) Failure on the part of an institution to comply with provisions of law or regulations governing sanitary conditions of that institution specified in Division 2 (commencing with Section 500) and Division 3 (commencing with Section 5000) of the Business and Professions Code.

(q) The failure to pay any fees, order for costs and expenses under Section 94935, assessments, or penalties owed to the council, as provided in this chapter.

94831. No institution, or representative of that institution shall do any of the following:

(a) Operate in this state a postsecondary educational institution not exempted from this chapter, unless the institution is currently approved to operate pursuant to this chapter. The council may institute an action, pursuant to Section 94955, to prevent any individual or entity from operating an institution in this state that has not been approved to operate pursuant to this chapter and to obtain any relief authorized by that section.

(b) Offer in this state, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, an institution not exempted from this chapter, whether that institution is within or outside this state, unless that agent is a natural person and has a currently valid agent's permit issued pursuant to this chapter, or accept contracts or enrollment applications from an agent who does not have a current permit as required by this chapter. The council, however, may adopt regulations to permit the rendering of legitimate public information services without a permit.

(c) Instruct or educate, or offer to instruct or educate, including soliciting for those purposes, enroll or offer to enroll, contract or offer to contract with any person for that purpose, or award any educational credential, or contract with any institution or party to perform any act, in this state, whether that person, agent, group, or entity is located within or without this state, unless that person, agent, group, or entity observes and is in compliance with the minimum standards set forth in this article and Article 7 (commencing with Section 94850), if it is applicable, the criteria established by the council pursuant to subdivision (b) of Section 94773, and the regulations adopted by the council pursuant to subdivision (c) of Section 94773.

(d) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on any diploma.

(e) Promise or guarantee employment.

(f) Advertise concerning job availability, degree of skill and length of time required to learn a trade or skill unless the information is accurate and in no way misleading.

(g) Advertise, or indicate in any promotional material, that correspondence instruction, or correspondence courses of study are offered without including in all advertising or promotional material the fact that the instruction or programs of study are offered by correspondence or home study.

(h) Advertise, or indicate in any promotional material, that resident instruction, or programs of study are offered without including in all advertising or promotional material the location where the training is given or the location of the resident instruction.

(i) Solicit students for enrollment by causing any advertisement to be published in "help wanted" columns in any magazine, newspaper, or publication or use "blind" advertising that fails to identify the school or institution.

(j) Advertise, or indicate in any promotional material, that the institution is accredited, unless the institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California.

(k) Fail to comply with federal requirements relating to the disclosure of information to students regarding vocational and career training programs, as described in Section 94816.

94832. (a) No institution or representative of an institution shall make or cause to be made any statement that is in any manner untrue or misleading, either by actual statement, omission, or intimation.

(b) No institution or representative of an institution shall engage in any false, deceptive, misleading, or unfair act in connection with any matter, including the institution's advertising and promotion, the recruitment of students for enrollment in the institution, the offer or sale of a program of instruction, course length, course credits, the withholding of equipment, educational materials, or loan or grant funds from a student, training and instruction, the collection of payments, or job placement.

(c) An institution is liable in any civil or administrative action or proceeding for any violation of this article committed by a representative of the institution. An institution is liable in a criminal action for violations of this article committed by a representative of the institution to the extent permitted by law.

(d) (1) No institution or representative of an institution shall induce a person to enter into an agreement for a program of instruction by offering to compensate that person to act as the institution's representative in the solicitation, referral, or recruitment of others for enrollment in the institution.

(2) No institution or representative of an institution shall offer to pay or pay any consideration to a student or prospective student to act as a representative of the institution with regard to the solicitation, referral, or recruitment of any person for enrollment in the institution in either of the following:

(A) During the 60-day period following the date on which the student began the program.

(B) At any subsequent time, if the student has not maintained satisfactory academic progress in acquiring the necessary level of education, training, skill, and experience to obtain employment in the occupation or job title to which the program is represented to lead. The institution shall have the burden of proof to establish that the student has maintained satisfactory academic progress.

(e) No institution shall compensate a representative involved in recruitment, enrollment, admissions, student attendance, or sales of equipment to students on the basis of a commission, commission draw, bonus, quota, or other similar method except as follows:

(1) If the program of instruction is scheduled to be completed in 90 days or less, the institution shall pay compensation related to a particular student only if that student completes the course.

(2) If the program of instruction is scheduled to be completed in more than 90 days, the institution shall pay compensation related to a particular student as follows:

(A) No compensation shall be paid for at least 90 days after that student has begun the program.

(B) Up to one-half of the compensation may be paid before the student completes the program only if the student has made

satisfactory academic progress, documented by the institution in the student's file, for more than 90 days.

(C) The remainder of the compensation shall be paid only after the student's completion of the program. This subdivision shall not prevent the payment at any time of an hourly, weekly, monthly, or annual wage or salary.

(f) No institution or representative of an institution shall pay any consideration to a person to induce that person to sign an agreement for a program of instruction.

(g) No institution shall use a misleading name in any manner implying any of the following:

(1) The institution is affiliated with any governmental agency, public or private corporation, agency, or association.

(2) The institution is a public institution.

(3) The institution grants degrees.

(h) (1) No institution or any representative of an institution shall in any manner make any untrue or misleading change in, or untrue or misleading statement related to, any test score, grade, record of grades, attendance record, record indicating student completion or employment, financial information, including any of the following:

(A) Any financial report required to be filed pursuant to Sections 94804 to 94808, inclusive.

(B) Any information or record relating to the student's eligibility for financial assistance or attendance at the institution.

(C) Any other record or document required by this chapter or by the council.

(2) No institution or any representative of an institution shall falsify, destroy, or conceal any record or other item described in paragraph (1) while that record or item is required to be maintained by this chapter or by the council.

(i) No institution or representative of an institution shall use the terms "approval," "approved," "approval to operate," or "approved to operate" without stating clearly and conspicuously that approval to operate means compliance with minimum state standards and does not imply any endorsement or recommendation by the state or by the council. If the council has granted an institution approval to operate, the institution or its representative may indicate that the institution is "licensed" or "licensed to operate" but may not state or imply any of the following:

(1) The institution or its programs of instruction are endorsed or recommended by the state or by the council.

(2) The council's grant to the institution of approval to operate indicates that the institution exceeds minimum state standards.

(3) The council or the state endorses or recommends the institution.

(j) No institution offering programs or courses of instruction represented to lead to occupations or job titles requiring licensure shall enter into an agreement for a course of instruction with a person

whom the institution knows or, by the exercise of reasonable care, should know, would be ineligible to obtain licensure in the occupation or job title to which the course of instruction is represented to lead, at the time of the scheduled date of course completion, for reasons such as age, physical characteristics, or relevant past criminal conviction.

(k) No institution shall divide or structure a program of instruction or educational service to avoid the application of any provision of this chapter.

(*l*) No institution or representative of an institution shall direct a representative to perform any unlawful act, to refrain from complaining or reporting unlawful conduct to the council or another government agency, or to engage in any unfair act to persuade a student not to complain to the council or another government agency.

94834. (a) Any person or business entity, regardless of the form of organization that willfully violates Section 94800, Sections 94810 to 94826, inclusive, or Section 94828, 94829, 94831, or 94832 is guilty of a crime and shall be subject to separate punishment for each violation either by imprisonment in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine; or by imprisonment in the state prison, by a fine not to exceed fifty thousand dollars ($50,000), or by both that imprisonment and fine.

(b) Notwithstanding any other law, any prosecution under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the prosecution.

(c) The penalties provided by this section supplement, but do not supplant, the remedies and penalties provided under other law.

(d) In addition to any other fines or penalties imposed pursuant to this section, any person or business entity found guilty of a crime as described in subdivision (a) shall be ordered to pay the Attorney General, any district attorney, or any city attorney all of their costs and expenses in connection with any investigation incident to that prosecution. An institution shall not be required to pay the same costs and expenses to more than one investigating agency.

94835. (a) The council shall review and investigate all institutions, programs, and courses of instruction approved under this chapter. Consideration in the scheduling of reviews and investigations shall be afforded to student complaints and information collected by the Attorney General, the Student Aid Commission, any board within the Department of Consumer Affairs, or any other federal, state, or local agency. The council also shall conduct periodic unannounced reviews and investigations of institutions to determine compliance with this chapter.

(b) At the council's request in connection with an investigation to determine compliance with this chapter, an institution, during its normal business hours, shall immediately make available for

inspection and copying all records required to be maintained by this chapter or that relate to the institution's compliance with this chapter and permit the council's representatives to have immediate access to the institution's primary administrative location and sites of instruction during the institution's normal business hours to examine and copy these records, to inspect the institution's physical facilities, equipment, library and other learning resources, and to interview school administrators, faculty, and students.

(c) The approval to operate shall be issued to the owners or the governing body of the applicant institution, and shall be nontransferrable. Any person that makes a proper application and complies with this chapter and each standard and regulation pertaining to this chapter shall be qualified to receive an approval to operate or an approval of the transfer of ownership.

94836. (a) If there is reasonable cause to believe that there has been a violation by a private postsecondary educational institution of the standards prescribed by this chapter, the council shall conduct an investigation of the institution.

(b) Within a reasonable time after the commencement of the investigation required in subdivision (a), the council shall conclude its investigation and take action against the institution involved, as appropriate.

94838. (a) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable by any institution within or outside this state governed by this chapter unless at the time of execution of that note, other instrument of indebtedness, or contract, the institution has a valid approval to operate pursuant to this chapter.

(b) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable by any institution within or outside this state governed by this chapter unless the agent, who enrolled persons to whom educational services were to be rendered or to whom degrees or diplomas were to be granted pursuant to this chapter, held a valid agent's permit at the time of execution of the note, other instrument of indebtedness, or contract.

(c) Any school or institution governed by this chapter extending credit or lending money to any person for tuition, fees, or any charges whatever for educational services to be rendered or furnished shall cause any note, instrument, or other evidence of indebtedness taken in connection with that loan or extension of that credit to be conspicuously marked on the face thereof with the following notice:

“NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES THAT THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS

OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF, RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER."

In the event the school or institution fails to do so, it shall be liable for any damage or loss suffered or incurred by any subsequent assignee, transferee, or holder of that evidence of indebtedness on account of the absence of that notification.

(d) Notwithstanding the presence or absence of that notification and notwithstanding any agreement in which the student waives the right to assert any claim or defense, the school or institution making that loan or extending that credit and the transferee, assignee, or holder of that evidence of indebtedness, shall be subject to all defenses and claims that could be asserted against the school or institution that was to render or furnish those educational services by any party to that evidence of indebtedness or by the person to whom these educational services were to be rendered or furnished up to the amount remaining to be paid thereon.

(e) Institutions that participate in federal student assistance programs and that comply with the financial disclosure and notification requirements for those programs shall be deemed to be in compliance with the standards prescribed by this section.

94840. At least 90 days prior to the expiration of an approval to operate, the institution shall complete and file with the council an application form for renewal of its approval to operate. The renewal application need only contain a description of any changes made by the institution since the time its last application was reviewed by the council. Fees for processing the renewal application shall be based on the number and types of changes it contains. The renewal application shall be reviewed and acted upon as provided in Sections 94802, 94804, and 94835, and Section 94900 or 94915, whichever is applicable.

94841. Before any institution may be considered for approval or renewal of approval to operate, the institution, at a minimum, shall pay all annual fees, assessments to the Student Tuition Recovery Fund, orders for costs and expenses under Section 94935, and penalties in arrears retroactive to January 1, 1990. If an institution that has failed to make timely payments of fees and assessments is approved, the approval shall be conditional, subject to any restrictions the council deems appropriate, and shall be valid for a period not to exceed two years.

94842. If a review and decision on a renewal application submitted pursuant to Section 94840 cannot be completed by the council prior to the expiration of the institution's current pending approval, that expiration date shall be extended until the date that the council notifies the institution of its decision.

94846. (a) If a shift in control or change of ownership of an institution occurs, an application for a new approval to operate for

the institution under the changed ownership or control shall be filed with the council at least 20 days prior to the shift in control or change in ownership. Whenever an institution is operated at different locations, an application for approval shall be filed for each location.

(b) The application for approval to operate submitted in conjunction with a change of ownership may include pertinent portions of the institution's previous application prepared in connection with programs or courses of instruction that remain unchanged or unaffected by the change in ownership.

(c) No application for ownership or transfer of ownership shall be approved for any applicant that has been found previously in any judicial or administrative proceeding to have violated this chapter, or if there exists any of the grounds for denial set forth in Section 480 of the Business and Professions Code.

(d) No change in ownership of the institution shall be made until the application is approved. If an application for a new approval to operate is not timely filed as required by this section, the institution's approval to operate shall terminate. Upon approval of a change in ownership, the council shall give written notice to the Student Aid Commission.

(e) For the purposes of this section, a change in ownership occurs when there is a change of control of the institution, or where a person that previously did not own at least 25 percent of the stock or controlling interest of an institution or its parent corporation, acquires ownership of at least 25 percent of the stock of the institution or its parent corporation, or when a for-profit business converts to nonprofit corporation status or forms a nonprofit corporation as a subsidiary to provide the educational services for which the for-profit business is approved to operate.

94848. An institution may not claim an exception pursuant to Section 94739 or 94785 if the bureau finds, after notice and hearing as provided in Section 94975, that the institution adopted a form of organization or method of operation for the purpose of avoiding any provision of this chapter.

Article 7. Maxine Waters Student Protection Act

94850. (a) This article shall be known, and may be cited, as the Maxine Waters School Reform and Student Protection Act of 1989.

(b) The Legislature finds and declares that students have been substantially harmed and the public perception of reputable institutions has been damaged because of the fraudulent, deceptive, and unfair conduct of some institutions that offer courses of instruction for a term of two years or less that are supposed to prepare students for employment in various occupations. Students have been induced to enroll in these schools through various misrepresentations including misrepresentations related to the quality of education, the availability and quality of equipment and materials, the language of

instruction and employment and salary opportunities. Some of the most egregious misrepresentations are made by representatives who recruit students at places other than the institution's premises. Some students have been enrolled who do not have the ability to benefit from the instruction. In addition, the quality of the education offered is often inadequate to enable students to obtain jobs after the completion of instruction.

(c) The Legislature further finds and declares that many students who enroll in these schools pay their tuition from the proceeds of loans and grants guaranteed or provided by the state and federal governments. Students who leave schools before the completion of instruction, often because of misrepresentations and inadequate instruction, do not receive adequate refunds of tuition for the instruction not received. Students remain liable to repay student loans but are frequently unable to do so in part because they were unable to obtain the proper educational preparation for jobs. Students are also harmed by the closure of institutions, often caused by the fraud or mismanagement of the institution's operators, because the students neither obtain the education promised nor a refund of tuition and the cost of materials. As a result of all of the foregoing, the state and federal governments spend many millions of dollars annually to satisfy loan guarantees for often inadequate and misrepresented vocational school courses.

(d) It is the intent and purpose of this article to protect students and reputable institutions, ensure appropriate state control of business and operational standards, ensure minimum standards for educational quality, prohibit misrepresentations, require full disclosures, prohibit unfair dealing, and protect student rights. It is the intent and purpose of this article to save millions of dollars of taxpayer's funds from being misused to underwrite the activities of institutions that depart from the standards of fair dealing and the requirements of this article.

(e) This article shall be liberally construed to effectuate its intent and achieve its purposes.

(f) To the extent of any conflict between any other law and this article, this article shall prevail.

94851. (a) The Legislature further finds and declares that students have been harmed by some institutions because of the financial improprieties and mismanagement of those institutions, their failure to fully disclose the student's financial and contractual obligations, and their failure to have sufficient resources to provide the promised training. The Legislature also finds that the tuition refund policies of institutions often encourage unfair practices by creating a financial benefit to the institution if a student drops out, and do not encourage institutions to provide adequate counseling or to adopt policies designed to curb student dropouts. In addition, the Legislature finds that many institutions have poor records of student completion and job placement, even though these institutions

expressly or implicitly represent that students will receive sufficient training and skills to obtain well-paid employment in the field that is the subject of the training, and that a reputable institution is one that complies with this chapter. Consequently, the Legislature finds that the business of providing occupational training, instruction, and related equipment by commercial enterprises has a substantial impact on the economy of this state and the welfare of its citizens.

(b) It is the further intent and purpose of this article to establish incentives to reduce student dropouts, minimum fiscal standards, minimum standards for admission based on the student's ability to be successfully trained, and minimum standards for institutional accountability for course completion and student employment in the occupations or job titles to which the training is represented to lead. The Legislature finds that the accountability standards for completion and employment reflect a reasonable tolerance for factors outside an institution's control. It is also the intent and purpose of this article to ensure that the cost to taxpayers of loans and grants for vocational instruction is commensurate with the benefits obtained by students and flowing to the state's economy.

94852. The following definitions and provisions apply to this article:

(a) "Class" means a subject, such as English or mathematics, that is taught as part of a course of instruction. "Class session" means the part of a day that an institution conducts instruction or training in a particular class, such as an hour of instruction in English or mathematics offered on a particular day of the week.

(b) "Council" means the Council for Private Postsecondary and Vocational Education established pursuant to Section 94770.

(c) "Educational service" means any education, training, or instruction offered by an institution, including any equipment.

(d) "Equipment" includes all textbooks, supplies, materials, implements, tools, machinery, computers, electronic devices, or any other goods related to any education, training, or instruction, or an agreement for educational services or a course of instruction.

(e) "Licensure" includes any license, certificate, permit, or similar credential that a person must hold to lawfully engage in any occupation or activity.

(f) "Owner" means any person who has a legal or equitable interest in 10 percent or more of an institution's stock or assets.

(g) "Person" means a natural person or any business entity, regardless of the form of organization.

(h) "Person in control" means a person who has sufficient capacity, directly or indirectly, to direct or influence the management, policies, or conduct of the institution so that the person can cause or prevent violations of this chapter. There is a rebuttable presumption affecting the burden of proof that an owner, director, or office of an institution is a person in control.

(i) “Private postsecondary educational institution” or “institution” means any person doing business in California who offers to provide or provides, for a tuition, fee, or other charge, any instruction, training or education primarily to people who have completed or terminated their secondary education or are beyond the age of compulsory high school attendance. An “institution” includes its branch and satellite campuses, unless otherwise provided.

(j) “Program” or “program of instruction” or “course” or “course of instruction,” except as otherwise provided, means the program of instruction, training, set of related courses or education represented to lead to an occupation or job title.

(k) “Total charge” means the total charge for a course of instruction or other education, instruction, or training, including the charge for tuition, equipment, finance charges, and all other fees, charges, costs, and expenses.

(*l*) “Year” means a calendar year.

94853. (a) In addition to making any other required disclosures, a representative of an institution who in any manner solicits or recruits any person in person at any place other than the institution’s premises or by telephone for enrollment in a course of instruction shall disclose the following, orally, and, if the solicitation is in person, in a correctly dated written document given to the person and printed in at least 10-point type and signed by the representative.

(1) The representative is a paid recruiter for an institution and the institution is not a public school.

(2) The representative is not offering a job, making job referrals, or conducting a survey.

(3) There is no guarantee of a job after a student graduates from the course of instruction.

(4) The total charge for the course of instruction or if the solicitation or recruitment is for more than one course, the range of the total charges for the courses offered.

(b) The representative shall make the disclosures required by paragraphs (1) to (3), inclusive, of subdivision (a) before attempting to solicit or recruit any person. The representative shall make the disclosure required by paragraph (4) of subdivision (a) before the end of a solicitation or attempt to recruit any person.

(c) A representative who solicits or recruits any person as described in subdivision (a) shall provide the person with a copy of the institution’s current catalog or brochure, containing the information described in paragraph (4) of subdivision (a) of Section 94859, which the person may obtain without charge. The institution or its representative shall provide the catalog or brochure required by this subdivision at the time of an in-person solicitation or recruitment or send the catalog brochure within two days of a telephonic solicitation or recruitment.

(d) No institution shall enter an agreement for a course of instruction with, or prepare or assist in preparation of a student loan or grant application for, a person solicited or recruited as described in subdivision (a) within three days of the date on which the person was solicited or recruited.

(e) This section does not apply to solicitations or presentations made at informational public appearances directed to five or more people or to advertisements in print or broadcast media.

94854. (a) Every institution shall meet all of the following performance standards for each program offered during the applicable time period described in subdivision (*l*):

(1) Sixty percent or more of the students who began the program, did not cancel pursuant to Section 94867, and were originally scheduled at the time of enrollment to complete the course during that period, shall complete it.

(2) Seventy percent or more of the students who completed the program within that period shall obtain employment starting within six months after completing the course in the occupations or job titles to which the course of instruction was represented to lead. For the purpose of this subdivision, "program" or "program of instruction" or "course" or "course of instruction" includes all courses of instruction, however denominated, that are represented to lead to the same or closely related occupations or job titles.

(b) Every institution shall meet all of the following performance standards for all programs in the aggregate offered by the institution at each of its campuses during the applicable time period described in subdivision (*l*):

(1) Sixty percent or more of all the students who began the programs did not cancel pursuant to Section 94867, and were originally scheduled at the time of enrollment to complete these programs during that time period, shall complete these programs.

(2) Seventy percent or more of all the students who completed the programs within that time period shall obtain employment, starting within six months after completing the programs, in the occupations or job titles to which the programs of instruction were represented to lead.

(c) For the purposes of subdivisions (a) and (b), students who, as documented by the institution, have been prevented from completing the program or programs of instruction due to death, disability, illness, pregnancy, military service, or participation in the Peace Corps or Domestic Volunteer Service shall be excluded from the computations used to determine whether an institution has met the performance standards prescribed by those subdivisions. Except as provided in Section 94874, an institution shall not disclose the records maintained pursuant to this subdivision unless production of those records are required by any law, subpoena, or court order, or are necessary for a certified public accountant to prepare a compliance report pursuant to subdivision (g) of Section 94870.

(d) An institution shall meet the standards prescribed in subdivisions (a) and (b) at each site at which the program or programs are offered. A determination of whether a particular site meets the standards prescribed in subdivisions (a) and (b) shall be based only on students who attended that site. An institution shall be subject to subdivisions (f) and (g) only with respect to its sites that fail to meet the standards prescribed in subdivisions (a) and (b).

(e) (1) This subdivision applies only to institutions in which 15 or fewer students began a program or programs, did not cancel pursuant to Section 94867, and were originally scheduled to complete the program or programs within the applicable time period described in subdivision (*l*).

(2) If an institution described in paragraph (1) fails to meet any of the standards prescribed in subdivision (a) or (b), but would have met that standard if one additional student had completed or obtained employment, the institution shall be deemed to comply with this section. If an institution described in paragraph (1) fails to meet the standard for review established in subdivision (f), but would have met the standard if one additional student had completed or obtained employment, the institution shall be deemed subject to subdivision (f).

(f) (1) This subdivision applies only to an institution or any site that fails to meet any of the following:

(A) Any of the standards established in subdivision (a) or (b) by 10 percent or less.

(B) Any of the standards established in subdivision (a), but has a placement rate of 42 percent or more for the course in which the standard was failed.

(C) Any of the standards established in subdivision (b), but has a placement rate of 42 percent or more for all courses in the aggregate.

(2) If the institution's failure to meet the standards prescribed in subdivision (a) or (b) was not caused by a violation of this chapter, the council shall order, after notice and, if requested, after a hearing, that the institution implement a program to achieve compliance with subdivisions (a) and (b). The program may include any of the following:

(A) Limitations on enrollment for specific courses of instruction.

(B) Revision of admission policies and screening practices to ensure that students have a reasonable expectation of completing courses and obtaining employment.

(C) Increased academic counseling and other student support services.

(D) Improved curricula, facilities, and equipment.

(E) Revisions to the qualifications and number of faculty.

(F) Improved job placement services, including revisions to the qualifications and number of job placement personnel and the expansion of contacts with employees and state and federal employment development agencies.

(G) Submission of a compliance report prepared by a certified public accountant, who is not an officer, director, shareholder, or employee of the institution, any parent corporation or any subsidiary, prepared pursuant to an attestation engagement in accordance with the Statements on Standards for Attestation Engagements of the American Institute of Certified Public Accounts, which states that the institution has complied with the performance standards in this section within the period set forth in paragraph (4).

(H) Any other reasonable procedure required by the council.

(3) If an institution is subject to an order pursuant to paragraph (2), the council may require that the institution file information or reports requested by the council. The council may also monitor the institution in the manner provided in subdivision (d) of Section 94878.

(4) (A) An institution subject to an order pursuant to paragraph (2) shall satisfy the standards established in subdivisions (a) and (b) within the period designated by the council. This period shall not extend more than one year beyond the length of the program for noncompliance with the standards prescribed by subdivision (a) or more than one year beyond the longest program for noncompliance with the standards prescribed in subdivision (b).

(B) If the institution fails to satisfy the standards of subdivision (a) within the period designated by the council, the council shall order the institution to cease offering the course of instruction at the campus where that program was offered. If the institution fails to satisfy the standards of subdivision (b) within the period designated by the council, the council shall revoke the institution's approval to operate, or approval to operate the branch or satellite campus where the programs were offered. No action shall be taken pursuant to this paragraph without notice, and, if requested by the institution, a hearing. In taking action pursuant to this subparagraph, the bureau shall consider the impact, if any, of changes in the employment rate in the area served by this institution.

(g) If an institution fails to meet any of the standards established in subdivision (a) and does not have a placement rate of 42 percent or more for the program in which the standard was failed, the council shall order the institution to cease offering the program of instruction at the campus where the course was offered. If the institution fails to meet any of the standards prescribed in subdivision (b) and does not have a placement rate of 42 percent or more for all programs in the aggregate, the council shall revoke the institution's approval to operate, or approval to operate the branch or satellite campus where the programs were offered. No action shall be taken pursuant to this subdivision without notice and, if requested by the institution, a hearing.

(h) (1) The institution shall have the burden of proving its compliance with this section.

(2) The council shall investigate the institution whenever the council deems appropriate to verify the institution's compliance with this section. The investigation shall include an examination of the records maintained by the institution pursuant to subdivision (j) and contacts with the students and employers.

(3) If an institution willfully falsifies, alters, destroys, conceals, or provides untrue or misleading information relating to compliance with this section, including records maintained pursuant to subdivision (j), the council shall revoke the institution's approval to operate. No action shall be taken pursuant to this paragraph without notice and, if requested by the institution, a hearing. This provision supplements but does not supplant any other penalty or remedy provided by law.

(4) The institution shall pay all reasonable costs and expenses incurred by the council in connection with this section at a time designated by the council.

(i) If the council, pursuant to subdivision (f) or (g), orders an institution to cease offering a program of instruction or revokes the approval of an institution to operate or operate a branch or satellite campus, the institution may apply, no sooner than two years after the order to cease or the revocation became effective, for approval to offer that program or for approval to operate. Before the council may grant any approval, the institution shall establish that it complies with this chapter, each program satisfies all of the minimum standards prescribed by this chapter, and the circumstances surrounding the institution's failure to meet the requirements of this section have sufficiently changed so that the institution will be substantially likely to comply with this section.

(j) An institution shall maintain records of the name, address, and telephone number of students who enroll in a program of instruction, including students who begin the program and students who cancel pursuant to Section 94867, and of students who graduate from that program of instruction. An institution shall inquire whether students who complete a program of instruction obtain employment starting within six months of completing the program in the occupation to which the program of instruction is represented to lead and continue in employment for a period of at least 60 days. The inquiry shall be documented by a list indicating each student's name, address, and telephone number; the employer's name, address, and telephone number; the name, address, and telephone number of the person who provided the information regarding the student's employment to the institution; the name, title, or description of the job; the date the student obtained employment; the duration of the student's employment; information concerning whether the student was employed full-time or part-time including the number of hours worked per week; and the names, addresses, and telephone numbers of students who choose not to seek employment and instead enroll in another program to earn a higher degree, as well as the name and

address of the institution in which they enroll. If the student is self-employed, the list shall include reliable indices of self-employment such as contracts, checks for payment, tax returns, social security contribution records, records of accounts receivable or customer payments, invoices for business supplies, rent receipts, appointment book entries, business license, or any other information required by the bureau that is a reliable indicator of self-employment.

(k) For the purposes of this section, the following definitions shall apply:

(1) "Annual report" means the report required to be filed pursuant to Section 94861.

(2) (A) "Employment" means either of the following:

(i) Full-time employment for at least 32 hours per week for a period of at least 60 days in the occupations or job titles to which the program of instruction is represented to lead.

(ii) Part-time employment for at least 17.5 hours, but less than 32 hours, per week for a period of at least 60 days in the occupations or job titles to which the program of instruction is represented to lead, provided the student completes a handwritten statement at the beginning of the program and at the end of the program which states that the student's educational objective is part-time employment. The institution shall not require that any student complete such a statement or provide any incentive, financial or otherwise, to any student for signing such a statement.

(B) The bureau shall adopt regulations to specify the job tasks, other than those directly related to generating income, which may be counted towards meeting the hour requirements for full-time and part-time employment for students who are self employed.

(3) "Hearing" means a hearing pursuant to the requirements of either Section 94965 or 94975.

(4) "Placement rate" means the percentage of students who fulfilled the provisions of the following two subparagraphs:

(A) Began the program, did not cancel pursuant to Section 94867, and were originally scheduled at the time of enrollment to complete the program during the applicable time period described in subdivision (*l*).

(B) Completed the program, within the applicable time period described in subdivision (*l*) and started employment within six months of completing the program or, if employment requires taking a state licensure examination for which only graduates of the program may apply, then (i) started employment within six months of the date on which the state licensing agency announces the results of the first licensure examination reasonably available to students who completed the program, or (ii) started employment within six months of the next reasonably available licensure examination date for any student who did not receive passing results on the first exam. The time period determined pursuant to this subparagraph shall not

exceed 10 months beyond the date of completion of the program of instruction. The institution shall retain a record of the date of the first reasonably available licensure exam following the completion date of each student, the date the licensure agency announces the results of the first reasonably available licensure exam, and the date of the next reasonably available licensure exam for each student who did not pass the first exam.

(5) “Reporting period” means the institution’s fiscal year or any year period designated by the council to be covered in the institution’s annual report.

(6) “Time period” means the two most recent calendar years that ended at least eight months before the end of the institution’s applicable reporting period.

(*l*) (1) An institution’s compliance with the standards prescribed in subdivisions (a) and (b) shall be determined as of the date on which the institution’s reporting period ends.

(2) The institution shall report its determination of its compliance with the standards established in subdivisions (a) and (b) in each annual report.

(3) The council may adjust the meaning of “time period” if the council finds that an adjustment is necessary for the efficient administration of this section. If any adjustment is made in the annual reporting periods, the council may adjust when the time period commences but shall not alter the two-year length of the period.

(m) In determining the placement rate for a particular time period as described in subdivision (*l*), an institution may exclude from the determination a student whose completion date was extended beyond that time period if the extension was requested by the student in writing on an enrollment agreement modification request form that meets specifications established by the council. The form shall include instructions to the student indicating that, when signed by both the student and the institution, the request modifies the existing agreement. The form shall not be valid unless it provides space for the student to complete a handwritten description, in the student’s handwriting, of the reasons necessitating the extension that are distinctly personal to the student and unrelated to the provision of educational services or activities of the institution, contains the new expected completion date of the program, and is signed and dated by the student and the institution. The institution shall provide the student a copy of the signed modification request form. The institution shall retain the student’s original written request to modify the enrollment agreement with the original enrollment agreement. A student excluded from the placement rate determination for a particular time period pursuant to this subdivision shall be included in the placement rate determination for the next immediately following time period. The institution shall state in the institution’s annual report the number of students for whom an extension was granted.

(n) In determining the placement rate for a particular time period as described in subdivision (*l*), an institution may exclude from the calculation a student who either:

(1) Decides not to obtain employment and within six months of completing the program enrolls in a program to continue his or her education to obtain a higher level degree that is related to, or provides for the student to use, the same skills or knowledge obtained in the program the student completed.

(2) Is in possession at the completion of the program of a valid United States Immigration and Naturalization Service Form I-20.

(o) In determining the placement rate for a particular time period as described in subdivision (*l*), an institution may count a student who drops out of the program after completing at least 75 percent of the program because the student has obtained employment which lasts for a period of at least 60 days in the occupations or job titles to which the program of instruction is represented to lead. No more than 10 percent of the institution's total number of placed students may be counted pursuant to this subdivision.

(p) If an order to cease offering a program or a revocation is issued pursuant to this section, the council may permit the institution to continue to offer the program or programs of instruction to the students who had begun the course or courses before the effective date of the order or revocation or may order the institution to cease instruction and provide a refund of tuition and all other charges to students.

94855. (a) As a condition of maintaining its approval to operate, an institution offering any educational programs or educational services subject to this article shall meet the following financial resource requirements in addition to the financial requirements of Section 94804.

(1) Satisfy minimum standards prescribed by Section 94900, 94905, or 94915, whichever is applicable.

(2) Provide the education, training, skill, and experience that the institution, in any manner represented it would provide.

(3) Pay timely refunds as required by Sections 94867, 94869, 94870, 94873, and 94877.

(b) (1) In determining an institution's compliance with subdivision (a), the council, at the institution's request, may consider the financial resources of a parent corporation if the parent corporation files with the council, and at all times complies with, an irrevocable and unconditional agreement approved by its board of directors that satisfies all of the requirements of paragraph (2).

(2) The agreement described in paragraph (1) shall provide that the parent corporation do all of the following:

(A) Consent to be sued in California.

(B) Consent to be subject to the administrative jurisdiction of the council and the Student Aid Commission in connection with the institution's compliance with this chapter.

(C) Appoint an agent for service of process in California and all notices required by this chapter.

(D) Agree to pay any refund, claim, penalty, or judgment that the institution is obligated to pay.

(E) File financial reports, maintain financial records, and permit the inspection and copying of financial records to the same extent as is required of the institution.

(3) For the purposes of this subdivision, a "parent corporation" means a corporation that owns more than 80 percent of the stock of the institution whose financial resources are at issue.

(c) If an institution does not comply with Section 94804, the council may do any or any combination of the following:

(1) Require the institution to establish and implement a financial plan to ensure compliance with Section 94804.

(2) Require the institution to post satisfactory security for the performance of its financial obligations pursuant to Section 94804.

(3) Require the institution to furnish additional information such as an audit report of financial statements prepared by a California licensed certified public accountant who is not an employee, officer, or director of the institution.

(4) Proceed pursuant to Section 94879.

(d) In any action or proceeding involving an institution's failure to comply with Section 94804, there shall be a presumption affecting the burden of proof that the institution does not have sufficient financial resources if the institution fails to meet any of the standards set forth in Section 94804.

94856. If any person willfully violates this article and the violation results in the closure of an institution, that person shall pay to all students of the closed institution full refunds or full compensation for actual damages resulting from the closure that were not paid by the closed institution.

94857. (a) No institution shall establish a branch or satellite campus unless the council approves the branch or satellite campus before any students are enrolled for instruction, or any instruction is offered, at that campus.

(b) The council shall not approve a branch or satellite campus if any of the following conditions exist:

(1) The institution or the branch or satellite campus fail to satisfy all of the standards and requirements of Sections 94900 and 94901, or Section 94915, whichever applies.

(2) The institution proposes to offer a course of instruction at the branch or satellite campus that could not be offered at another site operated by the institution because of the institution's failure to satisfy the standards prescribed in Section 94854.

(3) If the institution participates in a federal student loan program, the student loan default rate attributable to the institution for the two most recent years, as preliminarily announced or finally

determined by the United States Department of Education, is 25 percent or more.

(4) The establishment of a branch or satellite campus would, in any manner, facilitate the institution's avoidance or evasion of this chapter or of any state or federal law applicable to a student financial aid program in which the institution participates.

94859. (a) Before a person executes an agreement obligating that person to pay any money to an institution for a program of instruction or related equipment, the institution shall provide the person with all of the following:

(1) A copy of the agreement containing all of the information required by Section 94871.

(2) If the institution has offered the course of instruction for at least one calendar year, it shall provide orally and in writing all of the following information:

(A) The percentage of students completing that program of instruction as determined pursuant to Section 94854, for the time period that is required to be covered in the last annual report that institution was required to file with the council pursuant to Section 94861.

(B) The percentage of students who completed the program of instruction and obtained employment as determined pursuant to Section 94854, for the time period that is required to be covered in the last annual report that the institution was required to file with the council pursuant to Section 94861.

(C) Any other information necessary to substantiate the truth of any claim made by the institution as to job placement.

(D) If the institution or a representative of the institution makes any express or implied claim about the salary that may be earned after completing a program of instruction, such as a claim that the student may be able to repay a student loan from the salary received at a job obtained following completion of the program of instruction, the following disclosures, orally and in writing:

(i) The percentage of students who were originally scheduled, at the time of enrollment, to complete the program of instruction in the most recent calendar year that ended not less than six months prior to the date of disclosure who earn salaries at or above the claimed level.

(ii) The ranges of monthly salaries earned by these students in two hundred dollar ($200) increments and the number of these students in each salary range.

(E) If the institution or a representative of the institution in any manner represents that the program of instruction might lead to employment in an occupation or job title for which a state licensing examination is required, the following disclosures, orally and in writing:

(i) All licensure or certification requirements established by the state for the occupation or job title category.

(ii) The pass rate of graduates of the program of instruction offered by that institution for the most recent calendar year that ended not less than six months prior to the date of disclosure on any licensure or certification examination required by the state for the particular occupation or job title.

(3) If the institution has offered the program of instruction for less than one calendar year, the following statement: “This program is new. We are not able to tell you how many students graduate, how many students find jobs, or how much money you can earn after finishing this course.”

(4) A current catalog or brochure containing information describing the courses offered, all of the occupations or job titles, if any, to which the program of instruction is represented to lead, length of program, faculty and their qualifications, schedule of tuition payments, fees, and all other charges and expenses necessary for completion of the course of instruction, cancellation and refund rights, the total cost of tuition over the entire period, a description of the student’s rights under the Student Tuition Recovery Fund established pursuant to Section 94944, and all other material facts concerning the institution and the program of instruction that might reasonably affect the student’s decision to enroll.

(5) If applicable, the following disclosures, orally and in writing:

(A) If the student obtains a loan to pay for the course of instruction, the student will have the responsibility to repay the full amount of the loan plus interest, less the amount of any refund.

(B) If the student is eligible for a loan guaranteed or reinsured by the state or federal government and the student defaults on the loan:

(i) The federal or state government or the loan guarantee agency can take action against the student, including applying any income tax refund to which the person is entitled to reduce the balance owed on the loan.

(ii) The student may not be eligible for any other federal financial assistance for education at a different school or for government housing assistance until the loan is repaid.

(C) The institution is not a public institution.

(D) The institution has filed, or has had filed against it, a petition in bankruptcy.

(6) A written statement set forth in a table of the amount of the refund to which the student would be entitled if the student withdrew from the program after completing a period of days or weeks of instruction equivalent to 10 percent, 25 percent, 50 percent, 60 percent, and 75 percent of the program of instruction. The disclosures required by this paragraph may be set forth in the agreement for the course.

(b) The information required by paragraph (2) of subdivision (a) shall be documented by the institution with all facts needed to substantiate that information. Any information regarding a student’s employment shall be based on an inquiry by the institution and shall

be documented by a list indicating the student's name, address, and telephone number; the employer's name, address, and telephone number; the name and address or telephone number of the person who provided the information regarding the student's employment to the institution; the name, title, or description of the job; the date the student obtained the job; the duration of the student's employment; and the amount of the salary, if any salary claim has been made. Except as provided in Section 94874, an institution shall not disclose the records maintained pursuant to this subdivision unless production of those records are required by any law or by subpoena or court order, or are necessary for a certified public accountant to prepare a compliance report pursuant to subdivision (g) of Section 94870.

(c) No institution which has offered a course of instruction for less than one year shall make any express or implied claims about the salary that a student may earn after completing the course of instruction.

(d) The institution shall provide the catalog or brochure described in paragraph (4) of subdivision (a) to any person upon request.

(e) The written disclosure of information required by subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (a) may be made in accordance with the chart in Appendix A of Part 668 of Title 34 of the Code of Federal Regulations, or any other similar form prescribed by law for the disclosure of that information.

(f) No institution shall obtain the signature of any person to an agreement obligating that person to pay any money to the institution until the person has had a reasonable opportunity to read and review all of the items described in subdivision (a).

(g) The disclosure of any information pursuant to Section 94853 shall not relieve any institution of any obligation to make any disclosure required under this section.

(h) Notwithstanding any provision of this section, an institution offering a home study or correspondence course need not orally make the disclosures required by this section in connection with that course if the institution did not orally solicit or recruit the student for enrollment and the student enrolled by mail.

94860. If a state board, bureau, department, or agency has established the minimum number of classes or class hours or the minimum criteria of a course of instruction necessary for licensure in an occupation and an institution offers a course of instruction differing from the state entity's minimum requirements, the institution shall disclose orally and in writing the state entity's minimum requirements and how the course of instruction differs from those criteria. The institution shall make this disclosure before a prospective student executes an agreement obligating that person to pay any money to the institution for the course of instruction.

94861. (a) Every institution shall file annually with the council, on July 1, or another date designated by the council, a report subscribed under penalty of perjury that contains all of the following:

(1) The information described in subdivisions (a) and (b) of Section 94854.

(2) The information described in paragraph (2) of subdivision (a) of Section 94859.

(3) A statement that the information is documented as provided in subdivision (c) of Section 94854 and subdivision (b) of Section 94859.

(4) Financial information demonstrating compliance with Section 94855.

(5) Any additional information that the council may prescribe.

(b) The council shall maintain each report for 10 years and shall provide copies of the reports to any person upon request.

(c) Based on the review of the information submitted pursuant to this section, the council may initiate a compliance review, may take action including placing the institution on probation as provided in Section 94878, or may require evidence of compliance with this article in a form satisfactory to the council.

(d) The bureau shall develop standards and procedures for submission by institutions of the information pursuant to this section electronically or on computer disk, in a standardized format.

(e) If the institution uses any of the categories identified in subparagraph (B) of paragraph (2) of subdivision (k) of, or subdivision (n) or (o) of, Section 94854 in determining compliance with that section, the information submitted pursuant to this section shall include the number of students that were included in each of the categories identified in those provisions.

94862. The institution shall file biennially with the council a financial report prepared pursuant to Section 94806. The report shall include the financial information required by Section 94855 and average monthly expenditures. Work papers for the audit shall be retained for five years from the date of the audit report and shall be made available to the council upon request after the completion of the audit.

94863. (a) No institution shall pay any consideration to any agent subject to Section 94940 who has not complied with that section, or enter into an agreement, as described in Section 94871, with any person who was recruited or solicited to enroll in that institution by an agent who was not in compliance with Section 94940 at the time of the recruitment or solicitation.

(b) No institution shall pay any consideration to any agency subject to Section 94942 that has not complied with that section, or enter into an agreement, as described in Section 94871, with any person who was recruited or solicited to enroll in that institution by an agency or by an agent employed by or under contract with the

agency if the agency was not in compliance with Section 94942 at the time of the recruitment or solicitation.

94864. The enrollment, course completion, and employment data used to determine compliance with subdivisions (a) and (b) of Section 94854 and paragraph (2) of subdivision (a) of Section 94859 shall continue to apply to an institution notwithstanding a change in the institution's ownership, name, or identification number.

94865. (a) As used in this section, "ESL instruction" means any educational service involving instruction in English as a second language.

(b) No institution shall offer ESL instruction without the prior approval of the bureau.

(c) The bureau shall not approve an institution's offering of ESL instruction unless that institution complies with the minimum standards established in subdivision (a) of Section 94915.

(d) An institution that offers ESL instruction to a student shall not enroll the student in any educational service presented in the English language unless the student passes a test indicating that he or she has attained adequate proficiency in oral and written English to comprehend instruction in English.

(e) A student who has completed ESL instruction at an institution shall not be enrolled in any course of instruction presented in the English language at that institution unless the student passes a test indicating that he or she has attained adequate proficiency in oral and written English to be successfully trained by English language instruction to perform tasks associated with the occupations or job titles to which the educational program is represented to lead.

(f) If an institution offers ESL instruction to a student to enable the student to use already existing knowledge, training, or skills in the pursuit of an occupation, the institution shall test the student after the student completes the ESL instruction to determine that the student has attained adequate proficiency in oral and written English to use his or her existing knowledge, training, or skills. Before enrolling the student in ESL instruction, the institution shall document the nature of the student's existing knowledge, training, or skills and that the ESL instruction is necessary to enable the student to use that existing knowledge, training, or skills.

(g) If an institution offers ESL instruction to a student in connection with a course of instruction leading to employment in any occupation requiring licensure awarded after the passage of an examination offered in English, the institution shall test the student after the student completes the ESL instruction to determine that the student has attained a level of proficiency in English reasonably equivalent to the level of English in which the licensure examination is offered.

(h) If the results of a test administered pursuant to subdivision (d), (e), (f), or (g) indicate that the student has not attained adequate English language proficiency after the completion of ESL

instruction, the institution shall offer the student additional instruction without charge, for a period of up to 50 percent of the number of hours of instruction previously offered by the institution to the student, to enable the student to attain adequate English language proficiency.

(i) This section does not apply to educational services exempted from this article under subdivision (c) of Section 94790 or to grantees funded under Section 1672 of Title 29 of the United States Code.

(j) The institution, for five years, shall retain an exemplar of each language proficiency test administered pursuant to this section, an exemplar of the answer sheet for each test, a record of the score for each test, the answer sheets or other responses submitted by each person who took each test, and the documentation required by subdivision (f).

(k) (1) In addition to any applicable provisions of this chapter, this article, except for Section 94854, subparagraph (B) of paragraph (2) of subdivision (a) of Section 94859, and Section 94872, applies to any program in which ESL instruction is offered.

(2) For the purpose of determining compliance with this article, ESL instruction shall be deemed a course, and a charge shall be deemed to be made for ESL instruction if a student is obligated to make any payment in connection with the educational service, including, but not limited to, the ESL instruction that is offered by the institution.

(*l*) The tests used by an institution pursuant to this section shall be tests that are approved by the United States Department of Education or tests such as the Test of English as a Foreign Language and the Comprehensive Adult Student Assessment System that are generally recognized by public and private institutions of higher learning in this state for the evaluation of English language proficiency. An institution shall demonstrate to the bureau that the tests and passing scores that it uses establish that students have acquired the degree of proficiency in oral and written English required by subdivision (d), (e), (f), or (g), whichever is applicable. The required level of proficiency in oral and written English shall not be lower than the sixth grade level.

(m) All tests shall be independently administered, without charge to the student and in accordance with the procedures specified by the test publisher. The tests shall not be administered by a previous or current owner, director, consultant, or representative of the institution or by any person who previously had, or currently has, a direct or indirect financial interest in the institution other than the arrangement to administer the test. The bureau shall adopt regulations that contain criteria to ensure independent test administration including the criteria established by the United States Department of Education and set forth on pages 52160 and 52161 of Volume 55 of the Federal Register, dated December 19, 1990.

(n) The bureau shall adopt regulations concerning the manner of documenting the nature of a student's existing knowledge, training, and skill and that ESL instruction offered by the institution is necessary to enable the student to use that existing knowledge, training, and skill, as prescribed in subdivision (f). The regulations shall specify all of the following:

(1) Reliable sources of information, independent of the student and the institution, from which documentation of a student's existing knowledge, training, and skill shall be obtained.

(2) Circumstances that must be documented by the institution to establish that information from a designated reliable source of information cannot reasonably be obtained.

(3) Alternate acceptable sources of information if designated reliable sources are not available.

(4) The nature of all required types of documentation.

(o) The bureau shall develop and distribute instructions, informational materials, or forms to assist institutions in developing the documentation described in this section. These instructions, materials, and forms shall not be subject to review or approval by the Office of Administrative Law pursuant to any provision of the Government Code.

94866. (a) When a person executes an agreement obligating that person to pay any money to an institution for a course program of instruction or related equipment, the institution shall provide the person with a document containing only the following notice:

"NOTICE OF STUDENT RIGHTS (12-point bold type)

"1. You may cancel your contract for school, without any penalty or obligations on the fifth business day following your first class session as described in the Notice of Cancellation form that will be given to you at (insert "the first class you go to" or "with the first lesson in a home study or correspondence course," whichever is applicable). A different cancellation policy applies for home study or correspondence courses. Read the Notice of Cancellation form for an explanation of your cancellation rights and responsibilities. If you have lost your Notice of Cancellation form, ask the school for a sample copy.

"2. After the end of the cancellation period, you also have the right to stop school at any time, and you have the right to receive a refund for the part of the course not taken. Your refund rights are described in the contract. If you have lost your contract, ask the school for a description of the refund policy.

"3. If the school closes before you graduate, you may be entitled to a refund. Contact the Council for Private Postsecondary and Vocational Education at the address and telephone number printed below for information.

"4. If you have any complaints, questions, or problems that you cannot work out with the school, write or call the Council for Private and Postsecondary Education:

(insert address and telephone number of the Council for
Private Postsecondary and Vocational Education)"

(b) Except as otherwise provided in subdivision (a), the notice required by subdivision (a) shall be printed in 10-point type in English and, if any solicitation or negotiation leading to the agreement for a course of instruction was in a language other than English, in that other language.

(c) A copy of the notice, in each language in which the notice was printed pursuant to subdivision (b), shall be posted at all times in a conspicuous place at the main entrance of the institution, in each admissions office, and in each room used for instruction. The council may prescribe the size and format of the posted notice. This subdivision does not apply to an institution that exclusively offers correspondence or home study courses.

(d) Upon request, the institution shall provide a student with a copy of a Notice of Cancellation form, a written description of the student's refund rights, a copy of the contract executed by the student, a copy of documents relating to loans or grants for the student, and a copy of any document executed by the student.

(e) The council may provide for the inclusion of additional information in the notice set forth in subdivision (a).

94867. (a) (1) In addition to any other right of rescission, for programs in excess of 50 days, the student shall have the right to cancel an agreement for a program of instruction including any equipment, until midnight of the fifth business day after the day on which the student did any of the following:

(A) Attended the first class of the program of instruction that is the subject of the agreement or received the first lesson in a home study or correspondence course.

(B) Received a copy of the notice of cancellation as provided in Section 94868.

(C) Received a copy of the agreement and the disclosures as required by subdivision (a) of Section 94859, whichever is later.

(2) For programs of 50 or fewer days, the student shall have the right to cancel the agreement until midnight of the date that is one business day for every 10 days of scheduled program length, rounded up for any fractional increments thereof.

If the first lesson in a home-study or correspondence course is sent to the student by mail, the institution shall send it by first-class mail, postage prepaid, documented by a certificate of mailing, and the student shall have a right to cancel until midnight of the eighth business day after the first lesson was mailed.

(b) Cancellation shall occur when the student gives written notice of cancellation to the institution at the address specified in the agreement.

(c) The written notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(d) The written notice of cancellation need not take a particular form and, however expressed, is effective if it indicates the student's desire not to be bound by the agreement.

(e) Except as provided in subdivision (f), if the student cancels the agreement, the student shall have no liability, and the institution shall refund any consideration paid by the student within 10 days after the institution receives notice of the cancellation.

(f) If the institution gave the student any equipment, the student shall return the equipment within 10 days following the date of the Notice of Cancellation. If the student fails to return the equipment within this 10 day-period, the institution may retain that portion of the consideration paid by the student equal to the documented cost to the institution of the equipment and shall refund the portion of the consideration exceeding the documented cost to the institution of the equipment within 10 days after the period within which the student is required to return the equipment. The student may retain the equipment without further obligation to pay for it.

(g) For the purpose of determining the time within which a student may cancel that student's agreement for a course, as described in Sections 94866, 94867, and 94868, "business day" means the following:

(1) Except as provided in paragraph (2), a day on which that student is scheduled to attend a class session.

(2) For home-study or correspondence courses, any calendar day except Saturday, Sunday, or any holiday enumerated in Section 6700 of the Government Code.

94868. The institution shall provide the student with two cancellation forms at the first class attended by the student or with the first lesson in a home study course submitted by the student. The form shall be completed in duplicate, captioned "Notice of Cancellation," and shall contain the following statement:

"Notice of Cancellation

____

(Date)

[Enter date of first class, date first
lesson received, or date first lesson was
mailed, whichever is applicable]

"You may cancel this contract for school, without any penalty or obligation by the date stated below.

"If you cancel, any payment you have made and any negotiable instrument signed by you shall be returned to you within 30 days following the school's receipt of your cancellation notice.

"But, if the school gave you any equipment, you must return the equipment within 30 days of the date you signed a cancellation notice. If you do not return the equipment within this 30-day period, the school may keep an amount out of what you paid that equals the cost of the equipment. The total amount charged for each item of equipment shall be separately stated. The amount charged for each item of equipment shall not exceed the equipment's fair market value. The institution shall have the burden of proof to establish the equipment's fair market value. The school is required to refund any amount over that as provided above, and you may keep the equipment.

"To cancel the contract for school, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to:

______________________________, at ______________________________.

(name of institution) (address of institution)

"NOT LATER THAN ______________________________

[Enter midnight of the date that is the fifth business day following the day of the first class or the day the first lesson was received; or, if the program is fifty or fewer days, midnight of the date that is one business day for every 10 days of scheduled program length, rounded up for any fractional increment thereof; or, if the lesson was sent by mail, the eighth business day following the day of mailing, whichever is applicable]

"I cancel the contract for school.

____

(Date)

____

(Student's signature)

"REMEMBER, YOU MUST CANCEL IN WRITING. You do not have the right to cancel by just telephoning the school or by not coming to class.

"If you have any complaints, questions, or problems which you cannot work out with the school, write or call the Council for Private Postsecondary and Vocational Education:

____

(insert address and telephone number of the Council
for Private Postsecondary and Vocational Education)"

94869. (a) Each student of an institution has the right to withdraw from a program of instruction at any time.

(b) If a student withdraws from a program of instruction after the period described in subdivision (a) of Section 94867, the institution shall remit a refund as provided in Section 94870 within 30 days following the student's withdrawal.

(c) If any portion of the tuition was paid from the proceeds of a loan, the refund shall be sent to the lender or, if appropriate, to the state or federal agency that guaranteed or reinsured the loan. Any amount of the refund in excess of the unpaid balance of the loan shall be first used to repay any student financial aid program from which the student received benefits, in proportion to the amount of the benefits received, and any remaining amount shall be paid to the student.

(d) Within 10 days of the day on which the refund is made, the institution shall notify the student in writing of the date on which the refund was made, the amount of the refund, the method of calculating the refund, and the name and address of the entity to which the refund was sent. The following statement shall be placed at the top of the notice in at least 10-point boldface type: "This Notice is Important. Keep It For Your Records."

(e) Except for subdivision (a), this section shall not apply to a student if both of the following occur:

(1) All of that student's tuition and fees are paid by a third-party organization, such as a Job Training Partnership Act agency, a Regional Occupational Program or Regional Occupational Center, a Private Industry Council, or a vocational rehabilitation program, if the student is not obligated to repay the third-party organization or does not lose time-limited educational benefits.

(2) The third-party organization and the institution have a written agreement, entered into on or before the date the student enrolls, that no refund will be due to the student if the student withdraws prior to completion.

The institution shall provide a copy of the written agreement to the bureau. The institution shall disclose to any student whose refund rights are affected by this agreement, in all disclosures required to be given to the student by this chapter, that the student is not entitled to a refund. It is the intent of the Legislature that this subdivision not apply to any student whose tuition and fees are paid with funds

provided to the third-party organization for the student's benefit as part of any program that provides funds for training welfare recipients or that is related to welfare reform.

94870. (a) (1) Except as provided in paragraph (2), the refund to be paid to a student for a program of instruction subject to this article shall be calculated as follows:

(A) Deduct a registration fee not exceeding seventy-five dollars ($75) from the total tuition charge.

(B) Divide this figure by the number of hours in the program.

(C) The quotient is the hourly charge for the program.

(D) The amount owed by the student for purposes of calculating a refund is derived by multiplying the total hours attended by the hourly charge for instruction.

(E) The refund would be any amount in excess of the figure derived in subparagraph (D) that was paid by the student.

(F) The refund amount shall be adjusted as provided in subdivision (b) or (c) for equipment, if applicable.

(2) For an educational service offered by home study or correspondence, the refund shall be the amount the student paid for lessons less a registration fee not exceeding seventy-five dollars ($75), multiplied by a fraction, the numerator of which is the number of lessons for which the student has paid but which the student has not completed and submitted, and the denominator of which is the total number of lessons for which the student has paid. The refund amount shall be adjusted as provided in subdivision (b) or (c) for equipment and as provided in subdivision (d) for resident instruction, if applicable.

(3) Notwithstanding any provision in any agreement, all of the following shall apply:

(A) All amounts that the student has paid, however denominated, shall be deemed to have been paid for instruction, unless the student has paid a specific charge for equipment set forth in the agreement for the program of instruction.

(B) In the case of an educational service offered by home study or correspondence, all amounts that the student has paid, however denominated, shall be deemed to have been paid for lessons unless the student has paid a specific charge for equipment or resident instruction as set forth in the agreement for the educational service.

(C) The total number of hours necessary to complete each lesson of home study or correspondence instruction shall be substantially equivalent to each other lesson unless otherwise permitted by the council.

(D) An equal charge shall be deemed to have been made for each hour of instruction or each lesson.

(b) If the institution specifies in the agreement a separate charge for equipment that the student actually obtains and the student returns that equipment in good condition, allowing for reasonable wear and tear, within 30 days following the date of the student's

withdrawal, the institution shall refund the charge for the equipment paid by the student. If the student fails to return that equipment in good condition, allowing for reasonable wear and tear, within 30 days following the date of the student's withdrawal, the institution may offset against the refund calculated under subdivision (a) the documented cost to the institution of that equipment. The student shall be liable for the amount, if any, by which the documented cost for equipment exceeds the refund amount calculated under subdivision (a). For the purpose of this subdivision, equipment cannot be returned in good condition if the equipment cannot be reused because of clearly recognized health and sanitary reasons and this fact is clearly and conspicuously disclosed in the agreement.

(c) If the institution specifies in the agreement a separate charge for equipment, which the student has not obtained at the time of the student's withdrawal, the refund also shall include the amount paid by the student that is allocable to that equipment.

(d) If an agreement for educational service offered by home study or correspondence includes a separate charge for resident instruction, which the student has not begun at the time of the student's withdrawal, the institution shall refund the charge for the resident instruction paid by the student. If the student withdraws from the educational service after beginning the resident instruction, the institution shall pay a refund equal to the amount the student paid for the resident instruction multiplied by a fraction, the numerator of which is the number of hours of resident instruction which the student has not received but for which the student has paid, and the denominator of which is the total number of hours of resident instruction for which the student has paid.

(e) For the purpose of determining a refund under this section, a student shall be deemed to have withdrawn from a program of instruction when any of the following occurs:

(1) The student notifies the institution of the student's withdrawal or of the date of the student's withdrawal, whichever is later.

(2) The institution terminates the student's enrollment as provided in the agreement.

(3) The student has failed to attend classes for a three-week period. For the purpose of subdivision (a) of Section 94869 and for determining the amount of the refund, the date of the student's withdrawal shall be deemed the last date of recorded attendance. For the purpose of determining when the refund must be paid pursuant to subdivision (b) of Section 94869, the student shall be deemed to have withdrawn at the end of the three-week period.

(4) The student has failed to submit three consecutive lessons or has failed to submit a completed lesson within 60 days of its due date as set by an educational service offered by home study or correspondence. For the purpose of this paragraph, the date of the student's withdrawal shall be deemed to be the date on which the student submitted the last completed lesson.

(f) An institution shall have the burden of proof to establish the validity of the amount of every refund. The institution shall maintain records for five years of all the evidence on which the institution relies.

(g) Any institution that meets each of the criteria in paragraph (1) shall be subject to the refund requirements in this section only for those students who withdraw from a course of instruction after having completed 60 percent or less of the course of instruction.

(1) To qualify under this subdivision, an institution shall submit to the bureau a compliance report prepared by a certified public accountant, who is not an officer, director, shareholder, or employee of the institution, any parent corporation, or any subsidiary, prepared pursuant to an attestation engagement in accordance with the Statements on Standards for Attestation Engagements of the American Institute of Certified Public Accountants, which states that for a period of two years prior to the compliance report, the beginning and ending dates of which shall be determined by the bureau, the institution has:

(A) Complied with Section 94824 or subdivision (b) of Section 94869 and with this section for refunds owed by the institution.

(B) Complied with subdivision (b) of Section 94854 for each of the two years covered by the audit except that:

(i) The institution shall have an aggregate completion rate of 70 percent or more pursuant to paragraph (1) of subdivision (b) of Section 94854.

(ii) The institution shall have an aggregate placement rate of 80 percent or more pursuant to paragraph (2) of subdivision (b) of Section 94854.

(iii) As an alternative to clauses (i) and (ii), the institution shall have a combined aggregate completion and placement rate of 56 percent or more.

(iv) In attesting to the institution's compliance with the requirements of this subparagraph, the certified public accountant, at a minimum, shall review a random statistically valid sample of the students to whom the institution owed a refund, the students counted by the institution towards its completion rate and its placement rate, and the students excluded from the calculation of the completion and placement rates, review the institution's placement log or files and contact students and employers to verify information in the placement records, whether the student was employed in the job for which the training was represented to lead, and whether the student was employed for at least 60 days.

(2) (A) The bureau shall review the compliance report submitted by the institution pursuant to this subdivision.

(B) The bureau shall review any complaints against the institution by current or former students, any civil lawsuit in which the institution is a defendant or any lawsuit, action, charges, proceeding, or investigation by any government agency or any accrediting

agency in which the institution is a party which were filed, pending, or resolved during the two-year period covered by the compliance report. After reviewing such complaints, lawsuits, actions, charges, proceedings, or investigations, as well as any other information available to the bureau and performing whatever other investigation it deems appropriate, the bureau shall make a determination, in writing, of whether the institution has materially violated Section 94831, 94832, 94834, 94853, 94859, 94860, 94866, 94868, 94869, 94870, 94871, 94873, 94875, 94881, or their predecessor sections, based on a preponderance of the evidence. The bureau's determination shall contain a summary of the evidence relied upon in making the determination and the sections for which a material violation exists. The bureau's determination shall have no probative value in connection with any lawsuits, actions, charges, or proceedings pending before any court or any other agency.

(C) If the bureau determines that the institution has met all of the criteria in paragraph (1) and that no material violation exists pursuant to subparagraph (B) of this paragraph, it shall notify the institution that it qualifies under this subdivision. Following such notification, the refund provisions of this subdivision shall apply to the institution for a period of two years, unless revoked by the bureau.

(D) If the bureau determines that the institution has not met all of the criteria in paragraph (1) or that a material violation exists pursuant to subparagraph (B) of this paragraph, it shall notify the institution that it does not qualify under this subdivision.

(E) The institution shall receive notice of any determination with a summary of evidence pursuant to this paragraph and, if requested in writing, a hearing. The institution may appeal the bureau's adverse decision under this paragraph. To the extent feasible, the bureau shall adopt regulations to provide for a streamlined appeal process for purposes of appeals pursuant to this subparagraph. Pending resolution of the appeal, the institution is not eligible to qualify under this subdivision. If the institution prevails on appeal, it may obtain relief limited to a determination that it is eligible for the refund provisions of this subdivision at the next time when it starts new students in its programs following the determination of the appeal. If the institution does not prevail on appeal, it may not seek to qualify under this subdivision for one year following the determination of the appeal.

(3) Prior to notifying an institution pursuant to paragraph (2), the bureau shall adopt regulations to implement this subdivision, including regulations to establish the dates each year for submission of compliance reports by institutions, notification of institutions by the bureau of the applicable refund policy for the institution, the effective date of that refund policy, appropriate standards and procedures for conducting any review by a certified public accountant or any other person pursuant to this subdivision, including a description of the information and materials to be

reviewed and appropriate standards for review which shall be based on the American Institute of Certified Public Accountants' Statements on Standards for Attestation Engagements.

(4) (A) Any institution that has been notified by the bureau that it qualifies for the refund provisions in this subdivision shall lose its qualification if the bureau determines either of the following:

(i) The institution has materially violated Section 94831, 94832, 94834, 94853, 94859, 94860, 94866, 94868, 94869, 94870, 94871, 94873, 94875, or 94881, or has failed to meet the criteria in paragraph (1) during the period covered by the compliance report upon which the bureau based its determination of qualification.

(ii) The institution has been found by any court or any other governmental agency in any proceeding, to have violated any of the provisions set forth in clause (i) and that violation was material or the institution has been found by any court or any other governmental agency in any proceeding, to have failed to meet the criteria in paragraph (1) during the period covered by the compliance report upon which the bureau based its determination of eligibility.

(B) If the bureau, a court, or other government agency finds that the institution willfully supplied information required by this subdivision which it knew or should have known was inaccurate or misleading, the institution's approval to operate may be subject to termination, suspension, or probation.

(C) The institution shall receive notice of any determination with a summary of evidence and, if requested in writing, a hearing prior to any action being taken pursuant to this paragraph. To the extent feasible, the bureau shall adopt regulations to provide for a streamlined appeal process for purposes of appeals pursuant to this subparagraph. Pending resolution of the appeal, the institution may not reapply pursuant to paragraph (9). If the institution prevails on appeal, it may obtain relief limited to a determination that it continues to qualify under this subdivision for the period of time covered by the bureau's most recent determination of qualification. If the institution does not prevail on appeal, the institution may not seek to qualify for the refund provisions of this subdivision for three years following the determination of the appeal and shall be subject to the refund requirements in subdivision (a), and not the refund provisions in this subdivision, for all students who enrolled during the entire time period covered by the bureau's most recent determination of qualification.

(D) The penalties in this paragraph supplement, but do not supplant, any other sanction or remedy allowed by law.

(5) If an institution does not qualify under this subdivision because it fails to meet the requirement of subparagraph (A) of paragraph (1) by three students out of all students to whom it owed refunds during the period examined by the compliance report or 1 percent of all students to whom it owed refunds during the period covered by the

compliance report, whichever is greater, the bureau may determine that the institution qualifies under this subdivision.

(6) The certified public accountant shall submit any initial compliance report prepared pursuant to this subdivision to both the institution and the bureau. The institution shall submit any comments, suggested corrections, or exceptions to the initial compliance report to the certified public accountant and the bureau. The certified public accountant shall submit a final compliance report to both the institution and the bureau. The certified public accountant shall maintain possession of all work papers for a period of five years following completion of the final compliance report. The bureau shall make a copy of the compliance report available to any student, prospective student, or former student of the institution upon request.

(7) If the bureau determines that the institution has met the criteria in this subdivision based on the information contained in a compliance report prepared by a certified public accountant pursuant to this subdivision, the following shall be deemed to be the intended beneficiaries of that compliance report:

(A) The bureau.

(B) The Student Aid Commission.

(C) The United States Department of Education.

(D) Any student who enrolls in the institution during the time period the institution qualifies under this subdivision.

(8) In lieu of the attestation engagement referred to in paragraph (1), an institution that qualifies as a small institution under this paragraph may show that it has complied with each of the criteria in paragraph (1) pursuant to a review performed by the bureau, or any other alternative review that meets all of the requirements for an attestation by a certified public accountant pursuant to this subdivision which shall conform with the bureau's regulations. If the bureau performs the review requested by the institution, the institution shall pay the bureau all of its costs and expenses associated with conducting the review. The bureau shall, by regulation, define "small institution" for the purposes of this paragraph in terms of assets, number of students, gross revenues, other appropriate criteria, as determined by the bureau, or any combination thereof.

(9) An institution may apply to the bureau for a renewal of the bureau's determination that the institution qualifies under this subdivision subject to the same terms and conditions as required for the bureau's initial determination.

(10) If an institution qualifies under this subdivision, it shall disclose that refund policy in any disclosure, catalogue, notice, or agreement in which disclosure of a refund policy is required by this chapter. The institution may not state in any advertising, disclosure, catalogue, notice, or agreement that it qualifies for a "good school" or a "high performance" exemption, that it qualifies for a "good school" or "high performance" refund policy, or that it has been

determined by the state to be a "good school" or a "high performing school," or use any similar words or phrases.

(11) If a request for approval under this subdivision is filed concurrently with an initial or renewal application, no additional fees shall be charged. If a request for approval is not filed concurrently with an initial or renewal application, fees shall be charged as authorized by Section 94932 and the bureau's regulations.

94871. (a) No institution shall offer any program of instruction to any person, or receive any consideration from any person for a course of instruction, except pursuant to a written agreement as described in this section. Every agreement for a program of instruction shall provide the following:

(1) A general description of the program of instruction and any equipment to be provided.

(2) The total number of classes, hours, or lessons required to complete the program of instruction.

(3) The total amount that the student is obligated to pay including all fees, charges, and expenses separately itemized that must be paid to complete the program of instruction. The total amount shall be underlined and shall appear immediately above the following notice, which shall be printed above the space on the agreement that is reserved for the student's signature:

"YOU ARE RESPONSIBLE FOR THIS AMOUNT. IF YOU GET A STUDENT LOAN, YOU ARE RESPONSIBLE FOR REPAYING THE LOAN AMOUNT PLUS ANY INTEREST."

(4) The total amount charged for each item of equipment shall be separately stated. The amount charged for each item of equipment shall not exceed the equipment's fair market value. The institution shall have the burden of proof to establish the equipment's fair market value.

(5) A schedule of payments.

(6) The student's right to withdraw from the program of instruction and obtain a refund and an explanation of refund rights and of how the amount of the refund will be determined including a hypothetical example.

(7) A detailed explanation of the student's right to cancel the agreement as provided in Section 94867.

(8) If the student is not a resident of California, a clear statement that the student is not eligible for protection under, and recovery from, the Student Tuition Recovery Fund.

(9) The following statement shall be printed in 12-point boldface type on the first page of the agreement: "If you have any complaints, questions, or problems which you cannot work out with the school, write or call the Council for Private Postsecondary and Vocational Education:

(insert address and telephone number of the Council for
Private Postsecondary and Vocational Education)"

(b) Unless otherwise provided in subdivision (a), the institution shall provide the information required under Sections 94859, 94867, and 94868, in at least 10-point type in English and, if any solicitation or negotiation leading to the agreement for a course of instruction was in a language other than English, in that other language.

(c) When a student is a client of a third-party organization and that organization pays all of the student's tuition and fees, the institution may substitute for the enrollment agreement required by this section a form provided to the student that contains the information required by subdivision (b) and paragraphs (1), (2), and (9) of subdivision (a). The form also shall contain a statement that students whose entire tuition and fees are paid by a third party organization are not eligible for payments from the Student Tuition Recovery Fund.

94872. (a) An institution shall not enter into an agreement for a program of instruction with a student unless the institution first administers to the student and the student passes a test as provided in subdivision (b).

(b) (1) The test required by subdivision (a) shall be a standardized test that is designed to measure and that reliably and validly measures the student's ability to be successfully trained to perform the tasks associated with the occupations or job titles to which the program of instruction is represented to lead. The student's performance on the test must demonstrate that ability.

(2) Nothing in paragraph (1) precludes an institution from using additional tests to determine a student's ability to be trained to perform tasks associated with the occupations and job titles for which training is offered as described in paragraph (1).

(3) (A) If no standardized test is available that satisfies paragraph (1), the institution shall use other appropriate tests to determine the student's ability to be trained to perform the tasks associated with the occupations and job titles for which training is offered as described in paragraph (1). Within 30 days of determining that no standardized test satisfies paragraph (1), the institution shall so inform the council and shall describe and, if possible, furnish the council with the test to be used in lieu of the test required by paragraph (1).

(B) Upon reasonable notice to the institution, the council may order the institution to demonstrate to the reasonable satisfaction of the council that the test and passing score are an appropriate measure of the student's ability to be trained to perform the tasks associated with the occupations or job titles to which the course is represented to lead. If the test is not an appropriate measure, the council, after notice, and if requested, a hearing as provided in

Section 94965 or 94975, shall order that the institution cease administering the test.

(c) The institution shall have the burden of proof that the test complies with subdivision (b). If no minimum passing score is established by the test developer or if the minimum passing score used by the institution is below the minimum passing score established by the test's developer, the institution shall have the burden of proof that the student's achievement of the minimum passing score reasonably measures the student's ability to be successfully trained to perform the tasks associated with the occupations and job titles to which the course of instruction is represented to lead. The test shall be administered in accordance with the test's instructions, rules, and time limits.

(d) (1) The test shall be completed solely by the student.

(2) No institution or any person in any manner associated with the institution shall do any of the following:

(A) Answer any of the test questions.

(B) Read any of the test questions to the student.

(C) Provide any assistance whatsoever to the student in answering test questions.

Nothing in this subparagraph prevents an institution from providing nonsubstantive assistance to accommodate the disability of a handicapped person otherwise qualified to take the test.

(3) The test shall be given by the institution on its premises or by an independent testing service. The site requirement does not apply to an institution offering a home study or correspondence course.

(4) If a prospective student has failed a test, the institution or the testing service that administered the test shall not administer another test to that prospective student for at least the period specified by the test developer or one week, whichever is longer. Any subsequent test administered by an institution to the same prospective student shall be a substantially different form of the same test or a substantially different test than the preceding test and shall satisfy the requirements of paragraph (1) or, if applicable, paragraph (3) of subdivision (b).

(e) An institution's application for approval to operate shall do all of the following:

(1) Identify the test used to comply with this section.

(2) State the minimum score, if any, that the test's developer indicates a prospective student must achieve to demonstrate an ability to be successfully trained to perform the tasks associated with the occupations or job titles to which the course is represented to lead.

(3) State the minimum passing score used by the institution.

(4) If the institution accepts a lower minimum passing score than is indicated by the test's developer, state an explanation of why the institution accepts a lower minimum passing score.

(f) The institution shall, for five years, retain an exemplar of each test administered by the institution pursuant to this section, an exemplar of the answer sheet for each test, a record of the passing score for each test, and the answer sheets or other responses submitted by each person who took each test.

94873. (a) If a program of instruction is based on a sequence of classes, class sessions, or lessons and the learning experience to be derived from any class, class sessions, or lesson within the sequence is based in any manner on a student's attendance at or completion of a prior class, class session, or lesson, an institution shall not enroll a student in that program of instruction unless the instruction begins with the first class, class session, or lesson and proceeds in the appropriate sequence.

(b) (1) If a program of instruction is based on a series of modules comprised of class sessions or lessons and the learning experience to be derived from any module is based in a manner on a student's attendance at, or completion of, any class sessions or lessons in any other module, an institution shall not enroll a student in that course of instruction unless the student begins and proceeds in the appropriate sequence.

(2) If a program of instruction is based on a series of modules comprised of class sessions or lessons and the learning experience to be derived from any module is not based on a student's attendance at, or completion of, any classes or lessons in any other module, an institution shall only enroll a student in the program of instruction if the student begins with the first class session or lesson in a module.

(c) Notwithstanding subdivisions (a) and (b), if a class or a module consists of more than 60 days of instruction, the institution may enroll a student to begin no later than the fifth class session of the first class or the fifth class session in the appropriate module.

(d) The council, at any time, may determine whether the learning experience to be derived from any class session or lesson in a sequence of class sessions or lessons or from any module is based in any manner on a student's attendance at, or completion of, a prior class session or lesson in the sequence or any class sessions or lessons in any other module. The council may make the determination described in this subdivision upon the application of any person or when the council deems that a determination is appropriate. The institution shall have the burden to establish compliance with this section.

(e) The institution shall not merge classes unless all of the students have received the same amount of instruction and training. This subdivision does not prevent the placement of students, who are enrolled in different programs of instruction, in the same class if that class is part of each of the courses and the placement in a merged class will not impair the students' learning of the subject matter of the class.

(f) After a student has enrolled in a program of instruction, the institution shall not do any of the following:

(1) Make any unscheduled suspension of any class unless caused by circumstances completely beyond the institution's control.

(2) Change the day or time in which any class is offered to a day when the student is not scheduled to attend the institution or to a time that is outside of the range of time that the student is scheduled to attend the institution on the day for which the change is proposed unless at least 90 percent of the students who are enrolled consent to the change and the institution offers full refunds to the students who do not consent to the change. For the purpose of this paragraph, "range of time" means the period beginning with the time at which the student's first scheduled class session for the day is set to start and ending with the time the student's last scheduled class session for that day is set to finish.

(g) If an institution enrolls a student in a program of instruction that is not offered or designed as a home study or correspondence course at the time of enrollment, the institution shall not convert the program of instruction from classroom instruction to a home study or correspondence course.

(h) An institution shall not move the class instruction to a location more than five miles from the location of instruction at the time of enrollment unless any of the following occur:

(1) The institution discloses orally and clearly and conspicuously in writing to each student before enrollment in the program that the location of instruction will change after the program begins and the address of the proposed location.

(2) The institution applies for, and the council grants, approval to change the location. The council shall grant the application within 30 days if the council, after notice to affected students and an opportunity for them to be heard as prescribed by the council, concludes that the change in location would not be unfair or unduly burdensome to students. The council may grant approval to change the location which shall be subject to reasonable conditions, such as requiring the institution to provide transportation, transportation costs, or refunds to adversely affected students.

(3) The institution offers a full refund to students enrolled in the program of instruction who do not voluntarily consent to the change.

94874. (a) Every institution shall maintain for a period of not less than five years at its principal place of business in California accurate records that show all of the following:

(1) The names, telephone numbers, and home and local addresses of each student.

(2) The courses of instruction offered by the institution and the curriculum for each course.

(3) The name, address, and educational qualifications of each member of its faculty.

(4) The information required by subdivision (j) of Section 94854 and subdivision (b) of Section 94859.

(5) All information and records required by this chapter or required by the council.

(b) All records that an institution is required to maintain by this chapter or that relate to the institution's compliance with this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the council, the Attorney General, any district attorney or city attorney, and the Student Aid Commission.

(c) An institution shall make available to a student, or a person designated by the student, all of the student's records, except for transcripts of grades as described in subdivision (d) and (e).

(d) As provided in Section 94948, an institution may withhold a student's transcript or grades if the student is in default on a student tuition contract.

(e) If the student has made partial payment of his or her tuition obligation, the institution may only withhold that portion of the grades or transcript that corresponds to the amount of tuition or loan obligation that the student has not paid. If the course of study consists of only one course, the institution may withhold the grades or the transcript until the tuition or loan obligation is paid in full.

(f) Each institution shall be deemed to have authorized the accrediting agency that accredited the institution to provide to the council, the Attorney General, any district attorney or city attorney, or the Student Aid Commission, within 30 days of written notice, copies of all documents and other material concerning the institution that is maintained by the accrediting agency.

(g) Within 30 days of receiving written notice from the council, the Attorney General, any district attorney or city attorney, or the Student Aid Commission, an accrediting agency shall provide the requesting official with all documents or other material concerning an institution accredited by that accrediting agency that are designated specifically or by category in the written notice.

(h) If the council, the Attorney General, any district attorney or city attorney, or the Student Aid Commission is conducting a confidential investigation of an institution and so informs the accrediting agency, the accrediting agency shall not inform that institution of the investigation.

(i) If an accrediting agency willfully fails to comply with this section, the accrediting agency shall be liable for a civil penalty of not less than two thousand five hundred dollars ($2,500) or more than twenty-five thousand dollars ($25,000) for each violation. Penalties awarded pursuant to this section shall be deposited in the Private Postsecondary and Vocational Education Administration Fund or any successor fund.

94875. (a) The institution shall provide sufficient instruction and materials pursuant to a planned curriculum appropriate to the

student's educational program and establish sufficient student attendance, progress, and performance standards to reasonably ensure that students acquire the necessary level of education, training, skill, and experience to obtain employment in the occupation or job title to which the course of instruction is represented to lead.

(b) The institution shall provide each student with sufficient materials, including current publications and equipment, not later than the time the materials are appropriate for use in the course of instruction.

(c) If a student has begun a course of instruction and any portion of the student's tuition is to be paid from the proceeds of a loan or grant, the institution shall not withhold any instruction, equipment, or materials from the student pending approval of the loan or grant or the disbursement of any portion of the proceeds of the loan or grant.

94876. No student may waive any provision of this article. Any waiver or limitation of any substantive or procedural right or remedy is in violation of this section and is void and unenforceable.

94877. (a) If an institution violates this article or Section 94832 or commits an act as set forth in Section 94830 in connection with an agreement for a course of instruction, that agreement shall be unenforceable, and the institution shall refund all consideration paid by or on behalf of the student.

(b) Notwithstanding any provision in an agreement, a student may bring an action for a violation of this article or Section 94832 or an institution's failure to perform its legal obligations and upon prevailing shall be entitled to the recovery of damages, equitable relief, any other relief authorized by this article, and reasonable attorney's fees and costs.

(c) If a court finds that a violation was willfully committed or that the institution failed to refund all consideration as required by subdivision (a) on the student's written demand, the court, in addition to the relief awarded under subdivision (b), shall award a civil penalty of up to two times the amount of the damages sustained by the student.

(d) The remedies provided in this article supplement, but do not supplant, the remedies provided under other provisions of law.

(e) An action brought under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the action.

(f) Any provision in any agreement that purports to require a student to invoke any grievance dispute procedure established by the institution or any other procedure before bringing an action to enforce any right or remedy is void and unenforceable.

(g) A student may assign his or her causes of action for a violation of this article to the council, or to any state or federal agency that

guaranteed or reinsured a loan for the student or provided any grant or other financial aid.

(h) This section applies to any action pending under former Chapter 7 (commencing with Section 94700) on January 1, 1990.

94878. (a) An institution is legally authorized to provide courses of instruction if the institution complies with both this article and Sections 94831, 94832, and 94985, or former Section 94320 as that section was in effect on January 1, 1991, has received approval from the council, and has not been found to be in violation of this article by the council, the Student Aid Commission, or a court. No institution shall offer any course of instruction if the institution's approval to offer that course of instruction has been suspended or revoked.

(b) (1) The council, after notice and, if requested by the institution, a hearing as provided in Section 94965 or 94975, may suspend or revoke an institution's approval to operate or approval to operate a branch or satellite campus or may order that an institution cease offering a class or course of instruction because of any violation of this article, Section 94831, 94832, or 94985, or former Section 94320 as that section was in effect on January 1, 1991, or any regulation or order issued pursuant to this article.

(2) If the council takes any of the actions described in paragraph (1), the council may permit the institution to continue to offer the class or course of instruction to students already enrolled or may order the institution to cease instruction and provide a refund of tuition and all other charges to students.

(c) If the council determines after notice and if requested by the institution, a hearing, that an institution has violated this article, Section 94831, 94832, or 94985, or former Section 94320 as that section was in effect on January 1, 1991, but that the institution's approval to operate, or approval to operate a branch or satellite campus should not be suspended or revoked, or that the institution should not be ordered to cease offering a class or program of instruction, the council may do any or all of the following:

(1) Place the institution, or branch or satellite campus, on probation under reasonable terms and conditions for a specified period of time not to exceed two years.

(2) Order the institution to post a bond.

(3) Order the institution not to enter into new agreements for courses of instruction.

(d) During the period of probation, the institution, or the branch or satellite or both the institution and the branch or satellite campus, shall be subject to monitoring that may include the required submission of periodic reports, as prescribed by the council and special onsite inspections to determine progress toward compliance. The onsite inspections may include an inspection of the institution's facilities and records, interviews of administrators, faculty, and students, and observation of class instruction. The council shall order the institution to reimburse all reasonable costs and expenses

incurred by the council in connection with this subdivision. The council may make the payment of the order for reimbursement a condition of probation.

(e) If, at the period of probation, the council is not satisfied with the steps taken by the institution to eliminate the violations of this article, Sections 94831, 94832, and 94985, or former Section 94320 as that section was in effect on January 1, 1991, upon which the probation was based, the council may revoke the institution's approval to operate or the institution's approval to operate a branch or satellite campus.

(f) The council may assess a penalty of up to ten thousand dollars ($10,000) as part of a probation order for violations of this article, Sections 94831, 94832, and 94985, or former Section 94320 as that section was in effect on January 1, 1991. In determining the amount of that penalty, the council shall consider the number and gravity of the violations, the degree of the institution's good faith or culpability, the history of the institution's previous violations, and the institution's ability to pay. If the institution fails to pay a penalty within the time prescribed by the council the institution's approval to operate the institution, or approval to operate a branch or satellite campus, shall be automatically suspended until the penalty is paid in full.

(g) (1) Any bond ordered by the council shall be issued by an admitted surety insurer in an amount established at the discretion of the council that is sufficient to protect students from the potential consequences of the violation.

(2) The bond shall be in favor of the State of California for the indemnification of any person for any loss, including the loss of prepaid tuition, suffered as a result of the occurrence of any violation of this chapter during the period of coverage.

(3) Liability on the bond may be enforced after a hearing before the council, after 30 days' advance written notice to the principal and surety. The council shall adopt regulations establishing the procedure for administrative enforcement of liability. This paragraph supplements, but does not supplant, any other rights or remedies to enforce liability on the bond.

(4) The council may order the institution to file reports at any interval the council deems necessary to enable the council to monitor the adequacy of the bond coverage and to determine whether further action is appropriate.

(h) The council shall determine an institution's compliance, including the compliance of its branch and satellite campuses, with this article, Sections 94831, 94832, and 94985, or former Section 94320 as that section was in effect on January 1, 1991, and shall not be bound by the findings or conclusions of any accrediting agency.

(i) The council may revoke the approval to operate of any institution that fails to pay an order imposing a penalty or an order for the reimbursement of costs and expenses. The council may enforce any administrative order requiring the payment of money in

the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 1 of the Code of Civil Procedure. All penalties and reimbursements paid pursuant to this section shall be deposited in the vocational education account in the Private Postsecondary and Vocational Education Administration Fund established pursuant to Section 94932.

(j) Proceedings by the council under this section shall be conducted in accordance with regulations adopted by the council or, if there are no regulations establishing hearing procedures, Section 94965 or 94975, and the council shall have all of the powers granted therein.

94879. The council may suspend or revoke an institution's approval to operate or order probation or the posting of a bond, as provided in Section 94878, for any of the following reasons:

(a) The institution has failed to make timely refunds to, or on behalf of students, as required by Sections 94867, 94869, 94870, and 94877, or has not satisfied, within 30 days of its issuance, a final judgment obtained by a student against the institution.

(b) The institution or an owner, person in control, director, or officer of the institution is, or has been, found in any criminal, civil, or administrative proceeding, after notice and an opportunity to be heard, to have violated any law regarding the obtaining, maintenance, or disbursement of state or federal loan or grant funds, or any other law substantially related to the operation of the institution.

(c) The institution, or a person in control of the institution is, or has been, found in any criminal, civil, or administrative proceeding, after notice and an opportunity to be heard, to have unpaid financial liabilities involving the refund or unlawful acquisition, use, or expenditure of state or federal financial aid funds.

(d) (1) All of the following are, or have been, found in any criminal, civil, or administrative proceeding:

(A) A person in control of the institution was a person in control of another institution within one year before that institution's closure.

(B) While the person was acting as a person in control of the other institution, the person knew or, by the exercise of reasonable care, should have known that the institution violated this chapter.

(C) That violation was a cause of that institution's closure or of damage to students.

(D) That institution did not pay to all students refunds owed as a result of the closure and full compensation for actual damages from that violation.

(E) The person in control has not paid to all students of the closed institution refunds owed and full compensation for actual damages resulting from the closure that were not paid by the closed institution. For the purpose of this subdivision, "closure" includes closure of a branch or satellite campus, the termination of either the correspondence or residence portion of a home-study or

correspondence course, and the termination of a course of instruction for some or all of the students enrolled in the course before the time these students were originally scheduled to complete it, or before a student who has been continually enrolled in a course of instruction has been permitted to complete all the educational services, and the classes that comprise the course.

94880. (a) The council may bring an action for equitable relief for any violation of this article in addition to, or instead of, any other remedy or procedure.

(b) The suspension or revocation of an institution's approval to operate also may be embraced in any action otherwise proper in any court involving the institution's compliance with this chapter or performance of its legal obligations.

94881. (a) For the purposes of this section, the following definitions apply:

(1) "Document or record" means any test score, grade, record of grades, attendance record, record indicating student course completion or employment, financial information, including any financial report required to be filed pursuant to Sections 94861 and 94862, information or records relating to the student's eligibility for financial assistance or attendance at the institution, or any other record or document required by this chapter or by the council.

(2) "Person" means a natural person and any business entity, regardless of the form of organization.

(b) Any person who, in any manner, makes or causes to be made any untrue or misleading statement in connection with offering or providing a course of instruction, or who makes or causes to be made any untrue or misleading change in any document or record and who knows or, by the exercise of reasonable care, should know that the statement or change is untrue or misleading is guilty of a crime, punishable as provided in subdivision (e).

(c) Any person who willfully falsifies, destroys, fails to maintain, or conceals any document or record that is required to be maintained by this chapter or by the council is guilty of a crime, punishable as provided in subdivision (e).

(d) Any person who is required to file any report required by paragraph (3) of subdivision (f) of Section 94854, or Section 94861 or 94862 and who willfully fails to file that report as required, or willfully violates or causes the violation of subdivision (b) of Section 94874, is guilty of a crime and is subject to punishment for each violation as provided in paragraph (2) of subdivision (e).

(e) Any person who violates subdivision (b) or (c), or who willfully violates Section 94831, 94832, 94853, or 94985, or former Section 94320 as that section was in effect January 1, 1991, is guilty of a crime and is subject to separate punishment for each violation either by:

(1) Imprisonment in the state prison, by a fine not to exceed fifty thousand dollars ($50,000), or by both that imprisonment and fine.

(2) Imprisonment in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine.

(f) Notwithstanding any other law, any prosecution under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the prosecution.

(g) The penalties provided by this section supplement, but do not supplant, the remedies and penalties provided under other law.

94882. The council may adopt and enforce regulations as may be necessary, appropriate, or useful to interpret and otherwise implement this article. Pending the adoption of regulations, the council may adopt emergency regulations, which shall be immediately effective, notwithstanding any other provision of law, and which shall be superseded upon the adoption of subsequent regulations.

Article 8. Standards and Evaluation Procedures for Degree-Granting Institutions

94900. (a) No private postsecondary educational institution may issue, confer, or award an academic or honorary degree unless the institution is approved by the council to operate in California and award degrees.

The council shall not issue an approval under paragraph (1) of subdivision (c) of Section 94901 or a conditional approval under paragraph (2) of subdivision (c) of Section 94901 until it has conducted a qualitative review and assessment of, and has approved, each degree program offered by the institution, and all of the operations of the institution, and has determined all of the following:

(1) The institution has the facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to ensure its capability of fulfilling the program or programs for enrolled students.

(2) The faculty are fully qualified to undertake the level of instruction that they are assigned and shall possess degrees or credentials appropriate to the degree program and level they teach and have demonstrated professional achievement in the major field or fields offered, in sufficient numbers to provide the educational services.

(3) The education services and curriculum clearly relate to the objectives of the proposed program or programs and offer students the opportunity for a quality education.

(4) The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.

(5) The program of study for which the degree is granted provides the curriculum necessary to achieve its professed or claimed

academic objective for higher education, and the institution requires a level of academic achievement appropriate to that degree.

(6) The institution provides adequate student advisement services, academic planning and curriculum development activities, research supervision for students enrolled in Ph.D. programs, and clinical supervision for students enrolled in various health profession programs.

(7) If the institution offers credit for prior experiential learning it may do so only after an evaluation by qualified faculty and only in disciplines within the institution's curricular offerings that are appropriate to the degree to be pursued. The council shall develop specific standards regarding the criteria for awarding credit for prior experiential learning at the graduate level, including the maximum number of hours for which credit may be awarded.

(b) The approval process shall include a qualitative review and assessment of all of the following:

(1) Institutional purpose, mission, and objectives.
(2) Governance and administration.
(3) Curriculum.
(4) Instruction.
(5) Faculty, including their qualifications.
(6) Physical facilities.
(7) Administrative personnel.
(8) Procedures for keeping educational records.
(9) Tuition, fee, and refund schedules.
(10) Admissions standards.
(11) Financial aid policies and practices.
(12) Scholastic regulations and graduation requirements.
(13) Ethical principles and practices.
(14) Library and other learning resources.
(15) Student activities and services.
(16) Degrees offered.

The standards and procedures utilized by the council shall foster the development of high quality, innovative educational programs and emerging new fields of study within postsecondary education. In addition, the standards and procedures utilized by the council shall not unreasonably hinder educational innovation and competition.

(c) (1) The Committee of Bar Examiners for the State of California, in lieu of the council, shall be responsible for the approval, regulation, and oversight of degree-granting law schools that (A) exclusively offer bachelor's, master's, or doctorate degrees in law, such as Juris Doctor, and (B) are not otherwise exempt under Section 94750. This paragraph does not apply to unaccredited law schools that remain subject to the jurisdiction of the bureau.

(2) If a law school not exempt under Section 94750 offers educational services other than bachelor's, master's, or doctorate-degree programs in law, the law school and its nonlaw degree programs shall be subject to this chapter, and the law school's

degree programs in law shall be subject to the approval, regulation, and oversight of the Committee of Bar Examiners.

94901. (a) The council shall conduct a qualitative review and assessment of the institution. It also shall conduct a qualitative review and assessment of all programs offered except continuing education programs and programs that are exclusively avocational or recreational in nature. The review shall include the items listed in subdivision (b) of Section 94900, through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the council for that purpose.

An institution may include some or all of its separate operating sites under one application. Alternately, it may submit separate applications for any one site or combination of sites. The satellites or branches included in either an initial or renewal application shall be considered by the council to comprise a separate, single institution for purposes of regulation, approval, and compliance under this chapter.

The application shall include a single fee based on the number of branches, satellites, and programs included within a single application in order to cover the costs involved for those multisite and multiprogram reviews. If the application is for renewal of an existing approval, the institution need only submit information necessary to document any changes made since the time its previous application was filed with the council. Fees for renewal applications will be based on the actual costs involved in the administrative review process.

(b) The number of sites inspected by the council as part of its review process shall be subject to the following considerations:

(1) If the application for approval includes branches and satellites, the council shall inspect each branch and may inspect any satellite campus.

(2) If the application is for approval to operate a branch or a satellite, the council, in addition to inspecting the branch or satellite, also may inspect the institution operating the branch or satellite campus.

(c) The council may waive or modify the onsite inspection for institutions offering home study or correspondence courses. The visiting committee shall be impaneled by the council within 90 days of the date of the receipt of a completed application and shall be composed of educators, and other individuals with expertise in the areas listed in subdivision (b) of Section 94900, from degree-granting institutions legally operating within the state. Within 90 days of the receipt of the visiting committee's evaluation report and recommendations, or any reasonable extension of time not to exceed 90 days, the council shall take one of the following actions:

(1) If the institution is in compliance with this chapter and has not operated within three years before the filing of the application in violation of this chapter then in effect, the bureau may grant an approval to operate not to exceed five years.

(2) If the institution is in compliance with this chapter, but has operated within three years before the filing of the application in violation of this chapter then in effect, or if the council determines that an unconditional grant of approval to operate is not in the public interest, the council may grant a conditional approval to operate subject to whatever restrictions the council deems appropriate. The council shall notify the institution of the restrictions or conditions, the basis for the restrictions or conditions, and the right to request a hearing to contest them. Conditional approval shall not exceed two years.

(3) The council may deny the application. If the application is denied, the council may permit the institution to continue offering the program of instruction to students already enrolled or may order the institution to cease instruction and provide a refund of tuition and all other charges to students.

(d) When evaluating an institution whose purpose is to advance postsecondary education through innovative methods, the visiting committee shall comprise educators who are familiar with, and receptive to, evidence bearing on the educational quality and accomplishments of those methods.

(e) The standards and procedures utilized by the council shall not unreasonably hinder educational innovation and competition.

(f) Each institution or instructional program offering education for entry into a health care profession in which the provider has primary care responsibilities shall offer that education within a professional degree program which shall be subject to approval by the council pursuant to this section.

(g) (1) If an institution is not operating in California when it applies for approval to operate for itself or a branch or satellite campus, the institution shall file with its application an operational plan establishing that the institution will satisfy the minimum standards set forth in subdivision (a) of Section 94900. The operational plan also shall include a detailed description of the institution's program for implementing the operational plan, including proposed procedures, financial resources, and the qualifications of owners, directors, officers, and administrators employed at the time of the filing of the application. The council may request additional information to enable the council to determine whether the operational plan and its proposed implementation will satisfy these minimum standards.

(2) If the council determines that the operational plan satisfies the minimum standards described in subdivision (a) of Section 94900, that the institution demonstrates that it will implement the plan, and that no ground for denial of the application exists, the council shall grant a temporary approval to operate, subject to any restrictions the council reasonably deems necessary to ensure compliance with this chapter, pending a qualitative review and assessment as provided in subdivisions (a) and (b) of Section 94900. The council shall inspect,

pursuant to subdivision (a) of Section 94901, the institution, or branch or satellite campus if approval is sought for that campus between 90 days and 180 days after operation has begun under the temporary approval to operate. Following receipt of the visiting committee's or the council staff's report, the council shall act as provided in paragraph (1), (2), or (3) of subdivision (c).

(h) If at any time the council determines that an institution has deviated from the standards for approval, the council, after identifying for the institution the areas in which it has deviated from the standards, and after giving the institution due notice and an opportunity to be heard, may place the institution on probation for a prescribed period of time, not to exceed 24 calendar months. During the period of probation, the institution shall be subject to special monitoring. The conditions for probation may include the required submission of periodic reports, as prescribed by the council, and special visits by authorized representatives of the council to determine progress toward total compliance. If, at the end of the probationary period, the institution has not taken steps to eliminate the cause or causes for its probation to the satisfaction of the council, the council may revoke the institution's approval to award degrees and provide notice to the institution to cease its operations.

(i) An institution may not advertise itself as an approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section. The council shall review all operations of the institution, pertaining to California degrees, both within and outside of California. The council may conduct site visits outside of California, including the institution's foreign operations, when the council deems these visits to be necessary. The institution shall be responsible for the expenses of the visiting team members including the council's staff liaison. The council may authorize any institution approved to issue degrees under this section to issue certificates for the completion of courses of study that are within the institution's approved degree-granting programs.

(j) An institution shall not offer any educational program or degree title that was not offered by the institution at the time the institution applied for approval to operate, and shall not offer any educational program or degree title at a campus that had not offered the program or degree title at the time the institution applied for approval to operate that campus, unless the council first approves the offering of the program or degree title after determining that it satisfies the minimum standards established by this section.

94905. (a) Any public or private postsecondary educational institution incorporated in another state that has accreditation from a regional accrediting association recognized by the United States Department of Education at the time of the issuance of a degree, and that is approved by the council, may issue degrees, diplomas, or certificates. Except for continuing education programs and programs

that are exclusively avocational or recreational in nature, accredited public or private postsecondary educational institutions incorporated in another state shall not offer degrees, diplomas, or certificates in California unless they comply with this section.

(b) The council shall not approve an institution to issue degrees, diplomas, or certificates pursuant to this section until the council has conducted a qualitative review and assessment of, and has approved, each program offered by the institution and all of its operations in California, and the council has determined that the institution meets all of the following standards:

(1) The institution has financial resources to ensure the capability of fulfilling the program or programs for enrolled students.

(2) The faculty includes personnel who possess appropriate degrees from institutions accredited by a regional accrediting association recognized by the United States Department of Education in the degree major field or fields offered, in sufficient number to provide the educational services.

(3) The education services and curriculum clearly relate to the objectives of the proposed program or programs.

(4) The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.

(5) The institution has verifiable evidence of academic achievement comparable to that required of graduates of other institutions operating in this state for the program or programs upon which the degree, diploma, or certificate is based.

(c) The period of any approval issued under this section shall be subject to Section 94901.

(d) Institutions approved under this section shall offer in California only programs that the institution can document to have been acknowledged or favorably reviewed by the home regional accrediting association.

(e) In reviewing the out-of-state accredited institutions, the council shall use as guidelines the standards and procedures developed by the special committee created pursuant to paragraph (5) of subdivision (b) of Section 94310.1, as in effect on December 31, 1989, and adopted by the California Postsecondary Education Commission. These standards and procedures were based on all of the following principles:

(1) Following the initial site review, subsequent onsite reviews by the council may be conducted in conjunction with institutional reviews by the regional accrediting association. However, if there is substantial evidence that the institution is not in compliance with state standards, the council may initiate a special review of the California operations of the institution.

(2) Each institution may include some, or all, of its separate operating sites under one application. Alternately, it may submit separate applications for any one site or combination of sites. The

satellites or branches included in either an initial or renewal application shall be considered by the council to comprise a separate, single institution for purposes of regulation, approval, and compliance under this chapter.

(3) The application shall include a single fee based on the number of branches, satellites, and programs included within a single application in order to cover the costs involved for such multisite and multiprogram reviews.

(4) If the application is for renewal of an existing approval, the institution need only submit information necessary to document any changes made since the time its previous application was filed with the council. Fees for reapproval applications will be based on the actual costs involved in the administrative review process.

(5) The council shall develop a procedural rationale to justify the number of sites to be visited by the state in the review of the institution's operations in California. The number of sites visited shall be subject to the following considerations:

(A) If the application for approval includes branches and satellites, the council may inspect each branch and may inspect any satellite campus.

(B) If the application is for approval to operate a branch or a satellite, the council, in addition to inspecting the branch or satellite, also may inspect the institution operating the branch or satellite campus.

(C) The council may waive or modify the onsite inspection for institutions offering home study or correspondence courses.

(D) The purpose of the onsite review by the council shall be to determine that operations by the institution in California meet the minimum state standards identified in statute.

(E) The standards and procedures shall not unreasonably hinder educational innovation and competition.

Article 9. Standards and Evaluation Procedures for Nondegree-Granting Institutions

94915. (a) No private postsecondary educational institution, except those offering degrees and approved under Article 8 (commencing with Section 94900) or those registered under Article 9.5 (commencing with Section 94931), may offer educational services or programs unless the institution or locations at which these services or programs are offered have been approved by the council as meeting the requirements of this section. In addition, if the institution is regulated by any other state licensing agency, the institution shall have obtained and retained the approval of that agency.

(b) If an institution is operating under the council's prior approval and the institution has applied for approval to operate for itself or a branch or satellite campus that is operating, the council shall not

grant approval to operate until the council has conducted a qualitative review and assessment of the operations of the institution in California and determined that all of the following minimum standards have been satisfied.

(1) The quality and content of each course or program of instruction, training, or study may reasonably and adequately be expected to achieve the objective for which the course or program is offered. Except for continuing education programs and programs that are exclusively avocational or recreational in nature, all programs offered by the institution shall meet the minimum standards prescribed by this subdivision. If an institution represents that a course or program leads to employment, the quality, content, and instruction of the course or program shall be sufficient to ensure that students may acquire the necessary level of education, training, skill, and experience to obtain employment in the occupation or job title to which the course or program of instruction is represented to lead.

(2) The institution has adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the objective described in paragraph (1).

(3) Every instructor and administrator possesses adequate academic, experiential, and professional qualifications to teach the course or to perform the duties that the person is assigned, satisfies all standards established by the council by regulation, and holds an applicable and valid certificate of authorization for service issued by the council in the specified competence area in which the individual will serve. No person shall serve as an instructor or member of the administrative staff if that person has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal or state funds, or who has been judicially or administratively determined to have committed any violation of this chapter or of any law involving state or federal funds.

(4) The institution maintains for at least five years written records of each student's previous education and training, where applicable.

(5) A copy of the course outline, description of the occupations or job titles, if any, to which the course of instruction is represented to lead, schedule of tuition, fees, and other charges, refund policy, regulations pertaining to tardiness, absences, and the grading policy, and rules of operation and conduct is given to students prior to enrollment.

(6) The institution maintains and enforces adequate standards relating to, and maintains records of, attendance, satisfactory academic progress, and student performance to achieve the objective described in paragraph (1).

(7) The institution complies with all local city, county, municipal, state, and federal regulations relative to the safety and health of all persons upon the premises such as fire, building, and sanitation codes. The council may require evidence of compliance.

(8) The institution does not exceed enrollment that the facilities and equipment of the institution can reasonably handle.

(9) The institution's officers, directors, and owners demonstrate financial and fiduciary responsibility, as prescribed by statute, or by regulations adopted by the council.

(10) The institution is in compliance with this chapter and has developed policies and procedures designed to ensure that compliance.

(11) No circumstances exist that may constitute grounds for the revocation or suspension of an approval to operate.

(12) The institution complies with Article 7 (commencing with Section 94850) if that article is applicable to any educational program it offers.

(13) Application for approval shall be made in writing on forms prescribed by the council. The application for approval shall include, if applicable to the institution, a statement of whether the institution claims that it is exempt or that a course or other educational service it offers is exempt from Article 7 (commencing with Section 94850), and the information required by subdivision (f) of Section 94873.

An institution may include some, or all, of its separate operating sites under one application. Alternately, it may submit separate applications for any one site or combination of sites. The satellites or branches included in either an initial or renewal application shall be considered by the council to comprise a separate, single institution for purposes of regulation, approval, and compliance under this chapter. The application shall include a single fee based on the number of branches, satellites, and programs included within a single application in order to cover the costs involved for those multisite and multiprogram reviews.

(c) Within 90 days following the receipt of an application from an institution and prior to granting any approval, a representative of the council shall personally inspect the institution and verify the institution's compliance with the standards prescribed by this chapter. The council may use a qualified visiting committee in the initial review of programs and in subsequent reviews. The visiting committee may include employers with expertise related to the program being reviewed. The institution seeking approval shall reimburse the council for the expenses of the visiting committee. The onsite inspection shall include an inspection of the institution's facilities and records, interviews of administrators, faculty, and students, and an observation of class instruction, as determined to be appropriate by the council.

(1) If the application for approval includes branch or satellite campuses, the council shall inspect each branch campus and may inspect any satellite campus.

(2) If the application is for approval to operate a branch or a satellite, the council, in addition to inspecting the branch or satellite,

also may inspect the institution operating the branch or satellite campus.

(3) The council may waive or modify the requirement for onsite inspections of branch campuses located outside of California or for an institution offering home study or correspondence courses.

(4) If the application is for reapproval of an existing approval, the institution need only submit information necessary to document any changes made since the time its previous application was filed with the council. Fees for reapproval applications shall be based on the actual costs involved in the administrative review process.

(d) The council shall review all operations of the institution both within and outside of California. The council may conduct site visits outside of California, including the institution's foreign operations, when the council deems these visits to be necessary. The institution shall be responsible for the expenses of any visiting team members including the council's staff liaison.

(e) Within 90 days following the inspection described in subdivision (c) or any reasonable extension of time not to exceed 90 days, the council shall reach a decision on the merits and shall do one of the following:

(1) If the institution is in compliance with this chapter and has not operated within three years before the filing of the application in violation of this chapter then in effect, the council may grant approval for a period not to exceed four years.

(2) If the institution is in compliance with this chapter, but has operated within three years before the filing of the application in violation of this chapter then in effect, or if the council determines that an unconditional grant of approval to operate is not in the public interest, the council may grant a conditional approval to operate subject to whatever restrictions the council deems appropriate. The council shall notify the institution of the restrictions, the basis for the restrictions, and the right to request a hearing to contest the restrictions.

(3) The council may deny the application if the institution does not comply with this chapter, including the minimum standards established in subdivision (b), or has operated within three years before the filing of the application in violation of this chapter then in effect. If the application is denied, the council may permit the institution to continue offering the course or courses of instruction to students already enrolled or may order the institution to cease all instruction and provide a refund of tuition and all other charges to students. The council shall notify the institution of the denial, the basis for the denial, and the right of the institution to request a hearing to contest the denial.

(f) (1) If an institution is not operating in California when it applies for approval to operate for itself or a branch or satellite campus, the institution shall file with its application an operational plan establishing that the institution will satisfy the minimum

standards set forth in subdivision (b). The operational plan also shall include a detailed description of the institution's program for implementing the operational plan, including proposed procedures, financial resources, and the qualifications of owners, directors, officers, and administrators employed at the time of the application's filing. The council may request additional information to enable the council to determine whether the operational plan and its proposed implementation will satisfy these minimum standards.

(2) If the council determines that the operational plan satisfies the minimum standards described in subdivision (b), that the institution demonstrates that it will implement the plan, and that no ground for denial of the application exists, the council shall grant a temporary approval to operate, subject to any restrictions the council reasonably deems necessary to ensure compliance with this chapter, pending a qualitative review and assessment as provided in subdivisions (b) and (c). The council shall inspect the institution, or branch or satellite campus if approval is sought for that campus, between 90 days and 180 days after operation has begun under the temporary approval to operate. Within 90 days following the council's inspection of the institution, the council shall act as provided in subdivision (e).

(g) If an institution approved to operate in California applies for approval to operate an additional site location that has not been previously approved by the council, the institution shall file an operational plan for the additional site location as described in subdivision (f). The council shall evaluate the additional site location as provided in subdivision (f). The council also may evaluate the institution as provided in subdivisions (b) and (c) before determining whether to grant to the institution temporary or final approval to operate the additional site location. If the institution or the additional site location does not meet the requirements of this chapter or if the institution has operated within three years before the filing of the application in violation of this chapter then in effect, the council may deny the application for approval to operate the additional site location or may grant a conditional approval to operate the additional site location subject to any restrictions it deems appropriate. The provisions for notice and hearing described in paragraphs (2) and (3) of subdivision (e) shall apply.

(h) No institution shall offer a course or program of instruction, training, or study at a campus that had not offered the course or program at the time the institution applied for approval to operate that campus unless the council first approves the offering of the course or program after determining that it satisfies the minimum standards established in subdivision (b).

(i) The council may enter into an agreement for the regulation and oversight of nondegree-granting private postsecondary institutions with the Federal Aviation Administration or with the state agency responsible for administering Article 1 (commencing

with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code.

The council may enter into a regulatory agreement only when the appropriate agency can demonstrate that its standards and procedures for the review of institutions encompass the standards and consumer protection requirements prescribed by this chapter and that these standards and procedures are rigorously enforced. Nothing in this section shall modify the existing authority of regulatory agencies within the Department of Consumer Affairs relating to schools or programs.

(j) If at any time the council determines that an institution has deviated from the standards for approval, the council, after giving the institution due notice and an opportunity to be heard, may place the institution on probation for a specified period of time not to exceed 24 calendar months. During the period of probation, the institution shall be subject to special monitoring. The conditions for probation may include the required submission of periodic reports, as prescribed by the council, and special visits by authorized representatives of the council to determine progress toward total compliance. If at the end of the specified probationary period, the institution has not taken steps to eliminate the causes for its probation to the satisfaction of the council, the council may revoke the institution's approval and provide notice to the institution to cease its operations.

94920. (a) Each individual submitting an application for a certificate of authorization for service, pursuant to paragraph (3) of subdivision (b) of Section 94915, shall provide the council with the following information:

(1) A completed application as supplied by the council.

(2) Certified copies of educational transcripts, where applicable.

(3) Verified employment history.

(4) Other documentation of prior experience or education as required by the council for verification.

(b) To be eligible for a certificate of authorization for service, the applicant shall fulfill the following requirements:

(1) Instructors shall have all of the following qualifications:

(A) No record of any violations of this chapter.

(B) Verification that he or she possesses a combination of at least three years' experience and training or education in the occupation or job title category for which the certification is sought.

(C) An instructor for a program that leads to a degree shall possess a degree of equal or higher level in the occupation for which certification is sought.

(2) Directors shall have both of the following qualifications:

(A) Three years' experience in an administrative position in a public or an approved private postsecondary school.

(B) No record of any violations of this chapter.

(3) Associate directors shall have both of the following qualifications:

(A) Two years' experience in an administrative or other responsible position in a public or state approved private postsecondary school.

(B) No record of any violations of this chapter.

(4) Financial aid directors shall have all of the following qualifications:

(A) Five years' experience in an administrative position in the financial aid office of a public or approved private postsecondary school.

(B) Verification of completion within the previous two years of a training seminar or workshop certified by the Student Aid Commission as providing up-to-date comprehensive information on financial aid programs and policies.

(C) No record of any violations of this chapter.

(D) Any other requirements the council deems necessary.

(5) Financial aid officers shall possess all of the following qualifications:

(A) Verification of completion within the previous two years of a training seminar or workshop certified by the Student Aid Commission as providing up-to-date comprehensive information on financial aid programs and policies.

(B) No record of any violations of this chapter.

(C) Other requirements the council deems necessary.

(c) An individual who is the sole owner of an institution may serve in the capacity of director for three years prior to meeting the qualifications of subparagraph (A) of paragraph (2) of subdivision (b).

(d) Any individual filling a position left vacant by a previously certified financial aid director or financial aid officer shall verify with the council completion of the training referred to in subparagraph (A) of paragraph (5) of subdivision (b) within one year of accepting that position.

(e) Each individual certified for authorization for service in the positions listed in paragraphs (1), (4), and (5) of subdivision (b) shall maintain at each private postsecondary educational institution where he or she is employed a validated transcript evidencing the successful completion of three continuing education units of recognized in-service training in their education, job title category, or employment field during every period of certification. These units may be completed through in-service training offered by accrediting associations, professional organizations, or council-approved programs.

(f) Every certificate of authorization issued to a person who possesses the qualifications described in paragraphs (1), (4), and (5) of subdivision (b) shall be valid for a period of three years.

(g) In addition to the requirements set forth in this section, the council may impose additional requirements by regulation.

94925. No person shall own or operate a school, or give instruction, for the driving of motortrucks of three or more axles that are more than 6,000 pounds unladen weight unless all of the following conditions are met:

(a) The school or instruction has been approved by the council.

(b) The school, at the time of application and thereafter, maintains both of the following:

(1) Proof of compliance with liability insurance requirements that are the same as those established by the Department of Motor Vehicles for a driving school owner, pursuant to Section 11103 of the Vehicle Code, unless the council deems it necessary to establish a higher level of insurance coverage.

(2) A satisfactory safety rating by the Department of the California Highway Patrol is established pursuant to Division 14.8 (commencing with Section 34500) of the Vehicle Code.

(c) The school, at all times, shall maintain the vehicles used in driver training in safe mechanical condition. The school shall keep all records concerning the maintenance of the vehicles.

(d) The driving instructors meet the requirements set forth in Section 11104 of the Vehicle Code.

(e) Any other terms and conditions required by the council to protect the public safety or to meet the requirements of this chapter.

94930. (a) All institutions that were certified to offer flight instruction by the Federal Aviation Administration (FAA) and that operated in California on December 31, 1990, pursuant to prior authority of subdivision (a) or (b) of former Section 94311, shall receive approval from the council for a period not to exceed three years. On or before June 30, 1999, the council shall work in cooperation with the FAA to review each of these institutions to determine whether the institution is in compliance with the requirements of this chapter. It is the intent of the Legislature that all institutions whose cumulative gross student loan default rate is above 40 percent, as determined by the Student Aid Commission, shall be reviewed by the FAA and the council to determine if these institutions are in compliance with the requirements of this chapter and should continue to be approved to offer educational programs in California. It is further the intent of the Legislature that the bureau develop a memorandum of understanding with the FAA to delineate the responsibilities of each agency for the approval and monitoring of these institutions that were operating on December 31, 1990, under the prior authority of subdivision (a) or (b) of former Section 94311.

(b) Institutions certified to offer flight instruction by the FAA, or its successor agency, shall comply with all of the requirements of Sections 94800, 94810, 94814, and 94816, Sections 94820 to 94826, inclusive, and Sections 94828 and 94829 and Article 7 (commencing

with Section 94850) if applicable, but shall not be required to file any materials with the council that are not required by the FAA or its successor agency, except those minimally necessary to administer the Student Tuition Recovery Fund as determined by the council. The responsibility for monitoring and enforcing institutional compliance for these institutions shall be with the council.

(c) This chapter does not apply to individual flight instructors not requiring any advance payments, who do not negotiate a formal contract of indebtedness, and who do not have an established place of business other than their residences.

Article 9.5. Registered Institutions

94931. (a) No private postsecondary educational institution, except those offering degrees and approved under Article 8 (commencing with Section 94900) or offering vocational and nondegree granting programs and approved under Article 9 (commencing with Section 94915), or those that are exempt from this chapter, may offer educational services or programs unless the institution has been registered by the bureau as meeting the requirements of this section.

(b) An institution approved to offer degrees under Article 8 (commencing with Section 94900) or approved to offer vocational and nondegree granting programs under Article 9 (commencing with Section 94915) may offer registered programs without affecting its status under either of those articles so long as the registered program is disclosed in its approval to operate application or the institution completes a registration application and receives specific authorization for the program, maintains compliance for all registered programs in conformity with this article, and maintains a set of student records for registered programs separate from its approved programs. Any registered institution that offers an educational program not specified in subdivision (c) or not otherwise exempt from this chapter shall be approved under Article 8 (commencing with Section 94900) or Article 9 (commencing with Section 94915) and shall comply with this chapter.

(c) Except as otherwise provided in this article, this chapter does not apply to an educational service that qualifies for registration status and that complies with this article. The educational services that qualify for registration status are limited to:

(1) An educational service, as defined in Section 94733, that is offered to provide an intensive English language program.

(2) An educational service, as defined in Section 94742.1, that is offered to provide short-term career training.

(3) An educational service, as defined in Section 94742.2, that is offered to provide short-term seminar training.

(4) An educational service that is offered to assist students to prepare for an examination for licensure, except as provided in Section 94787.

(5) An educational service that consists of continuing education not otherwise exempt from this chapter.

(d) An institution that qualifies under any of paragraphs (1) to (4), inclusive, of subdivision (c) shall complete a registration form provided by the bureau, including a signed declaration by the chief executive officer of the institution under penalty of perjury, and provide all of the following information for public disclosure:

(1) The owner's legal name, headquarters address, and the name of an agent for the service of process within California.

(2) All names, whether real or fictitious, under which the owner is doing and will do business.

(3) The names and addresses of the principal officers of the institution.

(4) A list of all California locations at which the institution operates, its offerings, and, if previously registered, the number of students enrolled in California during the preceding year.

(5) A copy of the registration form or agreement that enrolls the student in the educational service that contains all of the following:

(A) The name and address of the location where instruction will be provided.

(B) The title of the educational program.

(C) The total amount the student is obligated to pay for the educational service.

(D) A clear and conspicuous statement that the enrollment form or agreement is a legally binding instrument when signed by the student and accepted by the institution.

(E) The refund policy developed by the institution unless this article specifies a different refund policy.

(F) Unless this article specifies that the institution is required to participate in the Student Tuition Recovery Fund, a statement that the institution does not participate in that fund.

(G) In 10-point boldface print or larger, the following statement: "Any questions or problems concerning this school that have not been satisfactorily answered or resolved by the school should be directed to the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs, (insert city, address, CA ZIP, and telephone number)."

(H) Schools approved under paragraph (1) of subdivision (c) of Section 94931 shall also include with the statement required by subparagraph (G) information referring the student to a consulate of his or her country and the United States Immigration and Naturalization Service.

(6) A brochure or catalog and a sample advertisement used to promote the educational service.

(7) A copy of its certificate of completion.

(8) If the educational service offers short-term career training, the institution shall comply with the requirements of Sections 94804 and 94806.

(9) If the institution assists students in obtaining financing from a third party for the cost of the educational services at the institution, a copy of the contract or finance agreement reflecting that financing.

(e) The bureau shall establish the initial registration fee and the annual fee to be paid by institutions registered under this article. No institution shall be registered pursuant to this article unless it has paid the appropriate fees required by the bureau. Upon receipt of an institution's initial application for registration for a program, the bureau may conduct a site visit pursuant to subdivision (c) of Section 94915.

(f) For the purposes of communication with other state agencies, any organization or individual registered to offer short-term seminar training may state that they are "authorized" by the State of California.

(g) Except as provided by subdivision (f), any institution registered pursuant to this article shall be restricted to stating that their training is "registered" with the State of California and is prohibited from using the words "approval," "approved," "approval to operate," "approved to operate," "authorized," "licensed," or "licensed to operate."

The institution shall place the following statement in all brochures, catalogues, enrollment agreements, and registration forms, in a conspicuous location in at least 12-point bold faced type:

"We are registered with the State of California. Registration means we have met certain minimum standards imposed by the state for registered schools on the basis of our written application to the state. Registration does not mean we have met all of the more extensive standards required by the state for schools that are approved to operate or licensed or that the state has verified the information we submitted with our registration form."

(h) Sections 94812 and 94818, Sections 94822 to 94825, inclusive, and Sections 94829 to 94838, inclusive, and Sections 94841 and 94846 shall apply to any institution registered pursuant to this article.

(i) Article 13 (commencing with Section 94950) shall apply to any institution registered pursuant to this article.

94931.1. (a) Before accepting any consideration from a student, an institution registered pursuant to this article shall provide the student with an enrollment agreement or registration form containing in a single document all of the terms related to the instruction and payment. The agreement or registration form shall contain all of the information set forth in paragraph (5) of subdivision (d) of Section 94931.

(b) The enrollment agreement or registration form shall be printed in at least 10-point type in English and, except for educational services described in paragraph (1) of subdivision (c) of Section

94931, if any solicitation or negotiation leading to the student's enrollment was in a language other than English, in that other language. Institutions that provide educational services described in paragraph (1) of subdivision (c) of Section 94931 shall provide in a written agreement with any agent or representative that the agent or representative is required to disclose to each prospective student in writing, in the language of any solicitation or negotiation leading to the student's enrollment, all of the information described in paragraph (5) of subdivision (d) of Section 94931.

(c) If the institution fails to comply with this section, any enrollment agreement or registration form shall be invalid and the institution shall refund to the student all of the tuition paid by the student to the institution.

(d) In addition to any other requirement in this article, each institution registered under paragraph (2) of subdivision (c) of Section 94931 shall provide to each prospective student all of the information required by Section 94816 and shall be subject to Section 94820 and Article 12 (commencing with Section 94944).

94931.2. (a) Each institution registered under paragraph (1) of subdivision (c) of Section 94931 shall maintain, and provide to each prospective student on the registration form or enrollment agreement, the following refund policy:

(1) A refund shall be provided for the unused portion of tuition fees and other charges if the student does not register for the period of attendance or withdraws therefrom at any time prior to completion of the courses, or otherwise fails to complete the period of enrollment. Institutions shall pay or credit refunds due on a reasonable or timely basis, not to exceed 30 days following the date upon which the student's withdrawal has been determined.

(2) The institution shall advise each student that any notification of withdrawal or cancellation and any request for refund must be made in writing.

(b) The refund shall be determined as follows:

(1) The institution, for all students, without penalty or obligation, shall refund 100 percent of the amount paid for institutional charges, less a reasonable deposit or application fee not to exceed one hundred dollars ($100), if notice of cancellation is made prior to the first day of instruction or if the student never attends the institution.

(2) The institutional refund policy for students who did not cancel pursuant to paragraph (1) and who have completed 60 percent or less of the course of instruction shall be a pro rata refund if any of the following occurs:

(A) The student transfers to another school.

(B) The student returns to his or her country of residence.

(C) The student gains admittance to a college or university.

The refund under this paragraph shall be the amount the student paid for the instruction multiplied by a fraction, the numerator of which is the number of hours of instruction in the course which the

student has not received, but for which the student has paid, and the denominator of which is the total number of hours of instruction for which the student has paid. The school may deduct a fee which shall not exceed an amount derived by multiplying the hourly charge for the program by the number of hours that were taught in the first four weeks of instruction, or for a student who withdraws during the first four weeks, the hours taught and which, at the time of the student's withdrawal, were scheduled to be taught in the first four weeks of instruction plus, if the student withdraws pursuant to subparagraph (B), 30 percent of the total tuition amount. For the purposes of this paragraph, the hourly charge for the program shall be derived by dividing the total tuition charge by the number of hours in the program.

(c) The bureau shall conduct, or contract with the California Postsecondary Education Commission to conduct, a study on the effect of the refund policy specified in this section on the student dropout rate. The bureau shall report the results of the study to the Legislature no later than March 30, 1999.

(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.

Article 10. Fees and Costs

94932. (a) The Private Postsecondary and Vocational Education Administration Fund is continued in existence. All fees collected pursuant to this section shall be credited to this fund along with any interest on the money, for the administration of this chapter. If the Legislature makes an appropriation for the support of the council in the Budget Act of any fiscal year, the amount for the support of the council expended from the fund during the fiscal year shall not exceed the amount appropriated by the Budget Act, unless that amount is modified in accordance with the Budget Act.

(b) On and after January 1, 1998, a minimum of 50 percent of the funds appropriated to the council shall be used to cover the costs of enforcing all of the following:

(1) Enforcing the act and the council's regulations by taking actions against violators while ensuring due process for all institutions.

(2) Ensuring that independent onsite evaluations and random and targeted inspections and audits of institutions are conducted, and that students have easy access to information concerning their rights to contract cancellation, withdrawal, refunds, and remedies.

(3) Mediating student complaints to achieve balanced outcomes for students and institutions.

(c) (1) For the approval of private institutions operating under this chapter, the council shall charge an amount not to exceed the actual costs of approving or renewing the approval of the private

institutions. The council shall adopt a fee schedule for all institutions approved under this chapter, including the maximum amounts to be charged for an institution's initial application and annual renewal.

(2) On January 1, 1998, the bureau shall reduce the application fees for approval and reapproval to operate and the annual fees, that are in effect on December 31, 1997, as follows:

(A) By 5 percent for institutions whose annual gross revenues or projected annual gross revenues are one million dollars ($1,000,000) or more.

(B) By 10 percent for institutions whose annual gross revenues or projected annual gross revenues are one hundred thousand dollars ($100,000) or more but less than one million dollars ($1,000,000).

(C) By 15 percent for institutions whose annual gross revenues or projected annual gross revenues are less than one hundred thousand dollars ($100,000).

(3) The council may propose modifications to the fee schedule to the Governor and the Legislature to add or delete categories of fees related to work performed by the council and propose to the Governor and the Legislature the maximum amount to be charged for each fee category added to the fee schedule. The fee schedule shall provide adequate resources for the council to implement this chapter effectively. It is the intent of the Legislature that the council shall adopt a fee schedule that reflects the size of the institution, with institutions enrolling a larger number of students being required to pay a larger annual fee than those with smaller student enrollments. The fee schedule, consistent with this section, also may contain provisions for fees assessed in conjunction with the evaluation of an application for a certificate of authorization for service issued pursuant to paragraph (3) of subdivision (b) of Section 94915. The council shall annually present its proposed budget and fee schedule, penalty fees assessed for delinquent payments pursuant to regulations adopted by the council and additions and deletions of fee categories to the Department of Finance and the Joint Legislative Budget Committee for their review and approval as part of the annual budget process. The council shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make this schedule generally available to the public. The fees may be increased annually up to the maximum allowable level by a majority vote of the council, without any additional review and approval by the Office of Administrative Law. The adoption of the annual fee schedule, any modification of the fee schedule, and any increase in fees up to the maximum allowable level shall be subject to Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Increases above the maximum level shall be changed through legislation enacted by the Legislature and signed by the Governor.

94934. Any institution more than 30 days delinquent in the payment of any fee or order for the recovery of costs and expenses under Section 94935, may be assessed a penalty fee by the council.

94935. If the council determines after an investigation that an institution has violated this chapter, the council may order the institution to pay the costs and expenses incurred in connection with the investigation and any civil or administrative proceeding involving the violation that was investigated, including charges made by the Attorney General for his or her services, and any expenses incurred by a district attorney. Before any order for the payment of costs and expenses is made under this section, the council shall provide the institution with written notice, including notice of the institution's right to request a hearing within 15 days of service of the notice. If a hearing is not timely requested, the council may order payment. If a hearing is requested, the council shall comply with Section 94965, 94975, or 94980. Within 30 days after the effective date of the order, the council may enforce the order as if it were a money judgment pursuant to Title 9 (commencing with Section 680.10) of Part 2 of the Code of Civil Procedure. Alternatively, the council may seek the costs and expenses allowed under this section in a civil proceeding. An institution shall not be required to pay the same costs and expenses incurred in connection with the investigation and any civil or administrative proceeding to more than one investigating agency.

94936. The effective date of any statutory amendment to this chapter affecting revenues payable to the council from any service shall be delayed for a period of 12 months in order to enable the council to make the necessary adjustments in its fee schedule through the regulatory adoption process.

Article 11. Agents and Agencies

94940. (a) Notwithstanding any other provision of this chapter concerning agents, the owner of at least 51 percent of the equitable interest in an institution shall be exempt from this section if the institution is approved to operate pursuant to Article 8 (commencing with Section 94900) or Article 9 (commencing with Section 94915).

No person may act as an agent, unless that person holds a valid permit issued by the council and maintains at all times a surety bond as described in paragraph (2). Administrators or faculty, or both, who make informational public appearance, but whose primary task is not to serve as a paid recruiter, are exempt from this section.

The application for a permit shall be furnished by the council and shall include the following:

(1) A statement signed by the applicant that he or she has read this chapter and the regulations adopted pursuant thereto.

(2) A surety bond issued by an admitted surety insurer in favor of the State of California for the indemnification of any person for any

loss suffered as a result of the occurrence, during the period of coverage, of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any program of study, or as a result of any violation of this chapter. The term of the bond shall extend over the period of the permit. The bond may be supplied by the institution or by the person for whom the issuance of the permit is sought and may extend to cover individuals separately or to provide blanket coverage for all persons to be engaged as representatives of the institution. The bond shall provide for liability in the penal sum of twenty-five thousand dollars ($25,000) for each agent to whom coverage is extended by its terms. Neither the principal nor the surety on a bond may terminate the coverage of the bond, except upon giving 30 days' prior written notice to the council, and contemporaneously surrendering the agent's permit. Liability on the bond may be enforced after a hearing before the council, after 30 days' advance written notice to the principal and surety. The council shall adopt regulations establishing the procedure for administrative enforcement of liability. This paragraph supplements, but does not supplant, any other rights or remedies to enforce liability on the bond.

(3) A fee as required by Section 94932.

(b) An agent representing more than one institution shall obtain a separate agent's permit and bond for each institution represented.

(c) No person shall be issued a permit if he or she previously has been found in any judicial or administrative proceeding to have violated this chapter, or there exists any of the grounds for denial set forth in Section 480 of the Business and Professions Code.

(d) A permit shall be valid for the calendar year in which it is issued, unless sooner revoked or suspended by the council for fraud or misrepresentation in connection with the solicitation for the sale of any course of study, for any violation of this chapter, or for the existence of any condition in respect to the permittee or the school he or she represents which, if in existence at the time the permit was issued, would have been grounds for denial of the permit.

(e) The permittee shall carry the permit with him or her for identification purposes when engaged in the solicitation of sales and the selling of courses of study away from the premises of the school, and shall produce the permit for inspection upon the request of any person.

(f) Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or Section 94975 shall apply to any determination of the council made pursuant to this section.

(g) The issuance of a permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any permit to expressly or impliedly represent by any means whatsoever, that the council has made any evaluation, recognition, accreditation,

or endorsement of any course of study being offered for sale by the individual.

(h) It is unlawful for any individual holding a permit under this section to expressly or impliedly represent, by any means whatsoever, that the issuance of the permit constitutes an assurance by the council that any course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, educational, or vocational objective, or will result in employment or personal earnings for the student.

(i) No agent shall make any untrue or misleading statement or engage in sales, collection, credit, or other practices of any type that are false, deceptive, misleading, or unfair.

(j) The council shall maintain records for five years of each application for a permit, each bond, and each issuance, denial, termination, suspension, and revocation of a temporary permit or permit.

(k) A student may bring an action for an agent's violation of this chapter or any fraud or misrepresentation and, upon prevailing, is entitled to the recovery of damages, reasonable attorney's fees, and costs. If a court finds that the violation was willfully committed, the court, in addition to the award of damages, shall award a civil penalty of up to two times the amount of damages sustained by the student.

(*l*) Any person who violates this section is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, by a fine not to exceed five thousand dollars ($5,000), or by both that imprisonment and fine.

94942. (a) Except as provided in subdivision (g), any agency shall be required to hold a valid authorization issued by the council. The application for an authorization shall include all of the following:

(1) A current financial statement prepared by a California licensed certified public accountant who is not an employee, officer, or director of the institution.

(2) Evidence of a surety bond issued in favor of the State of California by an admitted surety insurer making provision for indemnification of any person for any loss suffered as a result of the occurrence, during the period of coverage, of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any program of study, or as a result of any violation of this chapter. The term of the bond shall extend over the period of the authorization. The bond shall provide for liability in the penal sum of two hundred fifty thousand dollars ($250,000) for each agency to which coverage is extended by its terms. Neither the principal nor the surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the council, and upon contemporaneously surrendering the agency's authorization to operate. Liability on the bond may be enforced after a hearing before the council, after 30 days' advance written notice to the principal and

surety. The council shall adopt regulations establishing the procedure for administrative enforcement of liability and hearings under this section. This paragraph supplements, but does not supplant, any other rights or remedies to enforce liability on the bond.

(3) A copy of the student disclosure statement to be read and signed by all prospective students referred to institutions by an agency. The student disclosure statement shall include, but shall not be limited to, all of the following:

(A) A statement to the effect that no promise of employment has been made by the agency.

(B) A statement to the effect that repayment of any debt incurred by a student in connection with his or her education will be the sole responsibility of the student.

(C) The amount and terms of any fee to be paid by the student to the agency.

(D) A verbatim statement, as follows:

"Any questions or problems concerning this agency should be directed to the Council for Private Postsecondary and Vocational Education, Sacramento, CA 95814."

(E) A statement to the effect that the institution or institutions to which the prospective student is referred by the agency have the obligation to make available to the student a catalog or brochure containing information describing all of the following:

(i) The courses offered.

(ii) Program objectives.

(iii) Length of program.

(iv) The faculty and their qualifications.

(v) A schedule of tuition, fees, and all other charges and expenses necessary for the completion of the course of study.

(vi) The cancellation and refund policies.

(vii) The total cost of tuition over the period needed to complete the student's education.

(viii) For vocational training programs, placement data, including program completion rates, placement rates, and starting salaries.

(ix) Other material facts concerning the institution and the program or course of instruction that are reasonably likely to affect the decision of the student to enroll in the institution.

(4) Identification of all employees of the agency and their titles, and of all agents with whom the agency contracts.

(5) Identification of all owners, and if the entity is a corporation, the identification of all persons possessing an interest equal to, or in excess, of 10 percent.

(6) Identification of all vendors of educational services for which the agency provides recruitment services.

(7) A signed statement by the applicant that all employees engaged in recruitment activities will be required to read Sections 94831, 94832, and 94985 and, if the educational program for which the

agency recruits is subject to Article 7 (commencing with Section 94850), Section 94853.

(b) Within 30 days of receipt of a completed application and prior to issuance of an authorization a representative of the council shall inspect the applicant agency and verify the application. Within 30 days of the inspection, the council shall issue the authorization for a one-year period, subject to annual renewal at the end of that period, or deny the application. The council shall deny the authorization if the agency or any owner, officer, or director of the agency previously has been found in any judicial or administrative proceeding to have violated this chapter, or if there exists any of the grounds for denial set forth in Section 480 of the Business and Professions Code.

(c) Any employee of an authorized agency engaged in student recruitment activities of an authorized agency is exempt from the bond requirements of Section 94940.

(d) Neither the agency nor any of its employees shall make any untrue or misleading statement in the course of any solicitation or recruitment activity or engage in the sales, collection, credit, or other practices of any type that are false, deceptive, misleading, or unfair.

(e) An agency or an employee of an agency shall provide a prospective student with the disclosure statement described in paragraph (3) of subdivision (a) and shall allow the prospective student a sufficient opportunity to read it before soliciting or recruiting him or her for enrollment or referring him or her to an institution. That disclosure statement shall be printed in 10-point type in English and, if the solicitation, recruitment, or referral is to be conducted in a language other than English, in that other language.

(f) Any institution approved under this chapter shall cease any and all recruitment activities involving the agency upon action by the council to revoke or deny an agency's authorization. The failure of the institution to do so upon presentation of notice of the council's action shall be cause to deny or revoke any approval held by that institution.

(g) This section does not apply to any agency recruiting solely for institutions described in Article 8 (commencing with Section 94900).

(h) The council shall maintain records for five years of each application for an authorization, each verification by the council of an application, each bond, and each denial, issuance, and revocation of an authorization.

(i) A student may bring any action against any agency if the agency or an employee of the agency violates this chapter or commits any fraud or misrepresentation and, upon prevailing, is entitled to the recovery of damages, reasonable attorney's fees, and costs. If a court finds that the violation was willfully committed, the court shall, in addition to the award of damages, award a civil penalty of up to two times the amount of damages sustained by the student.

(j) Any person who violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, by a fine not to exceed five thousand dollars ($5,000), or by both that imprisonment and fine.

Article 12. Student Tuition Recovery Fund and Student Obligations

94944. (a) The Student Tuition Recovery Fund is continued in existence. All assessments collected pursuant Section 94945 shall be credited to this fund along with any interest on the money, for the administration of this article. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the council without regard to fiscal years for the purposes of this chapter. The fund shall consist of a degree-granting postsecondary educational institution account, a vocational educational institution account, and an account for institutions approved under any provision of this chapter that charge each enrolled student a total charge, as defined in subdivision (k) of Section 94852, of less than one thousand dollars ($1,000), for the purpose of relieving or mitigating pecuniary losses suffered by any California resident who is a student of an approved institution and who meets either of the following conditions:

(1) The student was enrolled in an institution, prepaid tuition, and suffered loss as a result of, (A) the closure of the institution, (B) the institution's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the institution's closure, (C) the institution's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the institution prior to closure in excess of tuition and other costs, (D) the institution's breach or anticipatory breach of the agreement for the course of instruction, or (E) a decline in the quality or value of the course of instruction within the 30-day period before the institution's closure or, if the decline began before that period, the period of decline determined by the council. For the purpose of this section, "closure" includes closure of a branch or satellite campus, the termination of either the correspondence or residence portion of a home study or correspondence course, and the termination of a course of instruction for some or all of the students enrolled in the course before the time these students were originally scheduled to complete it, or before a student who has been continuously enrolled in a course of instruction has been permitted to complete all the educational services and classes that comprise the course.

(2) The student obtained a judgment against the institution for any violation of this chapter and the student certifies that the judgment cannot be collected after diligent collection efforts.

(b) Payments from the fund to any student shall be made from the appropriate account with the fund, as determined by the type of institution into which the student has paid his or her fees, and shall be subject to any regulations and conditions as the council shall prescribe.

(c) (1) The institution shall provide to the council, at the time of the institution's closure, the names and addresses of persons who were students of an institution within 60 days prior to its closure, and shall notify these students, within 30 days of the institution's closure, of their rights under the fund and how to apply for payment. If the institution fails to comply with this subdivision, the council shall attempt to obtain the names and addresses of these students and shall notify them, within 90 days of the institution's closure, of their rights under the fund and how to apply for payment.

The council shall develop a form in English and Spanish fully explaining a student's rights, which shall be used by the institution or the council to comply with this paragraph. The form shall include, or be accompanied by, a claim application and an explanation of how to complete the application.

(2) If an institution fails to comply with paragraph (1), the council shall order the institution, or any person responsible for the failure to provide notice as required by paragraph (1), to reimburse the council for all reasonable costs and expenses incurred in notifying students as required in paragraph (1). In addition, the council may impose a penalty of up to five thousand dollars ($5,000) against the institution and any person found responsible for the failure to provide notice. The amount of the penalty shall be based on the degree of culpability and the ability to pay. Any order may impose joint and several liability. Before any order is made pursuant to this paragraph, the council shall provide written notice to the institution and any person from whom the council seeks recovery of the council's claim and of the right to request a hearing within 30 days of the service of the notice.

If a hearing is not requested within 30 days of service of the notice, the council may order payment in the amount of the claim. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply, and the council shall have all of the powers therein prescribed. Within 30 days after the effective date of the issuance of an order, the council may enforce the order in the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure. All penalties and reimbursements paid pursuant to this section shall be deposited in the Private Postsecondary and Vocational Education Administration Fund established pursuant to Section 94932 or any successor fund.

(d) (1) Students entitled to payment as provided in paragraph (1) of subdivision (a) shall file with the council a verified application indicating each of the following:

(A) The student's name, address, telephone number, and social security number.

(B) If any portion of the tuition was paid from the proceeds of a loan, the name of the lender, and any state or federal agency that guaranteed or reinsured the loan.

(C) The amount of the prepaid tuition, the amount and description of the student's loss, and the amount of the student's claim.

(D) The date the student started and ceased attending the institution.

(E) A description of the reasons the student ceased attending the institution.

(F) If the student ceased attending because of a breach or anticipatory breach or because of the decline in the quality or value of the course of instruction as described in subparagraph (E) of paragraph (1) of subdivision (a), a statement describing in detail the nature of the loss incurred. The application shall be filed within one year of the council's service on the student of the notice described in paragraph (1) of subdivision (c) or, if no notice is served, within four years of the institution's closure.

(2) Students entitled to payment as provided in paragraph (2) of subdivision (a) shall file with the council a verified application indicating the student's name, address, telephone number, and social security number, the amount of the judgment obtained against the institution, a statement that the judgment cannot be collected, and a description of the efforts attempted to enforce the judgment. The application shall be accompanied by a copy of the judgment and any other documents indicating the student's efforts made to enforce the judgment.

The application shall be filed within two years after the date upon which the judgment became final.

(3) The council may require additional information designed to facilitate payment to entitled students. The council shall relieve a student from the requirement to provide all of the information required by this subdivision if the council has the information or the information is not reasonably necessary for the resolution of a student's claim.

(e) Within 60 days of the council's receipt of a completed application for payment, the council shall pay the claim from the Student Tuition Recovery Fund or deny the claim. The council, for good cause, may extend the time period for up to an additional 90 days to investigate the accuracy of the claim.

(f) (1) If the council pays the claim, the amount of the payment shall be (A) the greater of either (i) the total guaranteed student loan debt incurred by the student in connection with attending the

institution, or (ii) the total of the student's tuition and the cost of equipment and materials related to the course of instruction, less (B) the amount of any refund, reimbursement, indemnification, restitution, compensatory damages, settlement, debt forgiveness, discharge, cancellation, or compromise, or any other benefit received by, or on behalf of, the student before the council's payment of the claim in connection with the student loan debt or cost of tuition, equipment, and materials. The payment also shall include the amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose. However, if the claim is based solely on the circumstances described in subparagraph (B) or (C) of paragraph (1) of subdivision (a), the amount of the payment shall be the amount of the loss suffered by the student.

In addition to the amount determined under this paragraph, the amount of the payment shall include all interest and collection costs on all student loan debt incurred by the student in connection with attending the institution.

(2) The council may reduce the total amount specified in paragraph (1) by the value of the benefit, if any, of the education obtained by the student before the closure of the institution. If the council makes any reduction pursuant to this paragraph, the council shall notify the claimant in writing at the time the claim is paid of the basis of its decision and provide a brief explanation of the reasons upon which the council relied in computing the amount of the reduction.

(3) No reduction shall be made to the amount specified in paragraph (1) if (A) the student did not receive adequate instruction to obtain the training, skills, or experience, or employment to which the instruction was represented to lead, or (B) credit for the instruction obtained by the student is not generally transferable to other institutions approved by the council.

(4) The amount of the payment determined under this subdivision is not dependent on the amount of the refund to which the student would have been entitled after a voluntary withdrawal.

(5) Upon payment of the claim, all of the student's rights against the institution shall be deemed assigned to the council to the extent of the amount of the payment.

(g) (1) The director of the council may negotiate with a lender, holder, guarantee agency, or the United States Department of Education for the full compromise or write-off of student loan obligations to relieve students of loss and thereby reduce the amount of student claims.

(2) The director of the council, with the student's permission, may pay a student's claim directly to the lender, holder, guarantee agency, or the United States Department of Education under a federally guaranteed student loan program only if the payment of the

claim fully satisfies all of the student's loan obligations related to attendance at the institution for which the claim was filed.

(3) Notwithstanding subdivision (e), the council may delay the payment of a claim pending the resolution of the council's attempt to obtain a compromise or write-off of the claimant's student loan obligation. However, the council shall immediately pay the claim in the event any adverse action that is not stayed is taken against the claimant, including the commencement of a civil or administrative action, tax offset, the enforcement of a judgment, or the denial of any government benefit.

(h) If the council denies the claim, or reduces the amount of the claim pursuant to paragraph (2) of subdivision (f), the council shall notify the student of the denial or reduction and of the student's right to request a hearing within 60 days or any longer period permitted by the council. If a hearing is not requested within 60 days or any additional period reasonably requested by the student, the council's decision shall be final. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply.

It is the intent of the Legislature that, when a student is enrolled in an institution that closes prior to the completion of the student's program, the student shall have the option for a teach-out at another institution approved by the council. The council shall seek to promote teach-out opportunities wherever possible and shall inform the student of his or her rights, including payment from the fund, transfer opportunities, and available teach-out opportunities, if any.

(i) This section applies to all claims filed or pending under former Chapter 7 (commencing with Section 94700) after January 1, 1990.

94945. (a) The council shall assess each institution that collects any moneys in advance of rendering services.

(1) The amount assessed each institution shall be calculated only for those students who are California residents and who are eligible to be reimbursed from the fund. It shall be based on the actual amount charged each of these students for total course cost, regardless of the portion that is prepaid. The assessment shall be as follows:

(A) For a total course cost of one cent ($0.01) to nine hundred ninety-nine dollars and ninety-nine cents ($999.99), inclusive, the assessment is one dollar ($1) per student.

(B) For a total course cost of one thousand dollars ($1,000) to two thousand nine hundred ninety-nine dollars and ninety-nine cents ($2,999.99), inclusive, the assessment is two dollars and fifty cents ($2.50) per student.

(C) For a total course cost of three thousand dollars ($3,000) to five thousand nine hundred ninety-nine dollars and ninety-nine cents ($5,999.99), inclusive, the assessment is three dollars and fifty cents ($3.50) per student.

(D) For a total course cost of six thousand dollars ($6,000) to eight thousand nine hundred ninety-nine dollars and ninety-nine cents ($8,999.99), inclusive, the assessment is four dollars and fifty cents ($4.50) per student.

(E) For a total course cost of nine thousand dollars ($9,000) or more, the assessment is five dollars and fifty cents ($5.50) per student.

(2) The council shall levy additional reasonable assessments only if they are required to ensure that sufficient funds are available to satisfy the anticipated costs of paying student claims pursuant to Section 94944.

(3) The assessments shall be paid into the Student Tuition Recovery Fund and credited to the appropriate account in the fund, and the deposits shall be allocated, except as otherwise provided for in this chapter, solely for the payment of valid claims to students. Unless additional reasonable assessments are required, no assessments for the degree-granting postsecondary educational institution account shall be levied during any fiscal year if, as of June 30 of the prior fiscal year, the balance in that account of the fund exceeds one million dollars ($1,000,000). Unless additional reasonable assessments are required, no assessments for the vocational educational institution account shall be levied during any fiscal year if, as of June 30 of the prior fiscal year, the balance in that account exceeds three million dollars ($3,000,000). Unless additional reasonable assessments are required, no assessments for the account for institutions approved under any provision of this chapter that charge each enrolled student a total charge, as defined in subdivision (k) of Section 94852, of less than one thousand dollars ($1,000) shall be levied during any fiscal year if, as of June 30 of the prior fiscal year, the balance in that account exceeds three hundred thousand dollars ($300,000). However, regardless of the balance in the fund, assessments shall be made on any newly approved institution for a period established pursuant to regulation by the council. Notwithstanding Section 13340 of the Government Code, the moneys so deposited in the fund are continuously appropriated to the council for the purpose of paying claims to students pursuant to Section 94944. The bureau shall adjust the amounts in this subdivision to reflect changes in the United States Cost of Living Index published by the United States Bureau of Labor Statistics subsequent to January 1, 1990. The adjustments shall be made on January 1 of each year.

(b) The council may deduct from the fund the reasonable costs of administration of the tuition recovery program authorized by Section 94944 and this section. The maximum amount of administrative costs that may be deducted from the fund, in a fiscal year, shall not exceed one hundred thousand dollars ($100,000) from the degree-granting postsecondary educational institution account, three hundred thousand dollars ($300,000) from the vocational educational institution account, and thirty thousand dollars ($30,000) from the account for institutions approved under any provision of this chapter

that charge each enrolled student a total charge, as defined in subdivision (k) of Section 94852, of less than one thousand dollars ($1,000), plus the interest earned on money in the fund that is credited to the fund. Prior to the council's expenditure of any amount in excess of one hundred thousand dollars ($100,000) from the fund for administration of the tuition recovery program, the council shall develop a plan itemizing that expenditure. The plan shall be subject to the approval of the Department of Finance. Institutions, except for schools of cosmetology licensed pursuant to Article 8 (commencing with Section 7362) of Chapter 10 of Division 3 of the Business and Professions Code and institutions that offer vocational or job training programs, that meet the student tuition indemnification requirements of a California state agency, or that demonstrate to the council that an acceptable alternative method of protecting their students against loss of prepaid tuition has been established, shall be exempted from this section.

(c) Reasonable costs in addition to those permitted under subdivision (b) may be deducted from the fund for any of the following purposes:

(1) To make and maintain copies of student records from institutions which close.

(2) To reimburse the council or a third party serving as the custodian of records.

(3) To review records in order to determine whether a student improperly received a loan due to false certification, in which case the student would be eligible for a loan write-off or discharge in lieu of reimbursement in whole or in part from the fund.

(d) In the event of a closure by any approved institution under this chapter, any assessments that have been made against those institutions, but have not been paid into the fund, shall be recovered. Any payments from the fund made to students on behalf of any institution shall be recovered from that institution.

(e) In addition to civil remedies, the council may order an institution to pay previously unpaid assessments or to reimburse the council for any payments made from the fund in connection with the institution. Before any order is made pursuant to this section, the council shall provide written notice to the institution and notice of the institution's right to request a hearing within 30 days of the service of the notice. If a hearing is not requested within 30 days of the service of the notice, the council may order payment. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply, and the council shall have all powers prescribed in that chapter. Within 30 days after the effective date of the issuance of the order, the council may enforce the order in the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

(f) In addition to any other action that the council may take under this chapter, the council may suspend or revoke an institution's approval to operate because of the institution's failure to pay assessments when due or failure to pay reimbursement for any payments made from the fund within 30 days of the council's demand for payment.

(g) The moneys deposited in the fund shall be exempt from execution and shall not be the subject of litigation or liability on the part of creditors of those institutions or students.

(h) Claims for approved institutions that charge each enrolled student a total charge, as defined in subdivision (k) of Section 94852, of less than one thousand dollars ($1,000) shall be paid from (1) the account established for these institutions if the claim relates to a period of student enrollment beginning on or after the effective date of this section, or (2) the vocational educational institution account if the claim relates to a period of student enrollment that began before the effective date of this section.

(i) This section shall become inoperative on January 1, 1999, and on that date is repealed unless a later enacted statute that becomes effective on or before January 1, 1999, deletes or extends that date.

94945. (a) The council shall assess each institution that collects any moneys in advance of rendering services.

(1) The amount assessed each institution shall be calculated only for those students who are California residents and who are eligible to be reimbursed from the fund. It shall be based on the actual amount charged each of these students for total course cost, regardless of the portion that is prepaid. The assessment shall be as follows:

(A) For a total course cost of one cent ($0.01) to two thousand nine hundred ninety-nine dollars and ninety-nine cents ($2,999.99), inclusive, the assessment is two dollars and fifty cents ($2.50) per student.

(B) For a total course cost of three thousand dollars ($3,000) to five thousand nine hundred ninety-nine dollars and ninety-nine cents ($5,999.99), inclusive, the assessment is three dollars and fifty cents ($3.50) per student.

(C) For a total course cost of six thousand dollars ($6,000) to eight thousand nine hundred ninety-nine dollars and ninety-nine cents ($8,999.99), inclusive, the assessment is four dollars and fifty cents ($4.50) per student.

(D) For a total course cost of nine thousand dollars ($9,000) or more, the assessment is five dollars and fifty cents ($5.50) per student.

(2) The council shall levy additional reasonable assessments only if they are required to ensure that sufficient funds are available to satisfy the anticipated costs of paying student claims pursuant to Section 94944.

(3) The assessments shall be paid into the Student Tuition Recovery Fund and credited to the appropriate account in the fund,

and the deposits shall be allocated, except as otherwise provided for in this chapter, solely for the payment of valid claims to students. Unless additional reasonable assessments are required, no assessments for the degree-granting postsecondary educational institution account shall be levied during any fiscal year if, as of June 30 of the prior fiscal year, the balance in that account of the fund exceeds one million dollars ($1,000,000). Unless additional reasonable assessments are required, no assessments for the vocational educational institution account shall be levied during any fiscal year if, as of June 30 of the prior fiscal year, the balance in that account exceeds three million dollars ($3,000,000). However, regardless of the balance in the fund, assessments shall be made on any newly approved institution. Notwithstanding Section 13340 of the Government Code, the moneys so deposited in the fund are continuously appropriated to the council for the purpose of paying claims to students pursuant to Section 94944.

(b) The council may deduct from the fund the reasonable costs of administration of the tuition recovery program authorized by Section 94944 and this section. The maximum amount of administrative costs that may be deducted from the fund, in a fiscal year, shall not exceed one hundred thousand dollars ($100,000) from the degree-granting postsecondary educational institution account and three hundred thousand dollars ($300,000) from the vocational educational institution account, plus the interest earned on money in the fund that is credited to the fund. Prior to the council's expenditure of any amount in excess of one hundred thousand dollars ($100,000) from the fund for administration of the tuition recovery program, the council shall develop a plan itemizing that expenditure. The plan shall be subject to the approval of the Department of Finance. Institutions, except for schools of cosmetology licensed pursuant to Article 8 (commencing with Section 7362) of Chapter 10 of Division 3 of the Business and Professions Code and institutions that offer vocational or job training programs, that meet the student tuition indemnification requirements of a California state agency, or that demonstrate to the council that an acceptable alternative method of protecting their students against loss of prepaid tuition has been established, shall be exempted from this section.

(c) Reasonable costs in addition to those permitted under subdivision (b) may be deducted from the fund for any of the following purposes:

(1) To make and maintain copies of student records from institutions which close.

(2) To reimburse the council or a third party serving as the custodian of records.

(d) In the event of a closure by any approved institution under this chapter, any assessments that have been made against those institutions, but have not been paid into the fund, shall be recovered.

Any payments from the fund made to students on behalf of any institution shall be recovered from that institution.

(e) In addition to civil remedies, the council may order an institution to pay previously unpaid assessments or to reimburse the council for any payments made from the fund in connection with the institution. Before any order is made pursuant to this section, the council shall provide written notice to the institution and notice of the institution's right to request a hearing within 30 days of the service of the notice. If a hearing is not requested within 30 days of the service of the notice, the council may order payment. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply, and the council shall have all powers prescribed in that chapter. Within 30 days after the effective date of the issuance of the order, the council may enforce the order in the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

(f) In addition to any other action that the council may take under this chapter, the council may suspend or revoke an institution's approval to operate because of the institution's failure to pay assessments when due or failure to pay reimbursement for any payments made from the fund within 30 days of the council's demand for payment.

(g) The moneys deposited in the fund shall be exempt from execution and shall not be the subject of litigation or liability on the part of creditors of those institutions or students.

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

94946. (a) Any institution that willfully violates Section 94945 shall be subject to all of the following:

(1) The institution shall lose all rights to enforce the terms of any contract or agreement arising from the transaction in which the violation occurred.

(2) The institution shall refund to the student any fees that it has collected from that student.

(b) An institution's willful violation of Section 94945 may be grounds for the revocation of that institution's approval to operate in this state.

94947. Students enrolling in institutions that come under Sections 94944 and 94945, shall disclose in writing, if applicable, the source of any and all guaranteed or insured loans granted for the purposes of paying tuition to that institution. In the event of a closure of any institution, the council shall provide any lending institution that is the source of any guaranteed or insured student loan with the names of students maintaining loans with that lending institution.

94948. (a) The governing board or other governing authority of any private postsecondary or vocational educational institution shall adopt rules providing for the withholding of institutional services from students or former students who have been notified, in writing,

at the student's or former student's last known address, that he or she is in default on a loan or loans under either of the following loan programs:

(1) The Stafford Student Loan program.

(2) The Supplemental Loans for Students program.

(3) Any program directly or indirectly financed by the California Educational Facilities Authority.

"Default," as used in this section, with respect to a loan under the Stafford Student Loan program or Supplemental Loans for Students program means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments. "Default," as used in this section, with respect to a program directly or indirectly financed by the California Educational Facilities Authority, means the failure of a borrower to make an installment payment when due, or to meet other terms of the loan, within that period and under the circumstances determined by the California Educational Facilities Authority with respect to that program.

(b) The rules adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute and when the student or former student demonstrates to either the governing board or other appropriate governing authority of the institution, or the Student Aid Commission and the appropriate entity or its designee, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The rules shall specify the services to be withheld from the student and may include, but are not limited to, the following:

(1) The provision of grades.

(2) The provision of transcripts.

(3) The provision of diplomas.

The rules shall not include the withholding of registration privileges.

(c) When it has been determined that an individual is in default on a loan or loans under either of the loan programs specified in subdivision (a), the Student Aid Commission shall give notice of the default to all institutions through which that individual acquired the loan or loans.

(d) Guarantors, or those who act as their agents or act under their control, who provide information to institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board or other governing authority of the institutions from action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided

to the institution by the guarantors, their agents, or those acting under the control of the guarantors.

Article 13. Administrative and Judicial Procedures

94950. (a) The procedures set forth in Section 94965 or, alternatively, in Section 94975 govern the following types of administrative actions:

(1) Denial of an application for an approval or renewal of an approval.

(2) Suspension or revocation of an existing approval.

(3) Appeals of conditional approvals.

(b) In lieu of the procedures set forth in Section 94965 or 94975, an institution may voluntarily elect to utilize the procedures set forth in Section 94980 if it appeals a conditional approval by the council.

(c) The procedures set forth in Section 94970 govern emergency suspensions of an institution's approval to operate initiated by the council.

(d) Sections 94952 and 94955 authorize the council and the Attorney General to seek various forms of judicial relief in order to enforce this chapter.

(e) Section 94960 governs actions based on student complaints.

(f) Section 94985 authorizes civil remedies for individual students in addition to those available under other provisions of law.

(g) Procedures established pursuant to regulations adopted by the council shall govern the following types of administrative appeals:

(1) Probationary actions.

(2) Decisions by the council denying an institution's claim for an exemption or exclusion from this chapter or any provision thereof.

94952. (a) The Attorney General, or any district attorney, or city attorney, may make investigations as may be necessary to carry out this chapter, including, but not limited to, investigations of complaints. The council may jointly bring actions as necessary to enforce this chapter, including, but not limited to, civil actions for injunctive relief. In actions brought pursuant to this subdivision, the council shall be represented by the Attorney General.

(b) The Attorney General shall represent the council in the following administrative proceedings arising under this chapter:

(1) Suspension or revocation of an institution's approval.

(2) Denial of an institution's application for approval.

(3) An appeal of a conditional approval to operate issued following a review of an institution's application for approval.

(c) Nothing in this section or this chapter shall preclude the Attorney General, or any district attorney or city attorney, from any of the following:

(1) Bringing any action on behalf of the people as he or she is empowered by law to bring, including, but not limited to, actions based upon alleged violations of Chapter 5 (commencing with

Section 17200) of Part 2, and Chapter 1 (commencing with Section 17500) of Part 3, of Division 7 of the Business and Professions Code.

(2) Conducting investigations necessary to determine whether there have been violations of law specified in paragraph (1).

(3) Conducting any investigations that he or she is authorized to conduct, including, but not limited to, investigations authorized under Section 11180 of the Government Code.

(4) In the case of the Attorney General, delegating his or her representation authority under subdivision (b) to staff attorneys of the council.

(5) Entering into an agreement or understanding with the council with respect to representation in any judicial or administrative proceeding not expressly enumerated herein.

94955. (a) The council may bring an action for equitable relief for any violation of this chapter. The equitable relief may include restitution, a temporary restraining order, the appointment of a receiver, and a preliminary or permanent injunction. The action may be brought in the county in which the defendant resides or in which any violation has occurred or may occur.

(b) The remedies provided in this section supplement, and do not supplant, the remedies and penalties under other provisions of law.

(c) In actions brought pursuant to this section, the council shall be represented by the Attorney General.

94957. (a) In addition to or in lieu of any other remedy or penalty, the council may issue a citation to an institution for committing any violation of this chapter or regulation adopted under this chapter.

(b) The citation may contain an order of abatement or the assessment of an administrative fine. The administrative fine may not exceed two thousand five hundred dollars ($2,500) for each violation. The council shall base its assessment of the administrative fine on the nature and seriousness of the violation, the persistence of the violation, the good faith of the institution, the history of previous violations, and the purposes of this chapter.

(c) The citation shall be in writing and shall describe the nature of the violation and the specific provision of law determined to have been violated. The citation shall inform the institution of its right to request a hearing in writing within 15 days of the date that the citation was issued. If a hearing is not requested, payment of the administrative fine shall not constitute an admission of the violation charged. If a hearing is requested, the council shall provide a hearing as described in Section 94965, 94975, or 94980. Payment of the administrative fine is due 15 days after the citation was issued if a hearing is not requested, or when a final order is entered if a hearing is requested. The council may enforce the administrative fine as if it were a money judgment pursuant to Title 9 (commencing with Section 680.10) of Part 2 of the Code of Civil Procedure.

(d) All administrative fines shall be deposited in the Private Postsecondary and Vocational Education Administration Fund.

94960. (a) Any person claiming damage or loss as a result of any act or practice by a postsecondary or vocational educational institution or its agent, or both, that is a violation of this chapter or of the regulations adopted pursuant to this chapter, may file with the council a verified complaint against that institution or its agent, or both.

The complaint shall set forth the alleged violation and shall contain any other information as may be required by the council.

(b) The council shall investigate any complaint and may attempt to effectuate settlement by persuasion and conciliation.

(c) If, upon all the evidence at a hearing, the council finds that an institution or its agent, or both, have engaged in, or are engaging in, any act or practice that violates this chapter or the regulations adopted pursuant to this chapter, the council shall report that evidence to the Attorney General. The council, based on its own investigation or the evidence adduced at a hearing, or both, also may commence an action to revoke an institution's approval to operate or an agent's permit.

(d) Complaints received by the council pertaining to institutions accredited by the Western Association of Schools and Colleges shall be forwarded to the association. Actions by the council relating to complaints against these institutions shall be limited to the transmittal of this information.

(e) A person entitled to bring an action for the recovery of damages or other relief shall not be required to file a complaint pursuant to this section, or to pursue or exhaust any administrative process or remedy before bringing the action.

94965. (a) Proceedings in connection with the denial of an application to operate, the grant of a conditional approval to operate, or the revocation of an approval to operate 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 council shall have all of the powers granted in that chapter. Any action by the council to place an institution on probation shall be subject to appeal to the full council, and the council shall establish procedures that provide the institution with adequate notice and an opportunity to be heard and to present evidence as to why the action recommended by staff or by a visiting committee shall not be taken.

(b) Upon taking any action to suspend or revoke an institution's approval to operate, or to deny an application for renewal of an approval to operate, the council shall provide written notice to the Student Aid Commission, the United States Department of Education, and to any appropriate accrediting association.

94970. (a) If an institution has violated this chapter and determines that immediate action is necessary to protect students, prevent misrepresentations to the public, or prevent the loss of

public funds, tuition, or other money paid by students, the council may institute an emergency action to suspend the approval of an institution to operate, or the approval to operate a branch or satellite campus, for not more than 30 days unless the council initiates a proceeding to suspend or revoke the approval to operate within that period.

(b) (1) The council shall provide notice of the emergency action to the institution by certified mail, if the effective date of the emergency action is 10 or more working days after mailing, or personal service, if the effective date of the emergency action is five or more days after service.

(2) The notice shall specify all of the following:

(A) The violations upon which the emergency action is based.

(B) The nature and grounds of the emergency action, including whether the action applies to the continuation of instruction to enrolled students or to the enrollment of new students.

(C) The effective date of the action, which shall not be less than five days after the notice is provided.

(D) The institution's right to show cause that the emergency action is unwarranted by submitting to the council, at least two days before the effective date of the emergency action, declarations, documentary evidence, and written arguments demonstrating that the violations did not occur or that immediate action is not required.

(E) The right of the institution to request, in writing, within 30 days of the service of the notice, a hearing.

(c) The council may (1) continue the effective date of an emergency action or (2) terminate the emergency action at any time if the council concludes that the institution has shown cause that the emergency action is unwarranted or that the grounds for instituting the emergency action no longer remain. The council shall provide written notice of a continuance or termination of an emergency action to the institution.

(d) (1) If the institution does not take the opportunity to show cause why the emergency action is unwarranted, the emergency action shall become effective on the date specified in the notice or notice of continuance.

(2) If the institution takes the opportunity to show cause and the council decides, after a consideration of the declarations, documentary evidence and written argument submitted by the institution, that the emergency action should become effective, the emergency action shall be effective on the date specified in the notice or notice of continuance. The council shall notify the institution of the decision at least one day before the effective date, and the institution may thereafter seek judicial relief upon notice to the council and the Attorney General.

(e) (1) If a hearing is requested within the 30-day period specified in subdivision (b) the council shall set a date for the hearing within 20 days after receipt of the request.

(2) If the institution does not request a hearing within the 30-day period specified in subdivision (b) or if the council concludes after a hearing requested by the institution that grounds exist for the suspension or revocation of the institution's approval to operate or approval to operate a branch or satellite campus, the council may extend the suspension or revoke the institution's approval to operate or approval to operate a branch or satellite campus, order probation and a penalty, order the posting of a bond, or condition the institution's approval to operate or approval to operate a branch or satellite campus as the council deems appropriate.

(f) During the pendency of an emergency action, the council may investigate the institution's compliance with this chapter, including an onsite inspection, and may institute a proceeding pursuant to Section 94878, if applicable, or Section 94965 or 94975 to suspend or revoke an institution's approval to operate or approval to operate a branch or satellite campus, order a bond, or order probation and a penalty, based on any violation of this chapter.

(g) This section supplements, but does not supplant, the authority of the council to seek judicial relief, including a temporary restraining order and injunction, to redress any violation of this chapter.

94975. (a) This section establishes the procedure for notice and hearing required under this chapter and, except as provided in Section 94970, may be used in lieu of other notice or hearing requirements provided in this chapter.

(b) If notice of administrative action is required by this chapter, the council shall serve notice stating the following:

(1) The action, including the penalties and administrative sanctions sought.

(2) The grounds for the action with sufficient particularity to give notice of the transactions, occurrences, violations, or other matters on which the action is based.

(3) The right to a hearing and the time period within which the party subject to the notice may request a hearing in writing. The time period shall not be less than 15 days after service of the notice unless a longer period is provided by statute.

(4) The right to be present at the hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

(5) That, if the party subject to the notice does not request a hearing in writing within the time period expressed in the notice, he or she will waive or forfeit his or her right to an administrative hearing and the action will become final.

(c) If a party subject to a notice provided pursuant to subdivision (b) requests a hearing in writing within the time period specified in subparagraph (3) of paragraph (b), then within 10 days of receiving this request, the council shall schedule a hearing. The hearing shall be held in a location determined pursuant to Section 11508 of the Government Code. The council shall serve reasonable notice of the

time and place for the hearing at least 10 days before the hearing. The council may continue the date of the hearing upon a showing of good cause.

(d) (1) Any party, including the council, may submit a written request to any other party before the hearing to obtain the names and addresses of any person who has personal knowledge, or who the party receiving the request claims to have personal knowledge, of any of the transactions, occurrences, violations, or other matters that are the basis of the administrative action. In addition, the requesting party shall have the right to inspect and copy any written statement made by that person and any writing, as defined by Section 250 of the Evidence Code, or thing that is in the custody, or under the control, of the party receiving the request and that is relevant and not privileged. This subdivision shall constitute the exclusive method for prehearing discovery. However, nothing in this paragraph shall affect the council's authority, at any time, to investigate, inspect, monitor, or obtain and copy information under any provision of this chapter.

(2) The written request described in paragraph (1) shall be made before the hearing and within 30 days of the service of the notice described in subdivision (b). Each recipient of a request shall comply with the request within 15 days of its service by providing the names and addresses requested and by producing at a reasonable time at the council's office, or other mutually agreed reasonable place, the requested writings and things. The council may extend the time for response upon a showing of good cause.

(3) Except as provided in this paragraph, no party may introduce the testimony or statement of any person or any writing or thing into evidence at the hearing if that party failed to provide the name and address of the person or to produce the writing or thing for inspection and copying as provided by this subdivision. A party may introduce the testimony, statement, writing, or thing that was not identified or produced as required herein only if there is no objection or if the party establishes that the person, writing, or thing was unknown at the time when the response was made to the written request, the party could not have informed other parties within a reasonable time after learning of the existence of the person, writing, or thing, and no party would be prejudiced by the introduction of the evidence.

(e) Before the hearing has commenced, the council shall issue subpoenas at the written request of any party for the attendance of witnesses or the production of documents or other things in the custody or under the control of the person subject to the subpoena. Subpoenas issued pursuant to this section are subject to Section 11510 of the Government Code.

(f) (1) The council shall designate an impartial hearing officer to conduct the hearing. The hearing officer may administer oaths and affirmations, regulate the course of the hearing, question witnesses, and otherwise investigate the issues, take official notice according to

the procedure provided in Division 4 (commencing with Section 450) of the Evidence Code of any technical or educational matter in the council's special field of expertise and of any matter that may be judicially noticed, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, direct any party to appear and confer to consider the simplification of issues by consent, and prepare a statement of decision.

(2) Neither a hearing officer nor any person who has a direct or indirect interest in the outcome of the hearing shall communicate directly or indirectly with each other regarding any issue involved in the hearing while the proceeding is pending without notice and opportunity for all parties to participate in the communication. A hearing officer who receives any ex parte communication shall immediately disclose the communication to the council and all other parties. The council may disqualify the hearing officer if necessary to eliminate the effect of the ex parte communication. If the council finds that any party willfully violated, or caused the violation of, this paragraph, the council shall enter that party's default and impose the administrative sanction set forth in the notice provided pursuant to subdivision (b).

(g) (1) Each party at the hearing shall be afforded an opportunity to present evidence, respond to evidence presented by other parties, cross-examine, and present written argument or, if permitted by the hearing officer, oral argument on the issues involved in the hearing. The council may call any party as a witness who may be examined as if under cross-examination.

(2) Each party may appear through its representative or through legal counsel.

(3) The technical rules relating to evidence and witnesses shall not apply. However, only relevant evidence is admissible.

(4) Oral evidence shall be taken only upon oath or affirmation. The hearing shall be conducted in the English language. The proponent of any testimony to be offered by a witness who is not proficient in English shall provide, at the proponent's cost, an interpreter proficient in English and the language in which the witness will testify.

(5) The hearing shall be recorded by tape recording or other phonographic means unless all parties agree to another method of recording the proceedings.

(6) (A) At any time 10 or more days before the hearing, any party may serve on the other parties a copy of any declaration that the party proposes to introduce in evidence.

(B) The declaration shall be accompanied by a notice indicating the date of service of the notice and stating that the declarations will be offered into evidence, the declarants will not be called as witnesses, and there will be no right of cross-examination unless the party receiving the notice requests the right to cross-examine, in

writing, within seven days of the service of the declarations and notice.

(C) If no request for cross-examination is served within seven days of the service of the declarations and notice described in subparagraph (B), the right to cross-examination is deemed waived and the declaration shall have the same effect as if the declarant testified orally. Notwithstanding this paragraph, a declaration may be admitted as hearsay evidence without cross-examination.

(7) Disposition of any issues involved in the hearing may be made by stipulation or settlement.

(8) If a party fails to appear at a hearing, that party's default shall be taken and the party shall be deemed to have waived the hearing and agreed to the administrative action and the grounds for that action described in the notice given pursuant to subdivision (b). The council shall serve the party with an order of default including the administrative action ordered. The order shall be effective upon service or at any other time designated by the council. The council may relieve a party from an order of default if the party applies for relief within 15 days after the service of an order of default and establishes good cause for relief. An application for relief from default shall not stay the effective date of the order unless expressly provided by the council.

(h) (1) At any time before the matter is submitted for decision, the council may amend the notice provided pursuant to subdivision (b) to set forth any further grounds for the originally noticed administrative action or any additional administrative action and the grounds therefor. The statement of the further grounds for the originally noticed administrative action, or of the grounds for any additional administrative action, shall be made with sufficient particularity to give notice of the transactions, occurrences, violations, or other matters on which the action or additional action is based. The amended notice shall be served on all parties. All parties affected by the amended notice shall be given reasonable opportunity to respond to the amended notice as provided in this section.

(2) The council may amend the notice after the case is submitted for decision. The council shall serve each party with notice of the intended amendment and shall provide the party with an opportunity to show that the party will be prejudiced by the amendment unless the case is reopened to permit the party to introduce additional evidence. If prejudice is shown, the council shall reopen the case to permit the introduction of additional evidence.

(i) (1) Within 30 days after the conclusion of the hearing or at another time established by the council, the hearing officer shall submit a written statement of decision setting forth a recommendation for a final decision and explaining the factual and legal basis for the decision as to each of the grounds for the administrative action set forth in the notice or amended notice. The

council shall serve the hearing officer's statement of decision on each party and its counsel within 10 days of its submission by the hearing officer.

(2) The council shall make the final decision which shall be based exclusively on evidence introduced at the hearing. The final decision shall be supported by substantial evidence in the record. The council also shall issue a statement of decision explaining the factual and legal basis for the final decision as to each of the grounds for the administrative action set forth in the notice or amended notice. The council shall issue an order based on its decision which shall be effective upon service or at any other time designated by the council. The council shall serve a copy of the final decision and order, within 10 days of their issuance, on each party and its counsel.

(3) The council may hold a closed session to deliberate on a decision to be reached based upon evidence introduced at the hearing.

(4) The council shall serve a certified copy of the complete record of the hearing, or any part thereof designated by a party, within 30 days after receiving the party's written request and payment of the cost of preparing the requested portions of the record. The complete record shall include all notices and orders issued by the council, a transcript of the hearing, the exhibits admitted or rejected, the written evidence and any other papers in the case, the hearing officer's statement of decision, and the final decision and order.

(j) The council shall serve all notices and other documents that are required to be served by this section on each party by personal delivery, by certified mail, return receipt requested, or by any other means designated by the council.

(k) (1) Any party aggrieved by the council's final decision and order may seek judicial review by filing a petition for a writ of mandate pursuant to Section 1085 of the Code of Civil Procedure within 30 days of the issuance of the final decision and order. If review is not sought within that period, the party's right to review shall be deemed waived.

(2) The aggrieved party shall present the complete record of the hearing or all portions of the record necessary for the court's review of the council's final decision and order. The court shall deny the petition for a writ of mandate if the record submitted by the party is incomplete. The court shall not consider any matter not contained in the record. The factual basis supporting the final decision set forth in the council's statement of decision shall be conclusive if supported by substantial evidence on the record considered as a whole.

(3) The final order shall not be stayed or enjoined during review except upon the court's grant of an order on a party's application after due notice to the council and the Attorney General. The order shall be granted only if the party establishes the substantial likelihood that it will prevail on the merits and posts a bond sufficient to protect

fully the interests of the students, the council, and the fund, from any loss.

(*l*) The council may adopt regulations establishing alternative means of providing notice and an opportunity to be heard in circumstances in which a full hearing is not required by law.

(m) For the purposes of this section, "good cause" shall require sufficient ground or reason for the determination to be made by the council.

94980. (a) If the council, through the program administrator, denies an institution's application for approval, grants a conditional approval, or initiates a proceeding to suspend or revoke an institution's approval to operate, the institution may request a hearing pursuant to this section in lieu of the hearing procedure designated by the council under Section 94965 or 94975.

(b) At the time the council provides notice to an institution of its right to a hearing under Section 94965 or 94975 in connection with the denial of an application for approval to operate, the issuance of a conditional approval to operate, or a proposed suspension or revocation of approval to operate, the council also shall provide notice of the provisions of this section.

(c) Within 15 days after service of the notice described in subdivision (b), the institution may request in writing a hearing under this section in lieu of the hearing procedure in Section 94965 or 94975. The request shall acknowledge that by electing to proceed under this section, the institution is knowingly waiving all rights under the hearing procedure otherwise provided by the council.

(d) After receiving the institution's request for a hearing under this section, the council shall provide the institution or its representative with copies of all the documents, testimony in declaration form, and written arguments on which the council relies to support its proposed administrative action.

(e) The institution shall have 30 days from the service of the council's written evidence and arguments to submit all the documents, testimony in declaration form, and written arguments on which the institution relies in opposition to the council's proposed administrative action.

(f) Neither the council nor the institution has any right to discovery or to compel the production of documents or the testimony of witnesses by subpoena.

(g) The program administrator shall review all of the documents, declarations, and arguments and shall render a proposed decision in writing based solely on the written evidence and arguments that set forth the proposed administrative action and the factual and legal bases for it.

(h) Within 10 days of the service of the program administrator's decision, the institution may request in writing to have the matter reviewed by the members of the council and may also request oral argument, as described in subdivision (i). If a timely request for

review is not submitted, the program administrator's decision shall be deemed the final decision of the council. If a timely request for review is submitted without a request for oral argument, the right to make oral argument is deemed waived.

(i) If a timely request for review is made, the matter shall be considered by the members of the council based solely on the written evidence and arguments submitted to the program administrator and, if oral argument was timely requested, any oral argument permitted by the council. No new evidence may be presented during oral argument. An institution requesting oral argument shall receive at least 10 days advance notice of the council meeting at which time oral argument may be made. The council members may deliberate on the decision to be reached in a closed session as provided in paragraph (3) of subdivision (c) of Section 11126 of the Government Code. The council shall issue its final decision within 30 days after the council meeting at which the matter was reviewed. The program administrator's proposed decision shall be sustained if it is supported by substantial evidence on the record considered as a whole.

(j) The council shall serve the institution with a written decision setting forth the administrative action taken and the legal and factual bases for it. The decision shall become final within 30 days unless another time is specified by the council.

(k) The council shall serve a certified copy of the complete record, or any part thereof designated by an institution, within 30 days after receiving the institution's written request and payment of the cost of preparing the requested record or portions thereof. The complete record shall consist of all notices and orders of the council, the documents, declarations, and written argument submitted, a transcript of any oral argument, and the final decision and order.

(*l*) Any party aggrieved by the council's final decision and order may seek judicial review as provided in, and subject to, the requirements of subdivision (k) of Section 94975.

(m) All documents required by this section to be served by the council shall be served on the institution, its counsel, or authorized representative by any means authorized for service pursuant to Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of the Code of Civil Procedure.

94985. (a) Any institution that willfully violates any provision of Section 94800, 94810, 94814, or 94816, Sections 94820 to 94826, inclusive, Section 94829, 94831, or 94832 may not enforce any contract or agreement arising from the transaction in which the violation occurred, and any willful violation is a ground for revoking an approval to operate in this state or for denying a renewal application.

(b) Notwithstanding any provision of the contract or agreement, a student may bring an action for a violation of this article or for an institution's failure to perform its legal obligations and, upon prevailing thereon, is entitled to the recovery of damages, equitable

relief, or any other relief authorized by this article, and reasonable attorney's fees and costs.

(c) If a court finds that a violation was willfully committed or that the institution failed to refund all consideration as required by subdivision (b) on the student's written demand, the court, in addition to the relief authorized under subdivision (b), shall award a civil penalty of up to two times the amount of the damages sustained by the student.

(d) The remedies provided in this article supplement, but do not supplant, the remedies provided under any other provision of law.

(e) An action brought under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the action.

(f) Any provision in any agreement that purports to require a student to invoke any grievance dispute procedure established by the institution before enforcing any right or remedy is void and unenforceable.

(g) A student may assign his or her cause of action for a violation of this article to the council, or to any state or federal agency that guaranteed or reinsured a loan for the student or that provided any grant or other financial aid.

(h) This section applies to any action pending on the effective date of this section.

(i) This section supplements, but does not supplant, the authority granted the Division of Labor Law Enforcement under Section 1700.4 of the Labor Code to the extent that placement activities of trade schools are subject to regulation by the division under the Labor Code.

Article 14. Council Reports

94990. The bureau is subject to the sunset review process conducted by the Joint Legislative Sunset Review Committee pursuant to Division 1.2 (commencing with Section 473) of the Business and Professions Code. Notwithstanding that this chapter does not specify that it will become inoperative on a specified date, the analyses, reports, public hearings, evaluations, and determinations required to be prepared, conducted, and made pursuant to Division 1.2 (commencing with Section 473) of the Business and Professions Code shall be prepared, conducted, and made in 2001 and every four years thereafter as long as this chapter is operative.

94995. (a) Notwithstanding Section 7550.5 of the Government Code, on or before January 31 of each calendar year, the council shall submit a written report to the Legislature and to the California Postsecondary Education Commission, summarizing its activities during the previous fiscal year.

(b) Annual reports prepared pursuant to this section shall include, but shall not necessarily be limited to, all of the following:

(1) Timely information relating to the enforcement activities of the council pursuant to this chapter.

(2) Statistics providing a composite picture of the private postsecondary educational community, including data on how many schools, as classified by subject matter, and how many students there are within the scope of the activities of the council.

(c) Any reports submitted by the council to the Joint Legislative Sunset Review Committee pursuant to Division 1.2 (commencing with Section 473) of the Business and Professions Code during any calendar year shall satisfy the reporting requirements of this section for that year.

Article 15. Severability

94998. The provisions of this chapter are severable. If any provision of this chapter 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.

Article 16. Termination

94999. This chapter shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2005, deletes or extends that date.

SEC. 4. Section 1095 of the Unemployment Insurance Code is amended to read:

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

(a) To properly present a claim for benefits.

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

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

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

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

Code, and directly connected with, and limited to, the administration of public social services.

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

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

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

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

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

(k) To provide any law enforcement agency with the name, address, telephone number, birth date, social security number, physical description, and names and addresses of present and past employers, of any victim, suspect, missing person, potential witness, or person for whom a felony arrest warrant has been issued, when a request for this information is made by any investigator or peace officer as defined by Sections 830.1 and 830.2 of the Penal Code and designated by the head of the law enforcement agency and who requests this information in the course of and as a part of an investigation into the commission of a crime where there is a reasonable suspicion that the crime is a felony and that the information would lead to relevant evidence. The information provided pursuant to this subdivision shall be provided to the extent

permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records. Any person who receives any information under this subdivision shall make a written report of the information to the law enforcement agency that employs him or her, for filing under the normal procedures of that agency. Any officer or employee of the department who discloses information in violation of this subdivision is guilty of a misdemeanor. Any person who obtains information in violation of this subdivision is guilty of a misdemeanor.

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

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

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

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

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

(m) To provide the State Teachers' Retirement System, pursuant to Section 22327 of the Education Code, with information relating to the earnings of any person who is receiving a disability allowance, or disability retirement allowance, from the State Teachers' Retirement System. The earnings information shall be released to the Teachers' Retirement Board only upon written request from the board specifying that the person is receiving a disability allowance or disability retirement allowance from the system. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing.

(n) To provide the Public Employees' Retirement System, pursuant to Section 20231 of the Government Code, with information relating to the earnings of any person who is receiving a disability retirement allowance from the Public Employees' Retirement System. The earnings information shall be released to the Board of Administration of the system only upon written request from the board specifying that the person is receiving a disability retirement allowance from the system. The request may be made by the executive officer of the system or by an employee of the system so

authorized and identified by name and title by the executive officer in writing.

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

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

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

(r) To provide county probation departments, the State Board of Control, and the United States Attorney General with wage and claim information in its possession that will assist those departments and agencies in the location of victims of crime who, by state mandate or court order, are entitled to restitution that has been, or can be recovered, and to assist in the collection of money owed to the county, the state, or the United States by any person who has been directed by state mandate or court order to pay restitution, fines, penalties, assessments, or fees as a result of a violation of law. Information provided about victims of crime shall be limited to data necessary to assist in locating them. Nothing in this section shall be construed to prevent the department from providing information to the State Board of Control or the United States Attorney General through electronic methods. The department may charge a fee for all reasonable administrative expenses incurred pursuant to this

subdivision. Except as provided by Section 1463.007 of the Penal Code, any officer or employee of the department who discloses information in violation of this subdivision is guilty of a misdemeanor. Except as provided by Section 1463.007 of the Penal Code, any person who obtains information in violation of this subdivision is guilty of a misdemeanor.

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

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

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

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

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

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

(u) To enable the Director of the Bureau for Private Postsecondary and Vocational Education, or his or her representatives, to access unemployment insurance quarterly wage data on a case-by-case basis to verify information on school administrators, school staff, and students provided by those schools who are being investigated for possible violations of Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code.

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

(w) Wages as defined by Section 13009 and amounts required to be deducted and withheld under Section 13020 shall not be disclosed except as provided in Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(x) To enable city and county planning agencies to develop economic forecasts for planning purposes. The information shall be limited to businesses within the jurisdiction of the city or county whose planning agency is requesting the information, and shall not include information regarding individual employees. The city or county planning agency receiving the information shall adhere to the same standards regarding confidentiality and the protection of proprietary information that the department is required to follow. The city and county planning agencies shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

(y) To provide the State Department of Developmental Services with wage and employer information that will assist in the collection of moneys owed by the recipient, parent, or any other legally liable individual for services and supports provided pursuant to Chapter 9 (commencing with Section 4775) of Division 4.5 of, and Chapter 2 (commencing with Section 7200) and Chapter 3 (commencing with Section 7500) of Division 7 of, the Welfare and Institutions Code. The

State Department of Developmental Services shall reimburse the department for all reasonable administrative expenses incurred pursuant to this subdivision.

SEC. 5. (a) All funds in the Private Postsecondary and Vocational Education Administration Fund and in the Student Tuition Recovery Fund on December 31, 1997, shall remain in those funds and may be used for the purposes authorized by Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code commencing January 1, 1998.

(b) It is the intent of the Legislature that any unencumbered funds appropriated to the Council for Private Postsecondary and Vocational Education by Item Numbers 6880-001-0305, 6880-001-0890, and 6880-001-0960 in the Budget Act of 1997 be reappropriated for expenditure by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs for the purposes of Chapter 7 (commencing with Section 94700) of Part 50 of the Education Code on and after January 1, 1998. To the extent of any conflict between this section and any conditions specified in the above item numbers, this section shall prevail.

(c) It is the intent of the Legislature that on and after January 1, 1998, any moneys received as a result of litigation involving the former Council for Private be deposited in the Private Postsecondary and Vocational Education be deposited in the Private Postsecondary and Vocational Education Administration Fund to be used by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs, upon appropriation, to enforce the Private Postsecondary and Vocational Education Reform Act of 1989.

SEC. 6. Every cause of action that accrued pursuant to former Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code prior to its repeal by this act shall be unaffected by that repeal, regardless of whether the cause of action was reduced to final judgment, and shall remain fully enforceable under that chapter as though it had not been repealed but remained in full force and effect on and after January 1, 1998. It is the intent of the Legislature in enacting this section to preserve all causes of action filed under that chapter, including all causes of action alleged in any pending action.

SEC. 6.5. This act shall become operative only if Senate Bill 819, or any other bill of the 1997–98 Regular Session, extends the operation of the Private Postsecondary and Vocational Education Reform Act of 1989 until at least December 31, 1997, and is enacted and takes effect on or before July 18, 1997.

SEC. 7. The provisions of this act are severable. 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.

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, 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 79

An act to amend Section 13523.1 of the Water Code, relating to water.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 13523.1 of the Water Code is amended to read:

13523.1. (a) Each regional board, after consulting with, and receiving the recommendations of, the State Department of Health Services and any party who has requested in writing to be consulted, with the consent of the proposed permittee, and after any necessary hearing, may, in lieu of issuing waste discharge requirements pursuant to Section 13263 or water reclamation requirements pursuant to Section 13523 for a user of reclaimed water, issue a master reclamation permit to a supplier or distributor, or both, of reclaimed water.

(b) A master reclamation permit shall include, at least, all of the following:

(1) Waste discharge requirements, adopted pursuant to Article 4 (commencing with Section 13260) of Chapter 4.

(2) A requirement that the permittee comply with the uniform statewide reclamation criteria established pursuant to Section 13521. Permit conditions for a use of reclaimed water not addressed by the uniform statewide water reclamation criteria shall be considered on a case-by-case basis.

(3) A requirement that the permittee establish and enforce rules or regulations for reclaimed water users, governing the design and construction of reclaimed water use facilities and the use of reclaimed water, in accordance with the uniform statewide reclamation criteria established pursuant to Section 13521.

(4) A requirement that the permittee submit a quarterly report summarizing reclaimed water use, including the total amount of

reclaimed water supplied, the total number of reclaimed water use sites, and the locations of those sites, including the names of the hydrologic areas underlying the reclaimed water use sites.

(5) A requirement that the permittee conduct periodic inspections of the facilities of the reclaimed water users to monitor compliance by the users with the uniform statewide reclamation criteria established pursuant to Section 13521 and the requirements of the master reclamation permit.

(6) Any other requirements determined to be appropriate by the regional board.

CHAPTER 80

An act to amend Section 290 of the Penal Code, relating to sex offenders.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within five working days of coming into any city, county, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within five working days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her name and address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, kidnapping, as punishable pursuant to subdivision (d) of Section 208, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b),

(c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (d) of Section 647, subdivision 1 or 2 of Section 314, any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A) or any person ordered by any other court, including any state, federal, or military court, to register as a sex offender for any offense, if the court found at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification.

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department

of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of any offense described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a,

paragraph (2) of subdivision (a) of Section 261, subdivision (a) of Section 289, subdivision (b) of Section 207, or kidnapping, as punishable pursuant to subdivision (d) of Section 208.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of all of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(D) Notice to the person that, in addition to the requirements of subdivision (f), he or she may have a duty to register in any other state where he or she may relocate.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her name or residence address, the person shall inform, in writing within five working days, the law enforcement agency or agencies with whom he or she last registered of the new name or address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the

Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, subdivision (b) of Section 207, or kidnapping, as punishable pursuant to subdivision (d) of Section 208, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole

Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, “parole authority” has the same meaning as described in Section 3000.

(i) Except as provided in subdivisions (m) and (n) and Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, “mentally disordered sex offender” includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) (1) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

(2) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to five working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(m) (1) When a peace officer reasonably suspects, based on information that has come to his or her attention through information provided by any peace officer or member of the public, that a child or other person may be at risk from a sex offender convicted of a crime listed in paragraph (1) of subdivision (a) of Section 290.4, a law enforcement agency may, notwithstanding any other provision of law, provide any of the information specified in paragraph (2) of this subdivision about that registered sex offender that the agency deems relevant and necessary to protect the public, to the following persons,

agencies, or organizations the offender is likely to encounter, including, but not limited to, the following:

(A) Public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender.

(B) Other community members at risk.

(2) The information that may be disclosed pursuant to this section includes the following:

(A) The offender's full name.

(B) The offender's known aliases.

(C) The offender's gender.

(D) The offender's race.

(E) The offender's physical description.

(F) The offender's photograph.

(G) The offender's date of birth.

(H) Crimes resulting in registration under this section.

(I) The offender's address, which must be verified prior to publication.

(J) Description and license plate number of offender's vehicles or vehicles the offender is known to drive.

(K) Type of victim targeted by the offender.

(L) Relevant parole or probation conditions, such as one prohibiting contact with children.

(M) Dates of crimes resulting in classification under this section.

(N) Date of release from confinement.

However, information disclosed pursuant to this subdivision shall not include information that would identify the victim.

(3) If a law enforcement agency discloses information pursuant to this subdivision, it shall include, with the disclosure, a statement that the purpose of the release of the information is to allow members of the public to protect themselves and their children from sex offenders.

(4) For purposes of this section, "likely to encounter" means both of the following:

(A) That the agencies, organizations, or other community members are in a location or in close proximity to a location where the offender lives or is employed, or that the offender visits or is likely to visit on a regular basis.

(B) The types of interaction that ordinarily occur at that location and other circumstances indicate that contact with the offender is reasonably probable.

(5) For purposes of this section, "reasonably suspects" means that it is objectively reasonable for a peace officer to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect that a child or other person is at risk.

(6) For purposes of this section, "at risk" means a person is or may be exposed to a risk of becoming a victim of a sex offense committed by the offender.

(7) A law enforcement agency may continue to disclose information on an offender under this subdivision for as long as the offender is included in Section 290.4.

(n) In addition to the procedures set forth elsewhere in this section, a law enforcement agency may advise the public of the presence of high-risk sex offenders in its community pursuant to this subdivision.

(1) For purposes of this subdivision:

(A) A high-risk sex offender is a person who has been convicted of an offense for which registration is required under paragraph (2) of subdivision (a) and also meets one of the following criteria:

(i) Has been convicted of three or more violent sex offenses, at least two of which were brought and tried separately.

(ii) Has been convicted of two violent sex offenses and one or more violent nonsex offenses, at least two of which were brought and tried separately.

(iii) Has been convicted of one violent sex offense and two or more violent nonsex offenses, at least two of which were brought and tried separately.

(iv) Has been convicted of either two violent sex offenses or one violent sex offense and one violent nonsex offense, at least two of which were brought and tried separately, and has been arrested on separate occasions for three or more violent sex offenses, violent nonsex offenses, or associated offenses.

(B) A violent sex offense means any offense defined in Section 220, except attempt to commit mayhem, 261, 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or infliction of great bodily injury during the commission of a sex offense, as provided in Section 12022.8.

(C) A violent nonsex offense means any offense defined in Section 187, subdivision (a) of Section 192, 203, 206, 207, 236, provided that the offense is a felony, subdivision (a) of Section 273a, 273d, or 451, or attempted murder, as defined in Sections 187 and 664.

(D) An associated offense means any offense defined in Section 243.4, provided that the offense is a felony, Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, 314, 459, provided the offense is of the first degree, 597, 646.9, subdivision (d), (h), or (i) of Section 647, 653m, or infliction of great bodily injury during the commission of a felony, as defined in Section 12022.7.

(E) For purposes of subparagraphs (B) to (D), inclusive, an arrest or conviction for the statutory predecessor of any of the enumerated offenses, or an arrest or conviction in any other jurisdiction for any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in those subparagraphs, is to be considered in determining whether an offender is a high-risk sex offender.

(F) For purposes of subparagraphs (B) to (D), inclusive, an arrest as a juvenile or an adjudication as a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the offenses described in those subparagraphs is to be considered in determining whether an offender is a high-risk sex offender.

(G) Notwithstanding subparagraphs (A) to (D), inclusive, an offender shall not be considered to be a high-risk sex offender if either of the following apply:

(i) The offender's most recent conviction or arrest for an offense described in subparagraphs (B) to (D), inclusive, occurred more than five years prior to the high-risk assessment by the Department of Justice, excluding periods of confinement.

(ii) The offender notifies the Department of Justice, on a form approved by the department and available at any sheriff's office, that he or she has not been convicted in the preceding 15 years, excluding periods of confinement, of an offense for which registration is required under paragraph (2) of subdivision (a), and the department is able, upon exercise of reasonable diligence, to verify the information provided in paragraph (2).

(H) "Confinement" means confinement in a jail, prison, school, road camp, or other penal institution, confinement in a state hospital to which the offender was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(I) "Law enforcement agency" means any of the following: municipal police department; sheriff's department; district attorney's office; county probation department; Department of Justice; Department of Corrections; Department of the Youth Authority; Department of the California Highway Patrol; or the police department of any state university, state college, or community college.

(2) The Department of Justice shall continually search the records provided to it pursuant to subdivision (b) and identify, on the basis of those records, high-risk sex offenders. Four times each year, the department shall provide to each chief of police and sheriff in the state, and to any other law enforcement agency upon request, the following information regarding each identified high-risk sexual offender: full name; known aliases; gender; race; physical description; photograph; date of birth; and crimes resulting in classification under this section.

(3) The Department of Justice and any law enforcement agency to which notice has been given pursuant to paragraph (2) may cause to be made public, by whatever means the agency deems necessary

to ensure the public safety, based upon information available to the agency concerning a specific person, including, but not limited to, the information described in paragraph (2); the offender's address, which shall be verified prior to publication; description and license plate number of the vehicles or vehicles the offender is known to drive; type of victim targeted by the offender; relevant parole or probation conditions, such as one prohibiting contact with children; dates of crimes resulting in classification under this section; and date of release from confinement; but excluding information that would identify the victim.

(o) Agencies disseminating information to the public pursuant to subdivision (m) shall maintain records of the offender and the means and dates of dissemination for a minimum of five years.

(p) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this section.

(q) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison. Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000).

(r) The registration and public notification provisions of this section are applicable to every person described in these sections, without regard to when his or her crimes were committed or his or her duty to register pursuant to this section arose, and to every offense described in these sections, regardless of when it was committed.

SEC. 2. The Attorney General shall do all of the following:

(a) Work with local law enforcement agencies to determine whether the existing registry of sex offenders established by Section 290 of the Penal Code is meeting the needs of law enforcement. The Attorney General shall report to the Legislature by December 31, 1998, on his or her findings.

(b) Work with the chief law enforcement officers of other states to develop a national registry of sex offenders, as required by federal law. The registry should include persons who are required to register in any state and should specifically mark those offenders who are registered in multiple states.

(c) Work with Attorney Generals of other states to amend registration statutes to inform persons required to register as sex offenders of their responsibility to register in any other state where they may relocate.

SEC. 3. The Legislature finds and declares that the amendments made to subparagraphs (D) and (E) of paragraph (2) of subdivision

(a) of Section 290 of the Penal Code, as set forth in Section 1 of this act, do not constitute a change in, but are declaratory of, existing law.

CHAPTER 81

An act to add Section 21670.4 to the Public Utilities Code, relating to airports.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 21670.4 is added to the Public Utilities Code, to read:

21670.4. (a) As used in this section, "intercounty airport" means any airport bisected by a county line through its runways, runway protection zones, inner safety zones, inner turning zones, outer safety zones, or sideline safety zones, as defined by an existing airport land use commission in its comprehensive land use plan in accordance with Section 21675.

(b) It is the purpose of this section to provide the opportunity to establish a separate airport land use commission so that an intercounty airport may be served by a single airport land use planning agency, rather than having to look separately to the airport land use commissions of the affected counties.

(c) In addition to the airport land use commissions created under Section 21670 or the alternatives established under Section 21670.1, for their respective counties, the boards of supervisors and city selection committees for the affected counties, by independent majority vote of each county's two delegations, for any intercounty airport, may either:

(1) Establish a single separate airport land use commission for that airport. That commission shall consist of seven members to be selected as follows:

(A) One representing the cities in each of the counties, appointed by that county's city selection committee.

(B) One representing each of the counties, appointed by the board of supervisors of each county.

(C) One from each county having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.

(D) One representing the general public, appointed by the other six members of the commission.

(2) In accordance with subdivision (a) or (b) of Section 21670.1, designate an existing appropriate entity as that airport's land use commission.

CHAPTER 82

An act to amend Section 704.730 of the Code of Civil Procedure, relating to homestead exemptions.

[Approved by Governor July 21, 1997. Filed with
Secretary of State July 21, 1997.]

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

SECTION 1. Section 704.730 of the Code of Civil Procedure is amended to read:

704.730. (a) The amount of the homestead exemption is one of the following:

(1) Fifty thousand dollars ($50,000) unless the judgment debtor or spouse of the judgment debtor who resides in the homestead is a person described in paragraph (2) or (3).

(2) Seventy-five thousand dollars ($75,000) if the judgment debtor or spouse of the judgment debtor who resides in the homestead is at the time of the attempted sale of the homestead a member of a family unit, and there is at least one member of the family unit who owns no interest in the homestead or whose only interest in the homestead is a community property interest with the judgment debtor.

(3) One hundred twenty-five thousand dollars ($125,000) if the judgment debtor or spouse of the judgment debtor who resides in the homestead is at the time of the attempted sale of the homestead any one of the following:

(A) A person 65 years of age or older.

(B) A person physically or mentally disabled and as a result of that disability is unable to engage in substantial gainful employment. There is a rebuttable presumption affecting the burden of proof that a person receiving disability insurance benefit payments under Title II or supplemental security income payments under Title XVI of the federal Social Security Act satisfies the requirements of this paragraph as to his or her inability to engage in substantial gainful employment.

(C) A person 55 years of age or older with a gross annual income of not more than fifteen thousand dollars ($15,000) or, if the judgment debtor is married, a gross annual income, including the gross annual income of the judgment debtor's spouse, of not more than twenty thousand dollars ($20,000) and the sale is an involuntary sale.

(b) Notwithstanding any other provision of this section, the combined homestead exemptions of spouses on the same judgment shall not exceed the amount specified in paragraph (2) or (3), whichever is applicable, of subdivision (a), regardless of whether the spouses are jointly obligated on the judgment and regardless of whether the homestead consists of community or separate property or both. Notwithstanding any other provision of this article, if both spouses are entitled to a homestead exemption, the exemption of proceeds of the homestead shall be apportioned between the spouses on the basis of their proportionate interests in the homestead.

CHAPTER 83

An act to amend Section 11165.1 of the Penal Code, relating to crimes.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 11165.1 of the Penal Code is amended to read:

11165.1. As used in this article, "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647.6 (child molestation).

(b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:

(1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it

does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(c) "Sexual exploitation" refers to any of the following:

(1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(2) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

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 84

An act to add Section 6718 to the Labor Code, relating to employment.

[Approved by Governor July 21, 1997. Filed with
Secretary of State July 21, 1997.]

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

SECTION 1. Section 6718 is added to the Labor Code, to read:

6718. Notwithstanding any other provision of law, any test procedures adopted by a state agency to determine compliance with vapor emission standards, by vapor recovery systems of cargo tanks on tank vehicles used to transport gasoline, shall not require any person to climb upon the cargo tank during loading operations.

CHAPTER 85

An act to add Section 103 to the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1997), relating to water.

[Approved by Governor July 21, 1997. Filed with
Secretary of State July 21, 1997.]

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

SECTION 1. Section 103 is added to the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1997), to read:

Sec. 103. Notwithstanding Section 102, the territory of the district does not include any territory located within the City of Marina on January 1, 1998.

CHAPTER 86

An act to amend Section 48980 of, and to add and repeal Section 51870.5 of, the Education Code, relating to education technology.

[Approved by Governor July 21, 1997. Filed with
Secretary of State July 21, 1997.]

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

SECTION 1. This act may be cited as the Children's Internet Protection Act of 1997.

SEC. 2. Section 48980 of the Education Code is amended to read:

48980. (a) At the beginning of the first semester or quarter of the regular school term, the governing board of each school district shall

notify the parent or guardian of its minor pupils regarding the right or responsibility of the parent or guardian under Sections 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451, 49472, 51240, and 51550 and Chapter 2.3 (commencing with Section 32255) of Part 19.

(b) The notification also shall advise the parent or guardian of the availability of individualized instruction as prescribed by Section 48206.3, and of the program prescribed by Article 9 (commencing with Section 49510) of Chapter 9.

(c) The notification also may advise the parent or guardian of the importance of investing for future college or university education for their children and of considering appropriate investment options including, but not limited to, United States Savings Bonds.

(d) Each school district that elects to provide a fingerprinting program pursuant to Article 10 (commencing with Section 32390) shall inform parents or guardians of the program as specified in Section 32390.

(e) Until July 1, 1998, the notification shall also advise the parent or guardian of the availability of the employment-based school attendance options pursuant to subdivision (f) of Section 48204.

(f) The notification shall also include a copy of the district's written policy on sexual harassment established pursuant to Section 212.6, as it relates to pupils.

(g) The notification shall advise the parent or guardian of all current statutory attendance options and local attendance options available in the school district. That notification shall include all options for meeting residency requirements for school attendance, programmatic options offered within the local attendance areas, and any special programmatic options available on both an interdistrict and intradistrict basis. That notification shall also include a description of all options, a description of the procedure for application for alternative attendance areas or programs, an application form from the district for requesting a change of attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. The notification shall also include an explanation of the current statutory attendance options including, but not limited to, those available under Section 35160.5, Chapter 5 (commencing with Section 46600) of Part 26, subdivision (f) of Section 48204, and Article 1.5 (commencing with Section 48209) of Chapter 2 of Part 27. The State Department of Education shall produce this portion of the notification and shall distribute it to all school districts.

It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interests of California's pupils.

(h) The notification shall include a copy of the written policy of the school district adopted pursuant to Section 51870.5 regarding access by pupils to Internet and on-line sites.

SEC. 3. Section 51870.5 is added to the Education Code, to read:

51870.5. (a) A school district that provides pupils with access to the Internet or an on-line service shall adopt a policy regarding access by pupils to Internet and on-line sites that contain or make reference to harmful matter as defined in subdivision (a) of Section 313 of the Penal Code.

(b) This section shall remain in effect only until December 31, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2002, deletes or extends that date.

SEC. 4. Sections 2 and 3 of this act shall be operative July 1, 1998.

CHAPTER 87

An act to add Article 5 (commencing with Section 18741) to Chapter 3 of Part 10.2 of the Revenue and Taxation Code, relating to taxpayer contributions.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Article 5 (commencing with Section 18741) is added to Chapter 3 of Part 10.2 of the Revenue and Taxation Code, to read:

Article 5. Fish and Game Preservation Fund

18741. (a) Any individual may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(b) The contribution shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. If payments and credits reported on the return, together with any other credits associated with the individual's account, do not exceed the tax liability, if any, shown thereon, the return shall be treated as though no designation had been made. If no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, be transferred to the General Fund. The individual shall be notified in cases where the

discrepancy between the amount actually available for designation and the amount designated exceeds ten dollars ($10).

(d) If an individual designates a contribution to more than one account, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled "Rare and Endangered Species Preservation Program" to allow for the designation permitted under subdivision (a).

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18742. (a) The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money which taxpayers have designated pursuant to Section 18741 to be transferred to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account established pursuant to Section 1770 of the Fish and Game Code. The Controller shall transfer from the Personal Income Tax Fund to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account, an amount not in excess of the sum of the amounts reported to the Controller by the Franchise Tax Board that have been designated by individuals pursuant to Section 18741 for payment into that account.

(b) All money transferred to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account, upon appropriation by the Legislature, shall be allocated as follows:

(1) To the Franchise Tax Board for the reimbursement of all actual and direct costs incurred by the Franchise Tax Board in connection with the collection and administration of funds under this article.

(2) To the Department of Fish and Game for the purposes specified in Section 1771 of the Fish and Game Code.

18743. It is the intent of the Legislature that this article create an additional funding source for programs for endangered and rare animals and native plant species and shall be used to supplement, not supplant, other funding sources for these programs.

18744. (a) 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 that date.

(b) If, in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000) for taxable years beginning in 1997, or the adjusted amount specified in subdivision (c) for subsequent taxable

years, as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. The Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with calendar year 1998, 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 88

An act to add Chapter 2.98 (commencing with Section 7286.59) to Part 1.7 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Chapter 2.98 (commencing with Section 7286.59) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 2.98. COUNTY TRANSACTIONS AND USE TAX FOR LIBRARY PROGRAMS

7286.59. (a) In addition to the tax levied pursuant to Part 1.5 (commencing with Section 7200), and any other tax authorized by this part, a board of supervisors of a county may impose a transactions and use tax in lieu of, and not in addition to, a tax imposed under

Section 7285.5 for the purposes described in paragraph (4), by the adoption of an ordinance in accordance with this part if each of the following conditions are met:

(1) The ordinance imposing the tax is submitted to and approved by the voters of the county by a two-thirds vote of those voters voting on the ordinance in accordance with Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(2) The ordinance includes an expenditure plan describing the specific purposes for which the revenues from the tax may be expended.

(3) The tax is imposed at a rate of 0.125 or 0.25 percent for a period not to exceed 16 years.

(4) The revenues collected from the tax are used only for funding public library construction, acquisition, programs, and operations within the county. These revenues shall be used only to supplement existing expenditures for public libraries and shall not be used to supplant existing funding for the support of public libraries.

(5) The transactions and use tax conforms to Part 1.6 (commencing with Section 7251).

(b) "Public library" means a library, or two or more libraries that are operated as a single entity by one or more public jurisdictions, that serve the general public and are required to report appropriations to the State Librarian under the provisions of Section 18023 of the Education Code.

(c) The board of supervisors may impose a transactions and use tax in any succeeding period not to exceed 16 years per period if all of the conditions specified in subdivision (a) are met for that succeeding period.

CHAPTER 89

An act to amend Section 2557 of the Streets and Highways Code, and to amend Section 2421.5 of, and to repeal Section 2421.6 of, the Vehicle Code, relating to vehicles.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 2557 of the Streets and Highways Code is amended to read:

2557. (a) Except as provided in subdivisions (c) and (d), the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used for the implementation, maintenance, and operation of a motorist aid

system of call boxes, including the lease or lease-purchase of facilities and equipment for the system, on the portions of the California Freeway and Expressway System and a county expressway system, and, in counties with a population of over 6,000,000 persons, the unincorporated county roads in that county, and on state highway routes that connect segments of these systems, which are located within the county in which the authority is established. The Department of Transportation and the Department of the California Highway Patrol shall each review and approve plans for implementation of a motorist aid system proposed for any state highway route and shall be reimbursed by the service authority for all costs incurred.

(b) An authority or any other public entity may construct and maintain, and lease or lease-purchase on terms and conditions it deems appropriate, the facilities of a motorist aid system or it may contract with a private person or entity to do so.

(c) If leases or lease-purchase agreements are entered into pursuant to subdivision (a), or if revenue bonds are issued and sold pursuant to Section 2558, the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used to the extent necessary to make lease payments or to pay the principal of, and interest on, the amount of bonded indebtedness outstanding, as the case may be. Facilities and equipment acquired through the expenditure of proceeds from the sale of those bonds shall have a useful life at least equal to the term of the bonds.

(d) (1) Any money received by an authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code which exceeds the amount needed for full implementation and ongoing costs to maintain and operate the motorist aid system of call boxes, installed pursuant to subdivision (a), may be used for purposes of paragraph (2) and for additional motorist aid services or support, including, but not limited to, the following safety-related projects:

(A) Changeable message signs.

(B) Lighting for call boxes.

(C) Support for traffic operations centers.

(D) Contracting for removal of disabled vehicles from the traveled portion of the right-of-way.

(2) Any amendment to an existing plan for a motorist aid system adopted by an authority for any state highway route shall, prior to implementation, be submitted to the Department of Transportation and the Department of the California Highway Patrol for review and approval and shall not be implemented until so reviewed and approved. The authority shall reimburse each department for the costs of that review.

(e) A motorist aid system constructed, maintained, or operated pursuant to this section shall meet the applicable standards of Title II of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto.

SEC. 2. Section 2421.5 of the Vehicle Code is amended to read:

2421.5. (a) When any Service Authority for Freeway Emergencies has imposed additional fees on vehicles pursuant to Section 2555 of the Streets and Highways Code, the authority may contract with the department or a private entity to handle calls in accordance with the contract specified in subdivision (b) for the system on the portions of the California Freeway and Expressway System, and, in counties with a population of over 6,000,000 persons, the unincorporated county roads of that county, and on state highway routes that connect segments of the system, which are located within the county and over which the Department of the California Highway Patrol has law enforcement responsibility. The authority, with the concurrence of the department, shall approve or deny any contract permitted by this section, and establish appropriate performance standards for contracts, as required under subdivision (b), which shall be adhered to by the contractor. The service authority shall reimburse the department for all costs incurred under this section.

(b) The contract shall contain guidelines, as determined by the department, following consultation with the authority, for services to be provided, including, but not limited to, reporting requirements, immediate transfer of emergency calls and traffic management information to the department, computer interface capability with the department, performance standards, and coordination with the eligible tow service providers. Contract services shall be at no cost to the state, nor shall the department or state incur any liability for the actions of the contractors.

SEC. 3. Section 2421.6 of the Vehicle Code is repealed.

CHAPTER 90

An act to amend Section 25608 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 1997. Filed with
Secretary of State July 21, 1997.]

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

SECTION 1. Section 25608 of the Business and Professions Code is amended to read:

25608. Every person who possesses, consumes, sells, gives, or delivers to any other person, any alcoholic beverage in or on any public schoolhouse or any of the grounds thereof, is guilty of a misdemeanor. This section does not, however, make it unlawful for any person to acquire, possess, or use any alcoholic beverage in or on

any public schoolhouse, or on any grounds thereof, if any of the following applies:

(a) The alcoholic beverage is acquired, possessed, or used in connection with a course of instruction given at the school and the person has been authorized to acquire, possess, or use it by the governing body or other administrative head of the school.

(b) The public schoolhouse is surplus school property and the grounds thereof are leased to a lessee which is a general law city with a population of less than 50,000, or the public schoolhouse is surplus school property and the grounds thereof are located in an unincorporated area and are leased to a lessee which is a civic organization, and the property is to be used for community center purposes and no public school education is to be conducted thereon by either the lessor or the lessee and the property is not being used by persons under the age of 21 years for recreational purposes at any time during which alcoholic beverages are being sold or consumed on the premises.

(c) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated veterans stadium with a capacity of over 12,000 people, located in a county with a population of over six million people. As used in this subdivision, "events" mean football games sponsored by a college, other than a public community college, or other events sponsored by noncollege groups.

(d) The alcoholic beverages are acquired, possessed, or used during an event not sponsored by any college at a performing arts facility built on property owned by a community college district and leased to a nonprofit organization which is a public benefit corporation formed under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. As used in this subdivision, "performing arts facility" means an auditorium with more than 300 permanent seats.

(e) The alcoholic beverage is wine for sacramental or other religious purposes and is used only during authorized religious services held on or before January 1, 1995.

(f) The alcoholic beverages are acquired, possessed, or used during an event at a community center owned by a community services district and the event is not held at a time when students are attending a public school sponsored activity at the center.

(g) The alcoholic beverage is wine which is acquired, possessed, or used during an event sponsored by a community college district or an organization operated for the benefit of the community college district where the college district maintains both an instructional program in viticulture on no less than five acres of land owned by the district and an instructional program in enology, which includes sales and marketing.

(h) The alcoholic beverage is acquired, possessed, or used at a professional minor league baseball game conducted at the stadium

of a community college located in a county with a population of less than 250,000 inhabitants, and the baseball game is conducted pursuant to a contract between the community college district and a professional sports organization.

(i) The alcoholic beverages are acquired, possessed, or used during events at a college-owned or college-operated stadium with a capacity of over 18,900 people, located in a county of the 14th class. As used in this subdivision, "events" means fundraisers held to benefit a nonprofit corporation which has obtained a license pursuant to this division for the event. "Events" does not include football games or other athletic contests sponsored by any college or public community college.

Any person convicted of a violation of this section shall, in addition to the penalty imposed for the misdemeanor, be barred from having or receiving any privilege of the use of public school property which is accorded by Article 2 (commencing with Section 82537) of Chapter 8 of Part 49 of the Education Code.

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

In order to avoid economic hardship that may result if essential events that require an alcoholic beverage license are not conducted in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 91

An act to amend Section 1011 of the Military and Veterans Code, relating to veterans.

[Approved by Governor July 21, 1997. Filed with
Secretary of State July 21, 1997.]

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

SECTION 1. Section 1011 of the Military and Veterans Code is amended to read:

1011. (a) There is in the department a Veterans' Home of California Yountville, 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) The initial site is the Veterans' Home of California, Barstow, situated in Barstow, San Bernardino County.

(3) When completed, the second site shall be the Veterans' Home of California, Chula Vista, situated in Chula Vista, San Diego County, pursuant to the recommendations made by the commission established pursuant to Section 1011.5.

(4) When completed, the third site shall be the Veterans' Home of California, Lancaster, situated in Lancaster, Los Angeles County, pursuant to the recommendations made by the commission established pursuant to Section 1011.5.

(5) When completed, the fourth site shall be the Veterans' Home of California, Ventura, situated in the community of Saticoy, Ventura County.

(6) There shall be an administrator for, and located at, each site of the southern California home.

(7) 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 September 17, 1996, 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.

CHAPTER 92

An act to amend Sections 203 and 205.5 of the Labor Code, relating to employment.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 203 of the Labor Code is amended to read:

203. If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment.

Suit may be filed for these penalties at any time before the expiration of the statute of limitations on an action for the wages from which the penalties arise.

SEC. 2. Section 205.5 of the Labor Code is amended to read:

205.5. All wages, other than those mentioned in Sections 201 and 202, earned by any agricultural employee, as defined in Section 1140.4, are due and payable twice during each calendar month, on days designated in advance by the agricultural employer as the regular paydays. Labor performed between the 1st and the 15th days, inclusive, of any calendar month shall be paid between the 16th and the 22nd day of the month during which the labor was performed. Labor performed between the 16th and the last day, inclusive, of any calendar month shall be paid between the first and the seventh day of the following month. Agricultural employees, as used in this section, shall not include those employees who are covered by Section 205.

CHAPTER 93

An act to amend Section 7660 of, and to add Sections 7600.6, 15688, and 16042 to the Probate Code, relating to estates and trusts.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 7600.6 is added to the Probate Code, to read:

7600.6. A funeral director or cemetery authority in control of the decedent's remains pursuant to subdivision (b) of Section 7100 of the Health and Safety Code shall notify the public administrator if none of the persons described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 7100 of the Health and Safety Code exist, can be found after reasonable inquiry, or can be contacted by reasonable means.

SEC. 2. Section 7660 of the Probate Code is amended to read:

7660. (a) If a public administrator takes possession or control of, or is appointed personal representative of, an estate pursuant to this chapter, the public administrator may summarily dispose of the estate in the manner provided in this article in either of the following circumstances:

(1) The total value of the property in the decedent's estate does not exceed the amount prescribed in Section 13100. The authority provided by this paragraph may be exercised only upon order of the court. The order may be made upon ex parte application. The fee to be allowed to the clerk for the filing of the application shall be set by the court.

(2) The total value of the property in the decedent's estate does not exceed twenty thousand dollars ($20,000). The authority provided by this paragraph may be exercised without court authorization.

(b) Summary disposition may be made notwithstanding the existence of the decedent's will, if the will does not name an executor or if the named executor refuses to act.

(c) Nothing in this article precludes the public administrator from filing a petition with the court under any other provision of this code concerning the administration of the decedent's estate.

SEC. 2.5. Section 7660 of the Probate Code is amended to read:

7660. (a) If a public administrator takes possession or control of, or is appointed personal representative of, an estate pursuant to this chapter, the public administrator may summarily dispose of the estate in the manner provided in this article in either of the following circumstances:

(1) The total value of the property in the decedent's estate does not exceed the amount prescribed in Section 13100. The authority provided by this paragraph may be exercised only upon order of the court. The order may be made upon ex parte application. The fee to be allowed to the clerk for the filing of the application shall be set by the court.

(2) The total value of the property in the decedent's estate does not exceed twenty thousand dollars ($20,000). The authority provided by this paragraph may be exercised without court authorization.

(b) Summary disposition may be made notwithstanding the existence of the decedent's will, if the will does not name an executor or if the named executor refuses to act.

(c) Nothing in this article precludes the public administrator from filing a petition with the court under any other provision of this code concerning the administration of the decedent's estate.

(d) Petitions filed pursuant to this article shall contain the information required by Section 8002.

SEC. 3. Section 15688 is added to the Probate Code, to read:

15688. Notwithstanding any other provision of this article and the terms of the trust, a public guardian who is appointed as a trustee of a trust pursuant to Section 15660.5 shall be paid from the trust property for all of the following:

(a) Reasonable expenses incurred in the administration of the trust.

(b) Compensation for services of the public guardian and the attorney of the public guardian, and for the filing and processing services of the county clerk in the amount the court determines is just and reasonable.

(c) An annual bond fee in the amount of twenty-five dollars ($25) plus one-fourth of 1 percent of the amount of the trust assets greater

than ten thousand dollars ($10,000). The amount charged shall be deposited in the county treasury.

SEC. 4. Section 16042 is added to the Probate Code, to read:

16042. (a) Notwithstanding the requirements of this article, Article 2.5 (commencing with Section 16045), and the terms of the trust, all trust funds that come within the custody of the public guardian who is appointed as trustee of the trust pursuant to Section 15660.5 may be deposited or invested in the same manner, and would be subject to the same terms and conditions, as a deposit or investment by the public administrator of funds in the estate of a decedent pursuant to Article 3 (commencing with Section 7640) of Chapter 4 of Part 1 of Division 7.

(b) Upon the deposit or investment of trust property pursuant to subdivision (a), the public guardian shall be deemed to have met the standard of care specified in this article and Article 2.5 (commencing with Section 16045) with respect to this trust property.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 7660 of the Probate Code proposed by both this bill and AB 1165. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 7660 of the Probate Code, and (3) this bill is enacted after AB 1165, in which case Section 2 of this bill shall not become operative.

CHAPTER 94

An act to amend Section 441.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 441.1 of the Revenue and Taxation Code is amended to read:

441.1. (a) Prior to July 1, 1996, each domestic life insurance company that owns real property in the county in a separate account established pursuant to Section 10506 of the Insurance Code, and each foreign life insurance company that owns real property in the county in a separate account established pursuant to the corresponding insurance laws of its state of domicile, shall file a property statement with the assessor that does all of the following:

(1) Identifies all real property in the county that is held on January 1, 1996, by the insurance company in separate accounts and all of the separate accounts in which the real property is held.

(2) Describes the parties to, the date of, and the amount paid with respect to, any transfer of a property interest to or from a separate

account. In complying with the preceding sentence, the person shall indicate the name, address, and contact person of the relevant separate account, and shall supply any other information, as may be requested by the assessor, that is relevant to the assessment function and is information of a type described in subdivision (b) of Section 480.7. The property statement shall include a description, as required by this paragraph, of any transfer of a real property interest that occurred on or after January 1, 1985, and before January 1, 1996.

(b) (1) A property statement filed pursuant to subdivision (a) shall be declared to be true under penalty of perjury and shall be signed by either an officer of the filing life insurance company, or by an employee or agent of that insurance company who has been designated in writing by the company's board of directors to sign the statement on the company's behalf.

(2) A property statement filed pursuant to subdivision (a) shall be filed with the assessor either in person or through the United States mail, properly addressed with the postage prepaid.

(3) Any life insurance company required by subdivision (a) to file a property statement that fails to file that statement by July 1, 1996, shall be subject to a penalty of one thousand dollars ($1,000) in addition to any other penalty prescribed by law.

(4) On or before July 1, 1998, the assessor shall compile a list of life insurance companies that have filed a property statement pursuant to subdivision (a). The list shall consist of the name of each company and the date of filing. Notwithstanding Section 408 or 451, or any other provision of law, the list shall be a public record under the provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(c) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, 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.

CHAPTER 95

An act to amend Section 1025 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 1025 of the Penal Code is amended to read:

1025. (a) When a defendant who is charged in the accusatory pleading with having suffered a prior conviction pleads either guilty or not guilty of the offense charged against him or her, he or she shall be asked whether he or she has suffered the prior conviction. If the defendant enters an admission, his or her answer shall be entered in the minutes of the court, and shall, unless withdrawn by consent of the court, be conclusive of the fact of his or her having suffered the prior conviction in all subsequent proceedings. If the defendant enters a denial, his or her answer shall be entered in the minutes of the court. The refusal of the defendant to answer is equivalent to a denial that he or she has suffered the prior conviction.

(b) Except as provided in subdivision (c), the question of whether or not the defendant has suffered the prior conviction shall be tried by the jury that tries the issue upon the plea of not guilty, or in the case of a plea of guilty or nolo contendere, by a jury impaneled for that purpose, or by the court if a jury is waived.

(c) Notwithstanding the provisions of subdivision (b), the question of whether the defendant is the person who has suffered the prior conviction shall be tried by the court without a jury.

(d) Subdivision (c) shall not apply to prior convictions alleged pursuant to Section 190.2 or to prior convictions alleged as an element of a charged offense.

(e) If the defendant pleads not guilty, and answers that he or she has suffered the prior conviction, the charge of the prior conviction shall neither be read to the jury nor alluded to during trial, except as otherwise provided by law.

(f) Nothing in this section alters existing law regarding the use of prior convictions at trial.

CHAPTER 96

An act to amend Sections 14021 and 14029 of the Insurance Code, relating to insurance.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 14021 of the Insurance Code is amended to read:

14021. An insurance adjuster within the meaning of this chapter is a person other than a private investigator as defined in Section 7521 of the Business and Professions Code who, for any consideration whatsoever, engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information in the course of adjusting or otherwise participating in the disposal of, any claim under or in connection with a policy of insurance on behalf of an insurer or engages in soliciting insurance adjustment business or aids an insurer in any manner with reference to:

Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer, or investigating committee.

Notwithstanding any other provision of law, this section is in no way intended to limit the ability of a duly licensed independent insurance adjuster to perform the duties of an independent insurance adjuster for any other entity.

SEC. 2. Section 14029 of the Insurance Code is amended to read:

14029. (a) The business of each licensee shall be operated under the active direction, control, charge, or management, in this state, of the licensee, if the licensee is qualified, or the person who has qualified to act as the licensee's manager, if the licensee is not qualified.

(b) No person shall act as a manager of a licensee until he or she has complied with each of the following:

(1) Demonstrated his or her qualifications by a written or oral examination, or a combination of both, if required by the commissioner.

(2) Made a satisfactory showing to the commissioner that he or she has the qualifications prescribed by Section 14025 and that none of the facts stated in Section 14028 exist as to him or her.

(c) If the manager, who has qualified as provided in this section ceases for any reason whatsoever to be connected with the licensee to whom the license is issued, the licensee shall notify the commissioner in writing 30 days from the cessation. If notice is given, the license shall remain in force for a reasonable length of time to be determined by the rules of the commissioner pending the

qualifications as provided in this chapter, or another manager. If the licensee fails to notify the commissioner within the 30-day period, his or her license shall be subject to suspension or revocation and may be reinstated only upon the filing of an application for reinstatement, payment of the reinstatement fee, if any is due, and the qualification of a manager as provided herein.

(d) Every manager shall renew his or her authority by satisfying the requirements of Article 8 (commencing with Section 14090).

CHAPTER 97

An act to amend Sections 107020, 115115, 120380, 123295, and 123345 of, and to amend and renumber Sections 106950, 107115, 107120, and 123228 of, the Health and Safety Code, relating to public health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 106950 of the Health and Safety Code is amended and renumbered to read:

100182. Every person charged with the performance of any duty under the laws of this state relating to the preservation of the public health, who willfully neglects or refuses to perform the same, is guilty of a misdemeanor.

SEC. 2. Section 107020 of the Health and Safety Code is amended to read:

107020. The department may issue a permit authorizing the temporary practice of radiologic technology to any applicant for certification who has complied with the experience and education requirements of Section 107000 and is awaiting examination. A permit shall convey the same rights as a certificate for the period for which it is issued in the classification for which the applicant is eligible, and shall be valid until 90 days after the date of the next examination held pursuant to Section 107025, except that if the applicant does not take the examination the permit shall expire on the date of the examination.

SEC. 3. Section 107115 of the Health and Safety Code is amended and renumbered to read:

107111. A licentiate of the healing arts who is certified by an examining board in radiology recognized by the department shall be granted a certificate to supervise the operation of X-ray machines and to operate X-ray machines without restrictions.

SEC. 4. Section 107120 of the Health and Safety Code is amended and renumbered to read:

114896. The department shall keep certificate holders and permitholders apprised of significant changes in the practice of radiologic technology and changes in regulation of the practice of radiologic technology through a biannual report. The report shall be furnished to certified radiological technologists and limited permitholders and may be furnished to appropriate licentiates of the healing arts.

SEC. 5. Section 115115 of the Health and Safety Code is amended to read:

115115. The person responsible for registering mammographic X-ray equipment or a certified supervisor, as defined in subdivision (i) of Section 114850, shall establish and maintain a Mammography Quality Assurance Program that includes:

(a) A Mammography Quality Assurance Manual for the identification of mammography quality assurance tests performed, test frequency, test equipment used, maintenance and calibration of test equipment, and the qualifications of individuals who perform the tests in order to ensure compliance with the May 1990 version of "Rules of Good Practice for Supervision and Operation of Mammographic X-Ray Equipment" or the regulations of the department.

(b) A "Mammography X-Ray Equipment and Facility Accreditation Certificate" issued by the department that shall be posted on each X-ray machine specifically dedicated for the purpose of mammography.

SEC. 6. Section 120380 of the Health and Safety Code is amended to read:

120380. It is the intent of the Legislature that the administration of immunizing agents by registered nurses in school immunization programs under the direction of a supervising physician and surgeon as provided in Sections 49403 and 49426 of the Education Code shall be in accordance with accepted medical procedure. To implement this intent, the department may adopt written regulations specifying the procedures and circumstances under which a registered nurse, acting under the direction of a supervising physician and surgeon, may administer an immunizing agent pursuant to Sections 49403 and 49426 of the Education Code.

However, nothing in this section shall be construed to prevent any registered nurse from administering an immunizing agent in accordance with Sections 49403 and 49426 of the Education Code in the absence of written regulations as the department is authorized to adopt under this section.

SEC. 7. Section 123228 of the Health and Safety Code is amended and renumbered to read:

124251. (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. 8. Section 123295 of the Health and Safety Code is amended to read:

123295. Nutrition coupons in an amount sufficient to meet the nutritional needs of a recipient for one month shall be granted to a recipient by facilities and persons referred to in subdivision (g) of Section 123290 upon the written finding of nutritional need by the recipient’s physician or other health professional.

SEC. 9. Section 123345 of the Health and Safety Code is amended to read:

123345. An abstract of judgment obtained pursuant to subdivisions (a) and (b) of Section 123340 or a copy thereof may be recorded with the county recorder of any county. From the time of recording, the judgment shall constitute a lien upon all real or personal property owned by the vendor at the time, or that the vendor may afterwards, but before the lien expires, acquire. The lien shall have the force, effect, and priority of a judgment lien and shall continue for 10 years from the time of recording of the abstract of judgment obtained pursuant to subdivisions (a) and (b) of Section 123340 unless sooner released or otherwise discharged.

The lien may, within 10 years from the date of recording of the abstract of judgment or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by recording a new abstract in the office of the county recorder of any county. From the date of the recording the lien shall be extended for 10 years unless sooner released or otherwise discharged.

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 carry out the intent of the Legislature as expressed in Chapter 415 of the Statutes of 1995 to reorganize the public health

portion of the Health and Safety Code as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 98

An act to amend and repeal Section 3209.3 of, and to add Section 3209.9 to, the Labor Code, relating to workers' compensation.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 3209.3 of the Labor Code, as amended by Section 1 of Chapter 26 of the Statutes of 1996, is amended to read:

3209.3. (a) "Physician" includes physicians and surgeons holding an M.D. or D.O. degree, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners licensed by California state law and within the scope of their practice as defined by California state law.

(b) "Psychologist" means a licensed psychologist with a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to Section 2914 of the Business and Professions Code, and who either has at least two years of clinical experience in a recognized health setting or has met the standards of the National Register of the Health Service Providers in Psychology.

(c) When treatment or evaluation for an injury is provided by a psychologist, provision shall be made for appropriate medical collaboration when requested by the employer or the insurer.

(d) "Acupuncturist" means a person who holds an acupuncturist's certificate issued pursuant to Chapter 12 (commencing with Section 4925) of Division 2 of the Business and Professions Code.

(e) Nothing in this section shall be construed to authorize acupuncturists to determine disability for the purposes of Article 3 (commencing with Section 4650) of Chapter 2 of Part 2, or under Section 2708 of the Unemployment Insurance Code.

SEC. 2. Section 3209.3 of the Labor Code, as amended by Section 2 of Chapter 26 of the Statutes of 1996, is repealed.

SEC. 3. Section 3209.9 is added to the Labor Code, to read:

3209.9. The inclusion of acupuncturists in Section 3209.3 does not imply any right or entitle any acupuncturist to represent, advertise, or hold himself or herself out as a physician or surgeon holding an M.D. or D.O. degree.

CHAPTER 99

An act to amend Section 1872.83 of the Insurance Code, relating to insurance.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 1872.83 of the Insurance Code is amended to read:

1872.83. (a) The commissioner shall ensure that the Bureau of Fraudulent Claims aggressively pursues all reported incidents of probable workers' compensation fraud, as defined in Sections 11760 and 11880, in subdivision (a) of Section 1871.4, and in Section 549 of the Penal Code, and forwards to the appropriate disciplinary body the names, along with all supporting evidence, of any individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity. The Bureau of Fraudulent Claims shall forward to the Insurance Commissioner or the Director of Industrial Relations, as appropriate, the name, along with all supporting evidence, of any insurer, as defined in subdivision (c) of Section 1877.1, suspected of actively engaging in the fraudulent denial of claims.

(b) To fund increased investigation and prosecution of workers' compensation fraud, there shall be an annual assessment as follows:

(1) The aggregate amount of the assessment shall be determined by the Fraud Assessment Commission, which is hereby established. The commission shall be composed of five members consisting of two representatives of self-insured employers, one representative of insured employers, one representative of workers' compensation insurers, and the President of the State Compensation Insurance Fund, or his or her designee.

The Governor shall appoint members representing self-insured employers, insured employers, and insurers. The term of office of members of the commission shall be four years, and a member shall hold office until the appointment of a successor. However, the initial terms of three of the members appointed by the Governor shall expire, respectively, on December 31, 1992, December 31, 1993, and December 31, 1994. The President of the State Compensation Insurance Fund shall be an ex officio, voting member of the commission. Members of the commission shall receive one hundred dollars ($100) for each day of actual attendance at commission meetings and other official commission business, and shall also receive their actual and necessary traveling expenses incurred in the performance of commission duties. Payment of per diem and travel expenses shall be made from the Workers' Compensation Fraud

Account in the Insurance Fund, established in paragraph (4), upon appropriation by the Legislature.

(2) In determining the aggregate amount of the assessment, the Fraud Assessment Commission shall consider the advice and recommendations of the Bureau of Fraudulent Claims and the commissioner.

(3) The aggregate amount of the assessment shall be collected by the Director of Industrial Relations pursuant to Section 62.6 of the Labor Code. The Fraud Assessment Commission shall annually advise the Director of Industrial Relations, not later than March 15, of the aggregate amount to be assessed for the next fiscal year.

(4) The amount collected, together with the fines collected for violations of the unlawful acts specified in Sections 1871.4, 11760, and 11880, and Section 549 of the Penal Code, shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund, which is hereby created, and may be used, upon appropriation by the Legislature, only for enhanced workers' compensation fraud investigation and prosecution as provided in this section.

(c) For each fiscal year, the total amount of revenues derived from the assessment pursuant to subdivision (b) shall, together with amounts collected pursuant to fines imposed for unlawful acts described in Sections 1871.4, 11760, and 11880, and Section 549 of the Penal Code, not be less than three million dollars ($3,000,000). Any funds appropriated by the Legislature pursuant to subdivision (b) that are not expended in the fiscal year for which they have been appropriated, and that have not been allocated under subdivision (f), shall be applied to satisfy for the immediately following fiscal year the minimum total amount required by this subdivision. In no case may that money be transferred to the General Fund.

(d) After incidental expenses, at least 40 percent of the funds to be used for the purposes of this section shall be provided to the Bureau of Fraudulent Claims of the Department of Insurance for enhanced investigative efforts, and at least 40 percent of the funds shall be distributed to district attorneys, pursuant to a determination by the commissioner with the advice and consent of the bureau and the Fraud Assessment Commission, as to the most effective distribution of moneys for purposes of the investigation and prosecution of workers' compensation insurance fraud cases. Each district attorney seeking a portion of the funds shall submit to the commissioner an application setting forth in detail the proposed use of any funds provided. A district attorney receiving funds pursuant to this subdivision shall submit an annual report to the commissioner with respect to the success of his or her efforts. Upon receipt, the commissioner shall provide copies to the bureau and the Fraud Assessment Commission of any application, annual report, or other documents with respect to the allocation of money pursuant to this subdivision. These documents shall be public records.

(e) If a district attorney is determined by the commissioner to be unable or unwilling to investigate and prosecute workers' compensation fraud claims, the commissioner shall discontinue distribution of funds allocated for that county and may redistribute those funds according to this subdivision.

(1) The commissioner shall promptly determine whether any other county could assert jurisdiction to prosecute the fraud claims that would have been brought in the nonparticipating county, and if so, the commissioner may award funds to conduct the prosecutions redirected pursuant to this subdivision. These funds may be in addition to any other fraud prosecution funds otherwise awarded under this section. Any district attorney receiving funds pursuant to this subdivision shall first agree that the funds shall be used solely for investigating and prosecuting those cases of workers' compensation fraud redirected pursuant to this subdivision and submit an annual report to the commissioner with respect to the success of the district attorney's efforts. The commissioner shall keep the Fraud Assessment Commission fully informed of all reallocations of funds under this paragraph.

(2) If the commissioner determines that no district attorney is willing or able to investigate and prosecute the workers' compensation fraud claims arising in the nonparticipating county, the commissioner, with the advice and consent of the Fraud Assessment Commission, may award to the Attorney General some or all of the funds previously awarded to the nonparticipating county. Before the commissioner may award any funds, the Attorney General shall submit to the commissioner an application setting forth in detail his or her proposed use of any funds provided and agreeing that any funds awarded shall be used solely for investigating and prosecuting those cases of workers' compensation fraud redirected pursuant to this subdivision. The Attorney General shall submit an annual report to the commissioner with respect to the success of the fraud prosecution efforts of his or her office.

(3) Neither the Attorney General nor any district attorney shall be required to relinquish control of any investigation or prosecution undertaken pursuant to this subdivision unless the commissioner determines that satisfactory progress is no longer being made on the case or the case has been abandoned.

(4) No county that has become a nonparticipating county due to the inability or unwillingness of its district attorney to investigate and prosecute workers' compensation fraud shall become eligible to receive funding under this section until it has submitted a new application that meets the requirements of subdivision (d) and the applicable regulations.

(f) If in any fiscal year the Bureau of Fraudulent Claims does not use all of the funds made available to it under subdivision (d), any remaining funds may be distributed to district attorneys pursuant to

a determination by the commissioner in accordance with the same procedures set forth in subdivision (d).

(g) The commissioner shall adopt rules and regulations to implement this section 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). Included in the rules and regulations shall be the criteria for redistributing funds to district attorneys and the Attorney General. The adoption of the rules and regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(h) The department shall report on an annual basis to the Legislature and the Fraud Assessment Commission on the activities of the Bureau of Fraudulent Claims and local district attorneys supported by the funds provided by this section.

The annual report shall include, but is not limited to, all of the following information for the department and each district attorney's office:

(1) All allocations, distributions, and expenditures of funds.

(2) The number of search warrants issued.

(3) The number of arrests and prosecutions, and the aggregate number of parties involved in each.

(4) The number of convictions, and names of all convicted fraud perpetrators.

(5) The estimated value of all assets frozen, penalties assessed, and restitutions made for each conviction.

(6) Any additional items necessary to fully inform the Fraud Assessment Commission and the Legislature of the fraud-fighting efforts financed through this section.

(i) In order to meet the requirements of subdivision (g), the department shall submit a biannual information request to those district attorneys who have applied for and received funding through the annual assessment process under this section.

(j) Assessments levied or collected to fight workers' compensation fraud and insurance fraud are not taxes. Those funds are entrusted to the state to fight fraud by funding state and local investigation and prosecution efforts. Accordingly, any funds resulting from assessments, fees, penalties, fines, restitution, or recovery of costs of investigation and prosecution deposited in the Insurance Fund shall not be deemed "unexpended" funds for any purpose and, if remaining in that account at the end of any fiscal year, shall be applied as provided in subdivision (f) and to offset or augment subsequent years' program funding.

SEC. 1.5. Section 1872.83 of the Insurance Code is amended to read:

1872.83. (a) The commissioner shall ensure that the Bureau of Fraudulent Claims aggressively pursues all reported incidents of probable workers' compensation fraud, as defined in Sections 11760

and 11880, in subdivision (a) of Section 1871.4, and in Section 549 of the Penal Code, and forwards to the appropriate disciplinary body the names, along with all supporting evidence, of any individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity. The Bureau of Fraudulent Claims shall forward to the Insurance Commissioner or the Director of Industrial Relations, as appropriate, the name, along with all supporting evidence, of any insurer, as defined in subdivision (c) of Section 1877.1, suspected of actively engaging in the fraudulent denial of claims.

(b) To fund increased investigation and prosecution of workers' compensation fraud, there shall be an annual assessment as follows:

(1) The aggregate amount of the assessment shall be determined by the Fraud Assessment Commission, which is hereby established. The commission shall be composed of five members consisting of two representatives of self-insured employers, one representative of insured employers, one representative of workers' compensation insurers, and the President of the State Compensation Insurance Fund, or his or her designee.

The Governor shall appoint members representing self-insured employers, insured employers, and insurers. The term of office of members of the commission shall be four years, and a member shall hold office until the appointment of a successor. However, the initial terms of three of the members appointed by the Governor shall expire, respectively, on December 31, 1992, December 31, 1993, and December 31, 1994. The President of the State Compensation Insurance Fund shall be an ex officio, voting member of the commission. Members of the commission shall receive one hundred dollars ($100) for each day of actual attendance at commission meetings and other official commission business, and shall also receive their actual and necessary traveling expenses incurred in the performance of commission duties. Payment of per diem and travel expenses shall be made from the Workers' Compensation Fraud Account in the Insurance Fund, established in paragraph (4), upon appropriation by the Legislature.

(2) In determining the aggregate amount of the assessment, the Fraud Assessment Commission shall consider the advice and recommendations of the Bureau of Fraudulent Claims and the commissioner.

(3) The aggregate amount of the assessment shall be collected by the Director of Industrial Relations pursuant to Section 62.6 of the Labor Code. The Fraud Assessment Commission shall annually advise the Director of Industrial Relations, not later than March 15, of the aggregate amount to be assessed for the next fiscal year.

(4) The amount collected, together with the fines collected for violations of the unlawful acts specified in Sections 1871.4, 11760, and 11880, and Section 549 of the Penal Code, shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund,

which is hereby created, and may be used, upon appropriation by the Legislature, only for enhanced workers' compensation fraud investigation and prosecution as provided in this section.

(c) For each fiscal year, the total amount of revenues derived from the assessment pursuant to subdivision (b) shall, together with amounts collected pursuant to fines imposed for unlawful acts described in Sections 1871.4, 11760, and 11880, and Section 549 of the Penal Code, not be less than three million dollars ($3,000,000). Any funds appropriated by the Legislature pursuant to subdivision (b) that are not expended in the fiscal year for which they have been appropriated, and that have not been allocated under subdivision (f), shall be applied to satisfy for the immediately following fiscal year the minimum total amount required by this subdivision. In no case may that money be transferred to the General Fund.

(d) After incidental expenses, at least 40 percent of the funds to be used for the purposes of this section shall be provided to the Bureau of Fraudulent Claims of the Department of Insurance for enhanced investigative efforts, and at least 40 percent of the funds shall be distributed to district attorneys, pursuant to a determination by the commissioner with the advice and consent of the bureau and the Fraud Assessment Commission, as to the most effective distribution of moneys for purposes of the investigation and prosecution of workers' compensation insurance fraud cases. Each district attorney seeking a portion of the funds shall submit to the commissioner an application setting forth in detail the proposed use of any funds provided. A district attorney receiving funds pursuant to this subdivision shall submit an annual report to the commissioner with respect to the success of his or her efforts. Upon receipt, the commissioner shall provide copies to the bureau and the Fraud Assessment Commission of any application, annual report, or other documents with respect to the allocation of money pursuant to this subdivision. Both the application for moneys and the distribution of moneys shall be public documents. Information submitted to the commissioner pursuant to this section concerning criminal investigations, whether active or inactive, shall be confidential.

(e) If a district attorney is determined by the commissioner to be unable or unwilling to investigate and prosecute workers' compensation fraud claims, the commissioner shall discontinue distribution of funds allocated for that county and may redistribute those funds according to this subdivision.

(1) The commissioner shall promptly determine whether any other county could assert jurisdiction to prosecute the fraud claims that would have been brought in the nonparticipating county, and if so, the commissioner may award funds to conduct the prosecutions redirected pursuant to this subdivision. These funds may be in addition to any other fraud prosecution funds otherwise awarded under this section. Any district attorney receiving funds pursuant to this subdivision shall first agree that the funds shall be used solely for

investigating and prosecuting those cases of workers' compensation fraud redirected pursuant to this subdivision and submit an annual report to the commissioner with respect to the success of the district attorney's efforts. The commissioner shall keep the Fraud Assessment Commission fully informed of all reallocations of funds under this paragraph.

(2) If the commissioner determines that no district attorney is willing or able to investigate and prosecute the workers' compensation fraud claims arising in the nonparticipating county, the commissioner, with the advice and consent of the Fraud Assessment Commission, may award to the Attorney General some or all of the funds previously awarded to the nonparticipating county. Before the commissioner may award any funds, the Attorney General shall submit to the commissioner an application setting forth in detail his or her proposed use of any funds provided and agreeing that any funds awarded shall be used solely for investigating and prosecuting those cases of workers' compensation fraud redirected pursuant to this subdivision. The Attorney General shall submit an annual report to the commissioner with respect to the success of the fraud prosecution efforts of his or her office.

(3) Neither the Attorney General nor any district attorney shall be required to relinquish control of any investigation or prosecution undertaken pursuant to this subdivision unless the commissioner determines that satisfactory progress is no longer being made on the case or the case has been abandoned.

(4) No county that has become a nonparticipating county due to the inability or unwillingness of its district attorney to investigate and prosecute workers' compensation fraud shall become eligible to receive funding under this section until it has submitted a new application that meets the requirements of subdivision (d) and the applicable regulations.

(f) If in any fiscal year the Bureau of Fraudulent Claims does not use all of the funds made available to it under subdivision (d), any remaining funds may be distributed to district attorneys pursuant to a determination by the commissioner in accordance with the same procedures set forth in subdivision (d).

(g) The commissioner shall adopt rules and regulations to implement this section 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). Included in the rules and regulations shall be the criteria for redistributing funds to district attorneys and the Attorney General. The adoption of the rules and regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(h) The department shall report on an annual basis to the Legislature and the Fraud Assessment Commission on the activities

of the Bureau of Fraudulent Claims and local district attorneys supported by the funds provided by this section.

The annual report shall include, but is not limited to, all of the following information for the department and each district attorney's office:

(1) All allocations, distributions, and expenditures of funds.

(2) The number of search warrants issued.

(3) The number of arrests and prosecutions, and the aggregate number of parties involved in each.

(4) The number of convictions, and names of all convicted fraud perpetrators.

(5) The estimated value of all assets frozen, penalties assessed, and restitutions made for each conviction.

(6) Any additional items necessary to fully inform the Fraud Assessment Commission and the Legislature of the fraud-fighting efforts financed through this section.

(i) In order to meet the requirements of subdivision (g), the department shall submit a biannual information request to those district attorneys who have applied for and received funding through the annual assessment process under this section.

(j) Assessments levied or collected to fight workers' compensation fraud and insurance fraud are not taxes. Those funds are entrusted to the state to fight fraud by funding state and local investigation and prosecution efforts. Accordingly, any funds resulting from assessments, fees, penalties, fines, restitution, or recovery of costs of investigation and prosecution deposited in the Insurance Fund shall not be deemed "unexpended" funds for any purpose and, if remaining in that account at the end of any fiscal year, shall be applied as provided in subdivision (f) and to offset or augment subsequent years' program funding.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 1872.83 of the Insurance Code proposed by both this bill and AB 349. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 1872.83 of the Insurance Code, and (3) this bill is enacted after AB 349, in which case Section 1 of this bill shall not become operative.

CHAPTER 100

An act to amend Sections 679.03 and 3605 of the Penal Code, relating to the death penalty.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 679.03 of the Penal Code is amended to read:

679.03. (a) With respect to the conviction of a defendant involving a violent offense, as defined in subdivision (b) of Section 12021.1, the county district attorney, probation department, and victim-witness coordinator shall confer and establish an annual policy within existing resources to decide which one of their agencies shall inform each witness involved in the conviction who was threatened by the defendant following the defendant's arrest and each victim or next of kin of the victim of that offense of the right to request and receive a notice pursuant to Section 3058.8 or 3605. If no agreement is reached, the presiding judge shall designate the appropriate county agency or department to provide this notification.

(b) The Department of Corrections shall supply a form to the agency designated pursuant to subdivision (a) in order to enable persons specified in subdivision (a) to request and receive notification from the department of the release, escape, scheduled execution, or death of the violent offender. That agency shall give the form to the victim, witness, or next of kin of the victim for completion, explain to that person or persons the right to be so notified, and forward the completed form to the department. The department or the Board of Prison Terms is responsible for notifying all victims, witnesses, or next of kin of victims who request to be notified of a violent offender's release or scheduled execution, as provided by Sections 3058.8 and 3605.

(c) All information relating to any person receiving notice pursuant to subdivision (b) shall remain confidential and is not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Title 7 of Division 1 of the Government Code).

SEC. 2. Section 3605 of the Penal Code is amended to read:

3605. (a) The warden of the state prison where the execution is to take place shall be present at the execution and shall, subject to any applicable requirement or definition set forth in subdivision (b), invite the presence of two physicians, the Attorney General, the members of the immediate family of the victim or victims of the defendant, and at least 12 reputable citizens, to be selected by the warden. The warden shall, at the request of the defendant, permit those ministers of the Gospel, not exceeding two, as the defendant may name, and any persons, relatives or friends, not to exceed five, to be present at the execution, together with those peace officers as he or she may think expedient, to witness the execution. But no other persons than those specified in this section may be present at the execution, nor may any person under 18 years of age be allowed to witness the execution.

(b) (1) For purposes of an invitation required by subdivision (a) to members of the immediate family of the victim or victims of the

defendant, the warden of the state prison where the execution is to take place shall make the invitation only if a member of the immediate family of the victim or victims of the defendant so requests in writing. In the event that a written request is made, the warden of the state prison where the execution is to take place shall automatically make the invitation 30 days prior to the date of an imminent execution or as close to this date as practicable.

(2) For purposes of this section, "immediate family" means those persons who are related by blood, adoption, or marriage, within the second degree of consanguinity or affinity.

CHAPTER 101

An act to amend Section 3058.8 of the Penal Code, relating to parole.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 3058.8 of the Penal Code is amended to read:

3058.8. (a) At the time a notification is sent pursuant to subdivision (a) of Section 3058.6, the Board of Prison Terms or the Department of Corrections, as the case may be, shall also send a notice to persons described in Section 679.03 who have requested a notice informing those persons of the fact that the person who committed the 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 if it is (1) in the county of residence of a witness, victim, or family member of a victim who has requested notification, or (2) within 100 miles of the actual residence of a witness, victim, or family member of a victim who has requested notification. 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 or department shall provide the witness, victim, or next of kin with the revised information.

(b) In order to be entitled to receive the notice set forth in this section, the requesting party shall keep the department or board informed of his or her current mailing address.

(c) The board or department, when sending out notices regarding an offender's release on parole, shall use the information provided by the requesting party in the form completed pursuant to subdivision (b) of Section 679.03, unless that information is no longer current. If the information is no longer current, the department shall make a

reasonable attempt to contact the person and to notify him or her of the impending release.

CHAPTER 102

An act to amend Section 1764.1 of, and to add Section 1763.2 to, the Insurance Code, relating to insurance.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 1763.2 is added to the Insurance Code, to read:

1763.2. A licensed surplus line broker may originate surplus lines business, or may accept that business from any other originating licensee duly licensed for the type or types of insurance involved, and may compensate those licensees therefor.

(b) For any information involved in any insurance transaction described in subdivision (a), or involved in the eligibility of the risk for placement with a surplus line broker, the originating licensee shall use due care and diligence in the collection, preparation, and transmission of the information to the surplus line broker.

SEC. 2. Section 1764.1 of the Insurance Code is amended to read:

1764.1. (a) (1) Every nonadmitted insurer, in the case of insurance to be purchased by a resident of this state pursuant to Section 1760, and surplus line broker, in the case of any insurance with a nonadmitted carrier to be transacted by the surplus line broker, shall be responsible to ensure that, at the time of accepting an application for any insurance policy issued by a nonadmitted insurer, the signature of the applicant on the disclosure statement set forth in subdivision (b) is obtained. In fulfillment of this responsibility, the nonadmitted insurer and the surplus line broker may rely, if it is reasonable under all the circumstances to do so, on the disclosure statement received from any licensee involved in the transaction as prima facie evidence that the disclosure statement and appropriate signature from the applicant have been obtained. The surplus line broker shall maintain a copy of the signed disclosure statement in his or her records for a period of at least five years. These records shall be made available to the commissioner and the insured upon request. This disclosure shall be signed by the applicant, and is not subject to any limited power of attorney agreement between the applicant and an agent or broker, or a surplus line broker. The disclosure statement shall be in boldface 16-point type on a freestanding document. In addition, every policy issued by a nonadmitted insurer and every certificate evidencing the placement

of insurance shall contain, or have affixed to it by the insurer or surplus line broker, the disclosure statement set forth in subdivision (b) in boldface 16-point type on the front page of the policy.

(2) In any case where the applicant has not received and completed the signed disclosure form required by this section, he or she may cancel the insurance so placed. The cancellation shall be on a pro rata basis as to premium, and the applicant shall be entitled to the return of any broker's fees charged for the placement.

(b) The following notice shall be provided to policyholders and applicants for insurance as provided by subdivision (a), and shall be printed in English and in the language principally used by the surplus line broker and nonadmitted insurer to advertise, solicit, or negotiate the sale and purchase of surplus line insurance. The surplus line broker and nonadmitted insurer shall use the appropriate bracketed language for application and issued policy disclosures:

"NOTICE:

1. THE INSURANCE POLICY THAT YOU [HAVE PURCHASED] [ARE APPLYING TO PURCHASE] IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED "NONADMITTED" OR "SURPLUS LINE" INSURERS.

2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT WHICH APPLIES TO CALIFORNIA LICENSED INSURERS.

3. THE INSURER DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.

4. FOR ADDITIONAL INFORMATION ABOUT THE INSURER YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR "SURPLUS LINE" BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE, AT THE FOLLOWING TOLL-FREE TELEPHONE NUMBER: ________."

(c) When a contract is issued to an industrial insured neither the nonadmitted insurer nor the surplus line broker is required to provide the notice required in this section except on the confirmation of insurance, the certificate of placement, or the policy, whichever is first provided to the insured, nor is the insurer or surplus line broker required to obtain the insured's signature. The producer shall ensure that the notice affixed to the confirmation of insurance, certificate of placement, or the policy is provided to the insured. The producer

shall insert the current toll-free telephone number of the Department of Insurance as provided in paragraph 4 of the notice.

(1) An industrial insured is an insured:

(A) Which employs at least 25 employees on average during the prior 12 months; and

(B) Which has aggregate annual premiums for insurance for all risks other than workers' compensation and health coverage totaling no less than twenty-five thousand dollars ($25,000); or

(C) Which obtains insurance through the services of a full-time employee acting as an insurance manager or a continuously retained insurance consultant. A "continuously retained insurance consultant" does not include: (i) Any agent or broker through whom the insurance is being placed, (ii) any subagent or subproducer involved in the transaction, or (iii) any agent or broker which is a business organization employing or contracting with any person mentioned in clauses (i) and (ii).

(2) The surplus line broker shall be responsible to ensure that the applicant is an industrial insured. A surplus line broker who reasonably relies on information provided in good faith by the applicant, whether directly or through the producer, shall be deemed to be in compliance with this requirement.

(d) In the case of commercial insurance coverages, for purposes of compliance with the requirement of subdivision (a) that the signature of the applicant be obtained, the following shall apply:

(1) Where the insurance transaction is not conducted at an in-person, face-to-face meeting, the applicant's signature on the disclosure form may be transmitted by the applicant to the agent or broker via facsimile or comparable electronic transmittal.

(2) Where an applicant requires that insurance coverage be bound immediately, either because existing coverage will lapse within two business days of the time the insurance is bound or because the applicant is required to have coverage in place within two business days, and the applicant cannot meet in person with the agent or broker to sign the disclosure form, the agent or broker may obtain the signature of the applicant within five days of binding coverage, provided that the applicant may cancel the insurance so placed within five days of receiving the disclosure form from the agent or broker. The cancellation shall be on a pro rata basis, and the applicant shall be entitled to the rescission or return of any broker's fees charged for the placement.

(e) Notwithstanding subdivision (a), this section shall not apply to insurance issued or delivered in this state by a nonadmitted Mexican insurer by and through a surplus line broker affording coverage exclusively in the Republic of Mexico on property located temporarily or permanently in, or operations conducted temporarily or permanently within, the Republic of Mexico.

SEC. 3. Section 1764.1 of the Insurance Code is amended to read:

1764.1. (a) (1) Every nonadmitted insurer, in the case of insurance to be purchased by a resident of this state pursuant to Section 1760, and surplus line broker, in the case of any insurance with a nonadmitted carrier to be transacted by the surplus line broker, shall be responsible to ensure that, at the time of accepting an application for any insurance policy issued by a nonadmitted insurer, the signature of the applicant on the disclosure statement set forth in subdivision (b) is obtained. In fulfillment of this responsibility, the nonadmitted insurer and the surplus line broker may reasonably rely on the disclosure statement received from any licensee involved in the transaction as prima facie evidence that the disclosure statement and appropriate signature from the applicant have been obtained. The surplus line broker shall maintain a copy of the signed disclosure statement in his or her records for a period of at least five years. These records shall be made available to the commissioner and the insured upon request. This disclosure shall be signed by the applicant, and is not subject to any limited power of attorney agreement between the applicant and an agent or broker, or a surplus line broker. The disclosure statement shall be in boldface 16-point type on a freestanding document. In addition, every policy issued by a nonadmitted insurer and every certificate evidencing the placement of insurance shall contain, or have affixed to it by the insurer or surplus line broker, the disclosure statement set forth in subdivision (b) in boldface 16-point type on the front page of the policy.

(2) In any case where the applicant has not received and completed the signed disclosure form required by this section, he or she may cancel the insurance so placed. The cancellation shall be on a pro rata basis as to premium, and the applicant shall be entitled to the return of any broker's fees charged for the placement.

(b) The following notice shall be provided to policyholders and applicants for insurance as provided by subdivision (a), and shall be printed in English and in the language principally used by the surplus line broker and nonadmitted insurer to advertise, solicit, or negotiate the sale and purchase of surplus line insurance. The surplus line broker and nonadmitted insurer shall use the appropriate bracketed language for application and issued policy disclosures:

"NOTICE:

1. THE INSURANCE POLICY THAT YOU [HAVE PURCHASED] [ARE APPLYING TO PURCHASE] IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED "NONADMITTED" OR "SURPLUS LINE" INSURERS.

2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT WHICH APPLIES TO CALIFORNIA LICENSED INSURERS.

3. THE INSURER DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS AS PROMISED.

4. FOR ADDITIONAL INFORMATION ABOUT THE INSURER YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR "SURPLUS LINE" BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE, AT THE FOLLOWING TOLL-FREE TELEPHONE NUMBER: ________."

(c) When a contract is issued to an industrial insured neither the nonadmitted insurer nor the surplus line broker is required to provide the notice required in this section except on the confirmation of insurance, the certificate of placement, or the policy, whichever is first provided to the insured, nor is the insurer or surplus line broker required to obtain the insured's signature. The producer shall ensure that the notice affixed to the confirmation of insurance, certificate of placement, or the policy is provided to the insured. The producer shall insert the current toll-free telephone number of the Department of Insurance as provided in paragraph 4 of the notice.

(1) An industrial insured is an insured:

(A) Which employs at least 25 employees on average during the prior 12 months; and

(B) Which has aggregate annual premiums for insurance for all risks other than workers' compensation and health coverage totaling no less than twenty-five thousand dollars ($25,000); or

(C) Which obtains insurance through the services of a full-time employee acting as an insurance manager or a continuously retained insurance consultant. A "continuously retained insurance consultant" does not include: (i) Any agent or broker through whom the insurance is being placed, (ii) any subagent or subproducer involved in the transaction, or (iii) any agent or broker which is a business organization employing or contracting with any person mentioned in clauses (i) and (ii).

(2) The surplus line broker shall be responsible to ensure that the applicant is an industrial insured. A surplus line broker who reasonably relies on information provided in good faith by the applicant, whether directly or through the producer, shall be deemed to be in compliance with this requirement.

(d) For purposes of compliance with the requirement of subdivision (a) that the signature of the applicant be obtained, the following shall apply:

(1) Where the insurance transaction is not conducted at an in-person, face-to-face meeting, the applicant's signature on the

disclosure form may be transmitted by the applicant to the agent or broker via facsimile or comparable electronic transmittal.

(2) In the case of commercial insurance coverages, where an applicant requires that insurance coverage be bound immediately, either because existing coverage will lapse within two business days of the time the insurance is bound or because the applicant is required to have coverage in place within two business days, and the applicant cannot meet in person with the agent or broker to sign the disclosure form, the agent or broker may obtain the signature of the applicant within five days of binding coverage, provided that the applicant may cancel the insurance so placed within five days of receiving the disclosure form from the agent or broker. The cancellation shall be on a pro rata basis, and the applicant shall be entitled to the rescission or return of any broker's fees charged for the placement.

(e) Notwithstanding subdivision (a), this section shall not apply to insurance issued or delivered in this state by a nonadmitted Mexican insurer by and through a surplus line broker affording coverage exclusively in the Republic of Mexico on property located temporarily or permanently in, or operations conducted temporarily or permanently within, the Republic of Mexico.

SEC. 4. Section 3 of this bill incorporates amendments to Section 1764.1 of the Insurance Code proposed by both this bill and Assembly Bill 816. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 1764.1 of the Insurance Code, and (3) this bill is enacted after Assembly Bill 816, in which case Section 2 of this bill shall not become operative.

CHAPTER 103

An act to amend Section 23399 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 23399 of the Business and Professions Code is amended to read:

23399. (a) An on-sale general license authorizes the sale of beer, wine, and distilled spirits for consumption on the premises where sold. Any licensee under an on-sale general license, a club license, or a veterans' club license may apply to the department for a caterer's permit. A caterer's permit under an on-sale general license shall

authorize the sale of beer, wine, and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events held any place in the state approved by the department. A caterer's permit under a club license or a veterans' club license shall authorize sales at these events only upon the licensed club premises.

(b) Any licensee under an on-sale general license may apply to the department for an event permit. An event permit under an on-sale general license shall authorize, at events held no more frequently than once in any single calendar quarter, the sale of beer, wine, and distilled spirits only for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. For purposes of this subdivision, "calendar quarter" means January 1 to March 31, inclusive, April 1 to June 30, inclusive, July 1 to September 30, inclusive, or October 1 to December 31, inclusive, of any calendar year.

(c) This section shall in no way limit the power of the department to issue special licenses under the provisions of Section 24045 or to issue daily on-sale general licenses under the provisions of Section 24045.1. Consent for sales at each event shall be first obtained from the department in the form of a catering or event authorization issued pursuant to rules prescribed by it. Any event authorization shall be subject to approval by the appropriate local law enforcement agency. Each catering or event authorization shall be issued at a fee not to exceed ten dollars ($10) and this fee shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761.

(d) At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises.

(e) The fee for a caterer's permit for a licensee under an on-sale general license or an event permit for a licensee under an on-sale general license shall be one hundred dollars ($100) per year, and the fee for a caterer's permit for a licensee under a club license or a veterans' club license shall be a sum equal to the annual fee for an on-sale general license prescribed by Section 23320, and the permit may be renewable annually at the same time as the licensee's license. A caterer's or event permit shall be transferable as a part of the license.

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:

In order to avoid any economic hardship that would be sustained by not extending this authorization to licensees at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 104

An act to add Section 50517.9 to the Health and Safety Code, relating to farmworker housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

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

SECTION 1. Section 50517.9 is added to the Health and Safety Code, to read:

50517.9. (a) In enacting this section, it is the intent of the Legislature to provide disaster assistance for farmworkers displaced by the 1997 floods in the most expeditious and fiscally sound manner possible. It is the intent of the Legislature that the Department of Housing and Community Development administer this section accordance with those goals.

(b) In counties in which a disaster has been declared by the Governor pursuant to Section 8625 of the Government Code, and for a period of 12 months after the declaration, the department may award funds for the purposes of this section, subject to the following terms and conditions:

(1) Loans may be made to local public entities, nonprofit corporations, and private property owners to repair, rehabilitate or replace housing previously used exclusively by migrant farmworker households or unaccompanied migrant farmworker adults, which will be used in the future for those purposes. Loan funds may be used to acquire or lease “manufactured structures” which, for the purposes of this section, means structures subject to Part 2 (commencing with Section 18000) of Division 13. Private property owners shall be eligible for loans only to the extent that other federal

and state resources, private insurance proceeds, or private institutional lending sources are not available in a timely manner or do not provide the coverage needed to rehabilitate or reconstruct the housing without increasing the rent above that charged for the units prior to the disaster.

(2) The department may enter into contracts directly with nonprofit corporations, local public entities, or private property owners to carry out the activities authorized by this section.

(3) Loans made under this section shall be secured by, and subject to, security instruments approved by the department, including, but not limited to, real property leases or liens, regulatory agreements, and liens on manufactured structures. The department shall establish loan terms and conditions with consideration to the financial feasibility and prudent operation of the housing units financed. In no event shall the loans require interest at a rate higher than three percent simple interest or have a term longer than the useful life of the housing units. Repayments may be deferred for the first five years of the loan term, if the department determines that it is necessary for fiscal integrity or to prevent foreclosure.

(4) In making any loan, the department shall require that the borrower meet all of the following conditions:

(A) The borrower shall be capable of providing occupancy in decent, safe and sanitary housing that meets all of the requirements of law within six months after the award of funds.

(B) The borrower shall demonstrate the financial feasibility of the project.

(C) Prior to disbursement of funds, the borrower shall identify the property on which the housing will be repaired, rehabilitated or replaced, and provide information satisfactory to the department related to the costs and sources of funding necessary to complete the repairs, rehabilitation or replacement. All costs shall be reasonable, considering the necessity of expeditious rehabilitation or replacement.

(5) Priority for use of the funds shall be given to borrowers who will provide housing at the earliest date.

(6) All units assisted under this section shall remain affordable to low- and very low income households for the life of the project. For the 1997–98 growing season, farmworkers who previously occupied the damaged or destroyed housing shall have first priority to occupy any unit assisted under this section.

(7) If units assisted under this section are built or rehabilitated in the same natural disaster zone as the units damaged or destroyed by the disaster, the borrower shall maintain disaster insurance on the units for the useful life of the units. For purposes of this section, “disaster insurance” means fire, earthquake, flood, or other insurance against the natural disaster that damaged or destroyed the housing units.

(8) To the extent that any housing unit that was damaged or destroyed is reconstructed under this section with substantially the same number of units, it shall be deemed to be "existing housing" for the purposes of subdivision (d) of Section 37001.5.

(9) The department may waive any requirements of Section 50517.5 and any regulations promulgated thereunder which are inconsistent with prompt and effective implementation of the program described in this section. In addition, any rule, policy, or standard of general application employed by the department in implementing the provision of this section shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 12 of Division 3 of Title 2 of the Government Code. Awards of funds made pursuant to this section shall not be subjected to review or approval by the Local Assistance Loan and Grant Committee of the department operating pursuant to Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of Title 25 of the California Code of Regulations.

SEC. 2. The sum of one million dollars ($1,000,000) is hereby appropriated from the Special Fund for Economic Uncertainties to the Farmworker Housing Grant Fund established pursuant to subdivision (b) Section 50517.5 of the Health and Safety Code, for the following purposes:

(a) Not less than nine hundred fifty thousand dollars ($950,000) shall be allocated by the Department of Housing and Community Development for loans pursuant to Section 50517.9 of the Health and Safety Code.

(b) Not more than fifty thousand dollars ($50,000) shall be used by the Department of Housing and Community Development for its costs of administering the program in Section 50517.9 of the Health and Safety Code.

(c) First priority for loans shall be in Yuba County. Any funds not awarded within six months after the effective date of this measure shall be available for use in any county in which the Governor declared a disaster and migrant farmworker housing was damaged or destroyed by the 1997 floods.

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:

The state and the County of Yuba have determined through assessments and surveys of flood areas that over 250 farmworker housing units in the county were destroyed by the recent disastrous and extensive flooding that occurred due to the levee break on the Feather River. The county's agricultural industry is facing an economic crisis due to the severe shortage of farmworker housing necessary to retain a sufficient work force for this year's agricultural season. In order to promptly secure the temporary farmworker housing units needed to house the work force required by the

agricultural industry in Yuba County for this year's agricultural season, it is necessary that this act go into immediate effect.

CHAPTER 105

An act to amend Section 11105.03 of the Penal Code, relating to state summary criminal history information, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 22, 1997. Filed with Secretary of State July 22, 1997.]

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

SECTION 1. Section 11105.03 of the Penal Code is amended to read:

11105.03. (a) Subject to the requirements and conditions set forth in this section and Section 11105, local law enforcement agencies are hereby authorized to provide state criminal summary history information obtained through CLETS for the purpose of screening prospective participants and prospective and current staff of a regional, county, city, or other local public housing authority, at the request of the chief executive officer of the authority or his or her designee, upon a showing by that authority that the authority operates housing at which children under the age of 18 years reside or operates housing for persons categorized as aged, blind, or disabled.

(b) The following requirements shall apply to information released by local law enforcement agencies pursuant to subdivision (a):

(1) Local law enforcement agencies shall not release any information unless it relates to a conviction for a serious felony, as defined in subdivision (c) of Section 1192.7, a conviction for any offense punishable under Section 273.5, 422.6, 422.7, 422.75, 422.9, 1170.75, 12020, 12021, or 12021.1, a conviction under Section 273.6 that involves a violation of a protective order, as defined in Section 6218 of the Family Code, or a conviction for any felony offense that involves controlled substances or alcoholic beverages, or any felony offense that involves any activity related to controlled substances or alcoholic beverages, or a conviction for any offense that involves domestic violence, as defined in Section 13700.

(2) Local law enforcement agencies shall not release any information concerning any arrest for an offense that did not result in a conviction.

(3) Local law enforcement agencies shall not release any information concerning any offense committed by a person who was under 18 years of age at the time he or she committed the offense.

(4) Local law enforcement agencies shall release any information concerning any conviction or release from custody that occurred within 10 years of the date on which the request for information is submitted to the Attorney General, unless the conviction was based upon a felony offense that involved controlled substances or alcoholic beverages or a felony offense that involved any activity related to controlled substances or alcoholic beverages. Where a conviction was based on any of these felony offenses, local law enforcement agencies shall release any information concerning this conviction if the conviction occurred within five years of the date on which a request for the information was submitted.

(5) Notwithstanding paragraph (4), if information that meets the requirements of paragraphs (2) to (4), inclusive, is located and the information reveals a conviction of an offense specified in paragraph (1), local law enforcement agencies shall release all summary criminal history information concerning the person whether or not the information meets the requirements of paragraph (4), provided, however, that the information meets the requirements of paragraphs (1) to (3), inclusive.

(6) Information released to the local public housing authority pursuant to this section shall also be released to parole or probation officers at the same time.

(c) State summary criminal history information shall be used by the chief executive officer of the housing authority or a designee only for purposes of identifying prospective participants in subsidized programs and prospective and current staff who have access to residences, whose criminal history is likely to pose a risk to children under the age of 18 years or persons categorized as aged, blind, or disabled living in the housing operated by the authority.

(d) If a housing authority obtains summary criminal history information for the purpose of screening a prospective participant pursuant to this section, it shall review and evaluate that information in the context of other available information and shall not evaluate the person's suitability as a prospective participant based solely on his or her past criminal history.

(e) If a housing authority determines that a prospective participant is not eligible as a resident, it shall promptly notify him or her of the basis for its determination and, upon request, shall provide him or her within a reasonable time after the determination is made with an opportunity for an informal hearing on the determination in accordance with Section 960.207 of Title 24 of the Code of Federal Regulations.

(f) Any information obtained from state summary criminal history information pursuant to this section is confidential and the recipient public housing authority shall not disclose or use the information for any purpose other than that authorized by this section. The state summary criminal history information in the possession of the authority and all copies made from it shall be destroyed not more

than 30 days after the authority's final decision whether to act on the housing status of the individual to whom the information relates.

(g) The local public housing authority receiving state summary criminal history information pursuant to this section shall adopt regulations governing the receipt, maintenance, and use of the information. The regulations shall include provisions that require notice that the authority has access to criminal records of participants and employees who have access to programs.

(h) Use of this information is to be consistent with Title 24 of the Code of Federal Regulations and the current regulations adopted by the housing authority using the information.

(i) Nothing in this section shall be construed to require a housing authority to request and review an applicant's criminal history.

(j) The California Housing Authorities Association, after compiling data from all public housing authorities that receive summary criminal information pursuant to this chapter, shall report its findings based upon this data to the Legislature prior to January 1, 2000.

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 prevent the repeal of the program authorized by this act, it is necessary that this act take effect immediately.

CHAPTER 106

An act to amend Section 155.20 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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) (Subject to the limitations listed in subsections (b), (c), (d), and (e), 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.

(b) (1) 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 fairground, fairground facility, convention facility, 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.

(2) 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.

(c) This section does not apply to those real or personal properties enumerated in Section 52.

(d) 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.

(e) Nothing in this section shall authorize either of the following:

(1) 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.

(2) 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 107

An act to amend and repeal Section 9880.2 of the Business and Professions Code, relating to automotive repair.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 9880.2 of the Business and Professions Code, as amended by Section 1 of Chapter 572 of the Statutes of 1995, is amended to read:

9880.2. The following persons are exempt from the requirement of registration:

(a) An employee of an automotive repair dealer if the employee repairs motor vehicles only as an employee.

(b) A person who solely engages in the business of repairing the motor vehicles of a single commercial, industrial, or governmental establishment, or two or more establishments related by common ownership or corporate affiliation.

(c) A person who is registered pursuant to Chapter 20 (commencing with Section 9800) and whose work is limited to the installation or replacement of a motor vehicle radio, antenna, audio recorder, audio playback equipment, or burglar alarm.

(d) A person whose primary business is the wholesale supply of new or rebuilt automotive parts who solely engages in the remachining of individual automotive parts without compensation for warranty adjustments to those parts and who does not engage in repairing or diagnosing malfunctions of motor vehicles or motorcycles. “Primary business” means the business that accounts for the majority of the company’s gross sales. “Wholesale supply” means the sale, by a seller who possesses a California Resale Permit, of automotive parts to a retailer or jobber for the purpose of resale. However, a person described in this subdivision, prior to commencing work, shall do both of the following:

(1) Provide a notice containing the bureau’s toll-free telephone number to the customer that the person is not regulated by the bureau.

(2) Provide a written description of the remachining services to be performed to the customer.

SEC. 2. Section 9880.2 of the Business and Professions Code, as amended by Section 2 of Chapter 572 of the Statutes of 1995, is repealed.

CHAPTER 108

An act to amend Section 19533.5 of the Business and Professions Code, relating to horseracing.

[Approved by Governor July 27, 1997. Filed with
Secretary of State July 28, 1997.]

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

SECTION 1. Section 19533.5 of the Business and Professions Code is amended to read:

19533.5. (a) Notwithstanding Section 19533, the board may authorize the following mixed breed racing:

(1) An association licensed to conduct a quarter horse meeting to include Appaloosa races and Arabian races with the consent of the quarter horse horsemen's organization contracting with the association with respect to the conduct of the racing meeting.

(2) A race between a quarter horse and a thoroughbred horse at a thoroughbred meeting with the consent of the thoroughbred horsemen's organization contracting with the association with respect to the conduct of the racing meeting.

(b) Notwithstanding Section 19533, an association licensed to conduct quarter horse racing or a fair may conduct races that include paint horses racing with quarter horses or Appaloosa horses in the same race. When paint horses race with quarter horses, the consent of the organization that represents quarter horse horsemen and horsewomen shall first be obtained.

(c) A quarter horse race with seven or more entries shall not be replaced by a race that includes paint horses, without the consent of the organization that represents quarter horse horsemen and horsewomen.

CHAPTER 109

An act to amend Sections 12022.3 and 12022.8 of the Penal Code, relating to crimes.

[Approved by Governor July 27, 1997. Filed with
Secretary of State July 28, 1997.]

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

SECTION 1. Section 12022.3 of the Penal Code is amended to read:

12022.3. For each violation or attempted violation of Section 261, 262, 264.1, 286, 288, 288a, or 289, and in addition to the sentence provided, any person shall receive the following:

(a) A 3-, 4-, or 10-year enhancement if the person uses a firearm or a deadly weapon in the commission of the violation.

(b) A one-, two-, or five-year enhancement if the person is armed with a firearm or a deadly weapon. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

SEC. 2. Section 12022.8 of the Penal Code is amended to read:

12022.8. Any person who inflicts great bodily injury, as defined in Section 12022.7, on any victim in a violation or attempted violation of paragraph (2), (3), or (6) of subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a shall receive a five-year enhancement for each such violation in addition to the sentence provided for the felony conviction.

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 110

An act to amend Section 308 of the Penal Code, relating to crimes.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 308 of the Penal Code is amended to read:

308. (a) Every person, firm, or corporation which knowingly sells, gives, or in any way furnishes to another person who is under the age of 18 years any tobacco, cigarette, or cigarette papers, or any

other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, is subject to either a criminal action for a misdemeanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of two hundred dollars ($200) for the first offense, five hundred dollars ($500) for the second offense, and one thousand dollars ($1,000) for the third offense.

Notwithstanding Section 1464 or any other provision of law, 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the office of the city attorney, county counsel, or district attorney, whoever is responsible for bringing the successful action, and 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the city or county for the administration and cost of the community service work component provided in subdivision (b).

Proof that a defendant, or his or her employee or agent, demanded, was shown, and reasonably relied upon evidence of majority shall be defense to any action brought pursuant to this subdivision. Evidence of majority of a person is a facsimile of or a reasonable likeness of a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but 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.

For purposes of this section, the person liable for selling or furnishing tobacco products to minors by a tobacco vending machine shall be the person authorizing the installation or placement of the tobacco vending machine upon premises he or she manages or otherwise controls and under circumstances in which he or she has knowledge, or should otherwise have grounds for knowledge, that the tobacco vending machine will be utilized by minors.

(b) Every person under the age of 18 years who purchases, receives, or possesses any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking of tobacco, products prepared from tobacco, or any controlled substance shall, upon conviction, be punished by a fine of seventy-five dollars ($75) or 30 hours of community service work.

(c) Every person, firm, or corporation which sells, or deals in tobacco or any preparation thereof, shall post conspicuously and keep so posted in his, her, or their place of business at each point of purchase the notice required pursuant to subdivision (b) of Section 22952 of the Business and Professions Code, and any person failing to do so shall upon conviction be punished by a fine of ten dollars ($10) for the first offense and fifty dollars ($50) for each succeeding violation of this provision, or by imprisonment for not more than 30 days.

(d) For purposes of determining the liability of persons, firms, or corporations controlling franchises or business operations in multiple locations for the second and subsequent violations of this section, each individual franchise or business location shall be deemed a separate entity.

(e) It is the Legislature's intent to regulate the subject matter of this section. As a result, no city, county, or city and county shall adopt any ordinance or regulation inconsistent with this section.

(f) Notwithstanding any other provision of this section, the Director of Corrections may sell or supply tobacco and tobacco products, including cigarettes and cigarette papers, to any person confined in any institution or facility under his, her, or its jurisdiction who has attained the age of 16 years, if the parent or guardian of the person consents thereto, and may permit smoking by any such person in any such institution or facility. No officer or employee of the Department of Corrections shall be considered to have violated this section by any act authorized by this subdivision.

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 111

An act to amend Sections 148 and 653t of the Penal Code, relating to crimes.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 148 of the Penal Code is amended to read:

148. (a) (1) Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding

one thousand dollars ($1,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) Except as provided by subdivision (d) of Section 653t, every person who knowingly and maliciously interrupts, disrupts, impedes, or otherwise interferes with the transmission of a communication over a police radio frequency shall be punished by a fine not exceeding one thousand dollars ($1,000), imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(b) Every person who, during the commission of any offense described in subdivision (a), removes or takes any weapon, other than a firearm, from the person of, or immediate presence of, a public officer or peace officer shall be punished by imprisonment in the county jail not to exceed one year, or in the state prison.

(c) Every person who, during the commission of any offense described in subdivision (a), removes or takes a firearm from the person of, or immediate presence of, a public officer or peace officer is guilty of a felony.

(d) Every person who, during the commission of any offense described in subdivision (a), attempts to remove or take a firearm from the person of, or immediate presence of, a public officer or peace officer is guilty of a public offense and shall be punished by imprisonment in a county jail not to exceed one year or in the state prison.

In order to prove a violation of this subdivision, the prosecution shall establish that the defendant had the specific intent to remove or take the firearm by demonstrating that any of the following direct, but ineffectual, acts occurred:

(1) The officer's holster strap was unfastened by the defendant.

(2) The firearm was partially removed from the officer's holster by the defendant.

(3) The firearm safety was released by the defendant.

(4) An independent witness corroborates that the defendant stated that he or she intended to remove the firearm and the defendant actually touched the firearm.

(5) An independent witness corroborates that the defendant actually had his or her hand on the firearm and tried to take the firearm away from the officer who was holding it.

(6) The defendant's fingerprint was found on the firearm or holster.

(7) Physical evidence authenticated by a scientifically verifiable procedure established that the defendant touched the firearm.

(8) In the course of any struggle, the officer's firearm fell and the defendant attempted to pick it up.

(e) A person may not be convicted of a violation of subdivision (a) in addition to a conviction of a violation of subdivision (b), (c), or (d) when the resistance, delay, or obstruction was committed against the same public officer, peace officer, or emergency medical technician. Multiple convictions under this section may take place when more

than one public officer, peace officer, or emergency medical technician are victims.

SEC. 2. Section 653t of the Penal Code is amended to read:

653t. (a) A person commits a public offense if the person knowingly and maliciously interrupts, disrupts, impedes, or otherwise interferes with the transmission of a communication over an amateur or a citizen's band radio frequency, the purpose of which communication is to inform or inquire about an emergency.

(b) For purposes of this section, "emergency" means a condition or circumstance in which an individual is or is reasonably believed by the person transmitting the communication to be in imminent danger of serious bodily injury, in which property is or is reasonably believed by the person transmitting the communication to be in imminent danger of extensive damage or destruction, or in which that injury or destruction has occurred and the person transmitting is attempting to summon assistance.

(c) A violation of subdivision (a) is a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000), by imprisonment in a county jail not to exceed six months, or by both, unless, as a result of the commission of the offense, serious bodily injury or property loss in excess of ten thousand dollars ($10,000) occurs, in which event the offense is a felony.

(d) Any person who knowingly and maliciously interrupts, disrupts, impedes, or otherwise interferes with the transmission of an emergency communication over a police radio frequency, when the offense results in serious bodily injury or property loss in excess of ten thousand dollars (10,000), is guilty of a felony.

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 112

An act to amend Sections 1812.54 and 1812.623 of the Civil Code, relating to contracts.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 1812.54 of the Civil Code is amended to read:

1812.54. (a) Every contract for dance studio lessons and other services shall provide that performance of the agreed-upon lessons will begin within 12 months from the date the contract is entered into.

(b) Every contract for dance studio lessons and other services shall further provide all of the following:

(1) That the contract may be canceled within 180 days after the date of receipt by the customer of a copy of the contract by written notice to the other party at the address specified in the contract, and all moneys paid pursuant to the contract shall be refunded within 10 days of receipt of the notice of cancellation, except that payment shall be made for any dance studio lessons and other services received prior to the cancellation.

(2) That the contract may be canceled after 180 days after the date of receipt by the customer of a copy of the contract by written notice to the other party at the address specified in the contract, and the student canceling the contract shall be thereafter entitled to a refund, within 10 days of receipt by the dance studio of notice of cancellation, of all moneys paid pursuant to the canceled contract with the exception that the dance studio shall be entitled to 10 percent of the unpaid balance pursuant to the terms of the canceled contract, and except further that, in addition to the foregoing, payment shall be made for any dance studio lessons and other services received prior to the cancellation.

(c) Every contract for dance studio lessons and other services shall contain a written statement of the hourly rate charged for each type of lesson for which the student has contracted. If the contract includes dance studio lessons which are sold at different per-hour rates, the contract shall contain separate hourly rates for each different type of lesson sold. All other services for which the student has contracted which are not capable of a per-hour charge shall be set forth in writing in specific terms. The statement shall be contained in the dance studio contract before the contract is signed by the buyer.

(d) Every dance studio subject to Sections 1812.64 to 1812.66, inclusive, shall include in every contract for dance studio lessons or other services a statement that the studio is bonded and that information concerning the bond may be obtained by writing to the office of the Secretary of State, 1500 11th Street, Sacramento, California 95814. If the studio has elected to make a cash deposit in lieu of procuring a bond, the contract shall contain a description of the cash deposit.

SEC. 2. Section 1812.623 of the Civil Code is amended to read:

1812.623. (a) Every rental-purchase agreement shall be contained in a single document which shall set forth all of the agreements of the lessor and the consumer with respect to the rights and obligations of each party. Every rental-purchase agreement shall be written in at least 10-point type in the same language as principally used in any oral sales presentation or negotiations leading to the execution of the agreement, and shall clearly and conspicuously disclose all of the following:

(1) The names of the lessor and the consumer, the lessor's business address and telephone number, the consumer's address, the date on which the agreement is executed, and a description of the property sufficient to identify it.

(2) Whether the property subject to the rental-purchase agreement is new or used. If the property is new, the lessor shall disclose the model year or, if the model year is not known by the lessor, the date of the lessor's acquisition of the property. If the property is used, the age or the model year shall be disclosed if known by the lessor.

(3) The minimum period for which the consumer is obligated under the rental-purchase agreement; the duration of the rental-purchase agreement if all regularly scheduled periodic payments are made, designated as the "rental period"; and the amount of each periodic payment.

(4) The total number and the total amount of periodic payments necessary to acquire ownership of the property if the renter makes all regularly scheduled periodic payments.

(5) The cash price of the property subject to the rental purchase agreement.

(6) The cost of rental.

(7) The amount and purpose of any other payment or fee permitted by this title in addition to those specified pursuant to paragraphs (3) and (4), including any late payment fee.

(8) A statement that the total number and dollar amount of payments necessary to acquire ownership of the rental property disclosed under paragraph (4) does not include other fees permitted by this title, such as late payment fees, and that the consumer should read the rental-purchase agreement for an explanation of any applicable additional fees.

(9) Whether the consumer is liable for loss or damage to the rental property and, if so, the maximum amount for which the consumer may be liable as provided in subdivision (a) of Section 1812.627.

(10) The following notice:

NOTICE

You are renting this property. You will not own it until you make all of the regularly scheduled payments or you use the early purchase option.

You do not have the right to keep the property if you do not make required payments or do not use the early purchase option. If you miss a payment, the lessor can repossess the property, but, you may have the right to the return of the same or similar property.

See the contract for an explanation of your rights.

(11) A description of the consumer’s right to acquire ownership of the property before the end of the rental period as provided in subdivision (a) of Section 1812.632.

(12) A description of the consumer’s reinstatement rights as provided in Section 1812.631.

(13) If warranty coverage is transferable to a consumer who acquires ownership of the property, a statement that the unexpired portion of all warranties provided by the manufacturer, distributor, or seller of the property that is the subject of the rental-purchase agreement will be transferred by the lessor to the consumer at the time the consumer acquires ownership of the property from the lessor.

(14) A description of the lessor’s obligation to maintain the rental property and to repair or replace rental property that is not operating properly, as provided in Section 1812.633.

(b) (1) The disclosures required by paragraphs (3), (4), (5), and (6) of subdivision (a) shall be printed in at least 10-point boldface type or capital letters if typed and shall be grouped together in a box formed by a heavy line in the following form:

<table>
<tr>
<td rowspan="2">TOTAL OF PAYMENTS

$

You must pay this amount to own the property if you make all the regular payments.

You can buy the property for less under the early purchase option.</td>
<td>COST OF RENTAL

$

Amount over cash price you will pay if you make all regular payments.</td>
<td colspan="2">CASH PRICE

$

Property available at this price for cash from retailers in this area.</td>
</tr>
<tr>
<td>AMOUNT OF EACH PAYMENT

$ per

____
(insert period)</td>
<td>NUMBER OF PAYMENTS</td>
<td>RENTAL PERIOD</td>
</tr>
</table>

(2) The box described in paragraph (1) shall appear immediately above the space reserved for the buyer's signature.

(c) The disclosures required by paragraphs (3), (4), (5), and (6) of subdivision (a) shall be grouped together in a box formed by a heavy line in the form prescribed in subdivision (b) and shall be clearly and conspicuously placed on a tag or sticker affixed to the property available for rental-purchase. If the property available for rental-purchase is not displayed at the lessor's place of business but appears in a photograph or catalog shown to consumers, a tag or sticker shall be affixed to the photograph of the property or catalog shown to consumers or shall be given to consumers. The disclosure required by paragraph (2) of subdivision (a) also shall be clearly and conspicuously placed on the tag or sticker.

(d) All disclosures required by this section shall be printed or typed in a color or shade that clearly contrasts with the background.

CHAPTER 113

An act to amend Section 10127.9 of the Insurance Code, relating to insurance.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 10127.9 of the Insurance Code is amended to read:

10127.9. (a) Every policy of individual life insurance which is initially delivered or issued for delivery in this state on and after January 1, 1990, shall have printed thereon or attached thereto a notice stating that, after receipt of the policy by the owner, the policy may be returned by the owner for cancellation by delivering it or mailing it to the insurer or to the agent through whom it was purchased. The period of time set forth by the insurer for return of the policy by the insured shall be clearly stated on the notice and this period shall be not less than 10 days nor more than 30 days. The insured may return the policy to the insurer by mail or otherwise at any time during the period specified in the notice. In the case of individual life insurance policies (other than variable contracts and modified guaranteed contracts), by delivering or mailing the policy pursuant to this section during the cancellation period, the owner shall void the policy from the beginning, and the parties shall be in the same position as if no policy had been issued. All premiums paid and any policy fee paid for the policy shall be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the insured has canceled the policy. In the case of variable annuity contracts, variable life insurance contracts, and modified guaranteed contracts, return of the contract during the cancellation period shall entitle the owner to a refund of account value and any policy fee paid for the policy. The account value and policy fee shall be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the owner has canceled the policy.

(b) This section applies to all policies issued or delivered in this state on or after January 1, 1990, but does not apply to any policy subject to Section 10127.7. All policies subject to this section which are in effect on January 1, 1990, shall be construed to be in compliance with this section, and any provision in any policy which is in conflict with this section shall be of no force or effect.

(c) This section does not apply to individual life insurance policies issued in connection with a credit transaction or issued under a contractual policy-change or conversion privilege provision contained in a policy.

CHAPTER 114

An act to amend Sections 5101.2 and 5101.3 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 5101.2 of the Vehicle Code is amended to read:

5101.2. (a) Any person otherwise eligible under this article who is a firefighter or a retired firefighter may apply for special license plates for the vehicle under this article. Any license plates issued pursuant to this section shall be issued in accordance with Section 5060.

(b) The applicant shall, by satisfactory proof, show all of the following:

(1) The applicant is, or has retired, in good standing as an officer, an employee, or a member of a fire department or a fire service of the state, a county, a city, a district, or any other political subdivision of the state, whether in a volunteer, partly paid, or fully paid status.

(2) The applicant is, or was until retirement, regularly employed as a firefighter or regularly enrolled as a volunteer firefighter.

(3) The applicant's principal duties fall, or fell until retirement, within the scope of active firefighting and any of the following activities:

(A) Fire prevention service.

(B) Fire training.

(C) Hazardous materials abatement.

(D) Arson investigation.

(E) Emergency medical services.

(c) The special license plates issued under this section shall contain the words "California Firefighter" and shall run in a regular numerical series.

(d) In addition to the regular fees for an original registration, a renewal of registration, or a transfer of registration, the following special license plate fees shall be paid:

(1) A fee of thirty-five dollars ($35) for the initial issuance of the special license plates. These special license plates shall be permanent and shall not be required to be replaced.

(2) A fee of twenty dollars ($20) for each renewal of registration which includes the continued display of the special license plates.

(3) If the special license plates become damaged or unserviceable, a fee of thirty-five dollars ($35) for the replacement of the special license plates, obtained from the department upon proper application therefor.

(4) A fee of fifteen dollars ($15) for the transfer of the special license plates to another vehicle qualifying as a vehicle owned by a firefighter who has met the requirements set forth in subdivision (b).

(5) In addition, for the issuance of environmental license plates, as defined in Section 5103, with the special firefighter personal vehicle license plates and distinctive design or decal, the additional fees prescribed in Sections 5106 and 5108. The additional fees collected pursuant to this paragraph shall be deposited in the California Environmental License Plate Fund.

(e) Upon the death of a person issued special license plates pursuant to this section, the plates shall be transferred to the surviving spouse, if he or she requests, or shall be returned to the department within 60 days after the death of the plateholder or upon the expiration of the vehicle registration, whichever occurs first.

(f) Except as provided in paragraph (5) of subdivision (d), the revenues derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section, shall, prior to January 1, 2001, be deposited in the California Firefighters' Memorial Fund established by Section 18802 of the Revenue and Taxation Code.

(g) Except as provided in paragraph (5) of subdivision (d), the revenues derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section, shall, on and after January 1, 2001, be deposited in the California Fire and Arson Training Fund established by Section 13159.10 of the Health and Safety Code.

SEC. 2. Section 5101.3 of the Vehicle Code is amended to read:

5101.3. (a) Any person otherwise eligible under this article who qualifies under subdivision (b) may apply for special license plates which shall run in a separate numerical series and shall contain the words "Pearl Harbor Survivor." The plates may be issued for any vehicle, except a vehicle used for transportation for hire, compensation, or profit or a motorcycle, which is owned or coowned by the person.

(b) To qualify for issuance of the special plates, the applicant shall by satisfactory proof show all of the following:

(1) The applicant was a member of the United States Armed Forces on December 7, 1941, and received an honorable discharge from military service.

(2) The applicant was on station at Pearl Harbor, the Island of Oahu, or offshore within a distance of three miles, on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, as

certified by a California chapter of the Pearl Harbor Survivors Association.

(c) In addition to the regular registration fees, the department shall charge a fee of thirty-five dollars ($35) for the issuance of the special plates. Notwithstanding Section 9265, the applicant for a substitute Pearl Harbor Survivor license plate shall be charged a fee of thirty-five dollars ($35).

(d) Whenever any person who has been issued a Pearl Harbor Survivor license plate applies to the department for transfer of the plates to another vehicle, a transfer fee of twenty dollars ($20) shall be charged in addition to all other appropriate fees.

(e) Upon the death of a person issued special license plates pursuant to this section, his or her surviving spouse may retain the special license plates subject to the conditions set forth in this section. Upon the death of the spouse, the retained, special license plates shall be returned to the department either (1) within 60 days following that death or (2) upon the expiration of the vehicle registration, whichever occurs first.

CHAPTER 115

An act to amend Section 20575 of the Government Code, relating to public employees.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 20575 of the Government Code is amended to read:

20575. Notwithstanding any other provision of this part to the contrary, upon request of a terminating agency, the board shall enter into an agreement with the governing body of a terminating agency that will cease to exist in order to ensure that (a) the final compensation used in the calculation of benefits of its employees shall be calculated in the same manner as the benefits of employees of agencies that are not terminating, regardless of whether they retire directly from employment with the terminating agency or continue in other public service; and (b) related necessary adjustments in the employer's contribution rate are made, from time to time, by the board prior to the date of termination to ensure that benefits are adequately funded or any other actuarially sound payment technique, including a lump-sum payment at termination, is agreed to by the governing body of the terminating agency and the board.

The terminating agency shall notify the board not sooner than three years nor later than one year prior to its termination date of its intention to enter into agreement pursuant to this section.

The terminating agency shall designate an agency in the agreement to receive any surplus assets remaining after payment of all liabilities. The terms of the agreement shall be reflected in an amendment to the agency's contract with the board.

If the board, itself, determines that it is not in the best interests of the system, it may choose not to enter into an agreement pursuant to this section.

CHAPTER 116

An act to amend Section 121361 of the Health and Safety Code, relating to communicable diseases.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 121361 of the Health and Safety Code is amended to read:

121361. (a) (1) A health facility, local detention facility, or state correctional institution shall not discharge or release any of the following persons unless subdivision (e) is complied with:

(A) A person known to have active tuberculosis disease.

(B) A person who the medical staff of the health facility or of the penal institution has reasonable grounds to believe has active tuberculosis disease.

(2) In addition, persons specified in this subdivision may be discharged from a health facility only after a written treatment plan described in Section 121362 is approved by a local health officer of the jurisdiction in which the health facility is located. Treatment plans submitted for approval pursuant to this paragraph shall be reviewed by the local health officer within 24 hours of receipt of the plans.

(3) The approval requirement of paragraph (2) shall not apply to any transfer to a general acute care hospital when the transfer is due to an immediate need for a higher level of care, nor to any transfer from any health facility to a correctional institution. Transfers or discharges described in this paragraph shall occur only after the notification and treatment plan required by Section 121362 have been received by the local health officer.

(4) This subdivision shall not apply to transfers within the state correctional system or to interfacility transfers occurring within a local detention facility system.

(b) No health facility shall transfer a person described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) to another health facility unless subdivision (e) is complied with. This subdivision shall not apply to transfers within the state correctional system or to interfacility transfers occurring within a local detention facility system.

(c) No state correctional institution or local detention facility shall transfer a person described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) from a state to a local, or from a local to a state, penal institution unless notification and a written treatment plan are received by the chief medical officer of the penal institution receiving the person.

(d) No local detention facility shall transfer a person described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) to a local detention facility in another jurisdiction unless subdivision (e) is complied with and notification and a written treatment plan are received by the chief medical officer of the local detention facility receiving the person.

(e) All discharges, releases, or transfers described in subdivisions (a), (b), (c), and (d) may occur only after notification and a written treatment plan pursuant to Section 121362 has been received by the local health officer. When prior notification would jeopardize the person's health, the public safety, or the safety and security of the penal institution, then the notification and treatment plan shall be submitted within 24 hours of discharge, release, or transfer.

(f) No health facility that declines to discharge, release, or transfer a person pursuant to this section shall be civilly or criminally liable or subject to administrative sanction therefor. This subdivision shall apply only if the health facility complies with this section and acts in good faith.

(g) Nothing in this section shall relieve a local health officer of any other duty imposed by this chapter.

CHAPTER 117

An act to add Section 13510.6 to the Penal Code, relating to peace officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. The Legislature recognizes the importance of school safety and finds there is a need to ensure that professional

standards are being maintained as school districts establish school police departments at an increasing rate.

SEC. 2. Section 13510.6 is added to the Penal Code, to read:

13510.6. The commission shall review minimum training and selection standards for peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who are employed by a school district, and members of a security or police department of a school district, as described in Section 39670 of the Education Code. The commission shall report its findings and recommendations to the Legislature by January 1, 1998.

SEC. 3. Money appropriated in Item 8120-012-0268 of the Budget Act of 1996 (Chapter 162, Statutes of 1996) for the training program for law enforcement personnel operated by the Simon Weisenthal Center-Museum of Tolerance shall be allocated to eligible agencies for reimbursement of training expenses for regular and sworn officers and nonsworn personnel who have contact with the public, if the center gives priority to training sworn officers.

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 establish statewide standards and require certification by the Commission on Peace Officer Standards and Training for all persons employed by school districts acting or serving as peace officers at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 118

An act to repeal and add Section 37 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 July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 37 of the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session) is repealed.

SEC. 2. Section 37 is added to the San Diego Unified Port District Act (Chapter 67 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 37. (a) Article 48 (commencing with Section 20750) of Part 3 of Division 2 of the Public Contract Code applies to public projects of the district.

(b) The district shall adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the district. Purchases of supplies and equipment by the district shall be in accordance with those policies and procedures and with all provisions of law governing those purchases.

(c) As used in this section, "public project" means any of the following:

(1) A project for the erection, improvement, painting, or repair of public buildings and works.

(2) Work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow.

(3) Street or sewer work except maintenance or repair.

(4) Furnishing supplies or materials for any project specified in paragraphs (1) to (3), inclusive, including maintenance or repair of streets or sewers.

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 119

An act to amend Sections 68085 and 77205.1 of the Government Code, relating to trial court funding, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 68085 of the Government Code is amended to read:

68085. (a) (1) There is hereby established the Trial Court Trust Fund, the proceeds of which shall be apportioned quarterly by the Controller on or before the 25th day of the month following the end of that quarter, upon appropriation by the Legislature, for the purpose of funding trial court operations, as defined in Section 77003.

(2) The quarterly apportionment payments shall be made by the Controller, except that the quarterly apportionment shall be

withheld from any county that is delinquent in making the full transfer of funds pursuant to this section.

(b) Notwithstanding any other provision of law, the fees listed in subdivision (c) shall all be deposited upon collection in a special account in the county treasury, and transmitted therefrom monthly to the Controller for deposit in the Trial Court Trust Fund.

(c) Except as specified in subdivision (d), this section applies to all fees collected pursuant to Sections 26820.4, 26826, 26827, 68086, 72055, and 72056.

(d) This section does not apply to that portion of a filing fee collected pursuant to Section 26820.4, 26826, 26827, 72055, or 72056 which is allocated for dispute resolution pursuant to Section 470.3 of the Business and Professions Code, the county law library pursuant to Section 6320 of the Business and Professions Code, the Judges' Retirement Fund pursuant to Section 26822.3, automated recordkeeping or conversion to micrographics pursuant to Sections 26863 and 68090.7, and courthouse financing pursuant to Section 76238.

(e) Notwithstanding any other provision of law, no agency shall take action to change the amounts allocated to any of the above funds.

(f) Before making any apportionments under this section, the Controller shall deduct, from the annual appropriation for that purpose, the actual administrative costs that will be incurred under this section. Costs reimbursed under this section shall be determined on an annual basis in consultation with the Judicial Council.

(g) Any amounts required to be transmitted by a county to the state pursuant to this section shall be remitted to the Controller no later than 45 days after the end of the month in which the fees were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the Trial Court Trust Fund to which it is to be deposited. Any remittance which is not made by the county in accordance with this section shall be considered delinquent, and subject to the penalties pursuant to this section.

(h) Upon receipt of any delinquent payment, the Controller shall make the quarterly apportionment on or before the 25th day of the month following the month in which the delinquent payment was received from the county. The Controller shall calculate a penalty on any delinquent payment and that amount shall be deducted from the next quarterly apportionment. The penalty shall be calculated by multiplying the amount of the delinquent payment at a daily rate equivalent to $1^1/_2$ percent per month for the number of days the payment is delinquent.

(i) Penalty amounts withheld under subdivision (h) shall be reserved in the Trial Court Trust Fund. The Judicial Council shall allocate these moneys based upon the recommendations of the Trial Court Budget Commission.

(j) The Trial Court Trust Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the Trial Court Trust Fund semiannually and shall be allocated among the counties in accordance with the requirements of subdivision (a). The specific allocations shall be specified by the Judicial Council, based upon recommendations from the Trial Court Budget Commission.

(k) The fourth quarterly payment from the Trial Court Trust Fund for the prior fiscal year shall be made on August 31 commencing with the 1994–95 fiscal year.

SEC. 2. Section 77205.1 of the Government Code is amended to read:

77205.1. (a) Upon appropriation by the Legislature, the Controller shall make quarterly payments of trial court funding on or before the 25th day of that quarter. The quarterly apportionment shall be withheld from any county that is delinquent in making the full transfer of funds pursuant to Section 1463.001 of the Penal Code.

(b) Upon receipt of any delinquent payment, the Controller shall make the quarterly apportionment on or before the 25th day of the month following the month in which the delinquent payment was received from the county. The Controller shall calculate a penalty on any delinquent payment and that amount shall be deducted from the next quarterly apportionment. The penalty shall be calculated as specified in subdivision (h) of Section 68085.

(c) Penalty amounts withheld under subdivision (b) shall be allocated by the Judicial Council the following quarter, based upon the recommendations of the Trial Court Budget Commission.

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 unfair impairment of county budgets caused by basing penalties on an annual basis rather than a daily basis, it is necessary that this act take effect immediately.

CHAPTER 120

An act to amend Section 1367 of the Health and Safety Code, relating to health care service plans.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 1367 of the Health and Safety Code is amended to read:

1367. Each health care service plan and, if applicable, each specialized health care service plan shall meet the following requirements:

(a) All facilities located in this state including, but not limited to, clinics, hospitals, and skilled nursing facilities to be utilized by the plan shall be licensed by the State Department of Health Services, where licensure is required by law. Facilities not located in this state shall conform to all licensing and other requirements of the jurisdiction in which they are located.

(b) All personnel employed by or under contract to the plan shall be licensed or certified by their respective board or agency, where licensure or certification is required by law.

(c) All equipment required to be licensed or registered by law shall be so licensed or registered and the operating personnel for that equipment shall be licensed or certified as required by law.

(d) The plan shall furnish services in a manner providing continuity of care and ready referral of patients to other providers at times as may be appropriate consistent with good professional practice.

(e) (1) All services shall be readily available at reasonable times to all enrollees. To the extent feasible, the plan shall make all services readily accessible to all enrollees.

(2) To the extent that telemedicine services are appropriately provided through telemedicine, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, these services shall be considered in determining compliance with Section 1300.67.2 of Title 10 of the California Code of Regulations.

(f) The plan shall employ and utilize allied health manpower for the furnishing of services to the extent permitted by law and consistent with good medical practice.

(g) The plan shall have the organizational and administrative capacity to provide services to subscribers and enrollees. The plan shall be able to demonstrate to the department that medical decisions are rendered by qualified medical providers, unhindered by fiscal and administrative management.

(h) All contracts with subscribers and enrollees, including group contracts, and all contracts with providers, and other persons furnishing services, equipment, or facilities to or in connection with the plan, shall be fair, reasonable, and consistent with the objectives of this chapter. All contracts with providers shall contain provisions requiring a dispute resolution mechanism under which providers may submit disputes to the plan, and requiring the plan to inform its providers upon contracting with the plan, or upon change to these provisions, of the procedures for processing and resolving disputes, including the location and telephone number where information regarding disputes may be submitted.

(i) Each health care service plan contract shall provide to subscribers and enrollees all of the basic health care services included

in subdivision (b) of Section 1345, except that the commissioner may, for good cause, by rule or order exempt a plan contract or any class of plan contracts from that requirement. The commissioner shall by rule define the scope of each basic health care service which health care service plans shall be required to provide as a minimum for licensure under this chapter. Nothing in this chapter shall prohibit a health care service plan from charging subscribers or enrollees a copayment or a deductible for a basic health care service or from setting forth, by contract, limitations on maximum coverage of basic health care services, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the commissioner and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

(j) No health care service plan shall require registration under the Controlled Substances Act of 1970 (21 U.S.C. Sec. 801 et seq.) as a condition for participation by an optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 of the Business and Professions Code.

Nothing in this section shall be construed to permit the commissioner to establish the rates charged subscribers and enrollees for contractual health care services.

The commissioner's enforcement of Article 3.1 (commencing with Section 1357) shall not be deemed to establish the rates charged subscribers and enrollees for contractual health care services.

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 121

An act to amend Sections 75003, 75027, 75030, 75030.5, 75051, 75058, 75062, 75070, 75112, 75131.3, 75133, 75135.5, 75151, 75172, and 75173 of, and to repeal Section 75034 of, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 75003 of the Food and Agricultural Code is amended to read:

75003. It is hereby declared to be the policy of this state to aid in the handling of eggs and egg products, to develop more efficient and equitable methods in handling, and to maintain job security for workers in the egg industry.

SEC. 2. Section 75027 of the Food and Agricultural Code is amended to read:

75027. "Eggs" means eggs from domesticated chickens handled in California for human consumption in shell egg form, except those eggs used for hatchery purposes.

SEC. 3. Section 75030 of the Food and Agricultural Code is amended to read:

75030. (a) "Handler" means the first person who sorts, grades, candles, or packages eggs, or who processes eggs into egg products, or who markets eggs or egg products in California that he or she has produced, purchased, or acquired from another person, or that he or she is marketing on behalf of another person, whether as owner, agent, employee, broker, or otherwise. When the handler is a corporation, all of the directors and officers of the corporation in their capacity as individuals shall be included, and any liability for failure to collect or make payment of assessments for which a corporate handler may be subject pursuant to this chapter shall include identical liability upon each individual director or officer of the corporation. "Handler" does not include a retailer, except a retailer who purchases or acquires eggs or egg products from any producer, handler, or broker that were not previously subject to assessment by the commission.

(b) All references to "handler" in this chapter, except for Article 3 (commencing with Section 75051), Article 5 (commencing with Section 75111), subdivision (a) of Section 75132, and Article 8 (commencing with Section 75171), but not including Sections 75175 and 75176, includes California handlers and out-of-state handlers, unless otherwise specified.

SEC. 4. Section 75030.5 of the Food and Agricultural Code is amended to read:

75030.5. "Out-of-state handler" means any person located in another state who handles eggs or egg products, as specified in Section 75030, in California.

SEC. 5. Section 75034 of the Food and Agricultural Code is repealed.

SEC. 6. Section 75051 of the Food and Agricultural Code is amended to read:

75051. There is in the state government the California Egg Commission. The commission shall be composed of eight handler members and one public member. Of the handler members, four

shall be elected by and from handlers from District 1, three shall be elected by and from handlers from District 2, and one at-large handler shall be elected who pays assessments exclusively on eggs or egg products produced outside of California.

SEC. 7. Section 75058 of the Food and Agricultural Code is amended to read:

75058. (a) Three alternate handler members, one from each district and one who pays assessments exclusively on eggs or egg products produced outside of California, shall be elected in the same manner as the handler members.

(b) Under procedures established by the commission, any alternate handler member may serve in place of any absent handler member on the commission regardless of whether the alternate handler was chosen from the district the absent handler member represents and shall have all the rights, privileges, and powers of the handler member when serving on the commission.

(c) In the event of death, removal, resignation, or disqualification of a handler member, the alternate handler shall act as a handler member on the commission until a qualified successor is elected.

SEC. 8. Section 75062 of the Food and Agricultural Code is amended to read:

75062. (a) Except as provided in subdivision (b), the term of office of the elected commissioners is three years from the date of their election and until their successors are qualified and elected.

(b) With respect to the first elected members of the commission, two of the handlers from District 1 and two of the handlers from District 2 shall serve for three years, and two of the handlers from District 1 and one of the handlers from District 2 shall serve for two years, with the determination of the term of each member to be made by lot.

(c) With respect to the term commencing in 2001 only, the alternate handler member who pays assessments exclusively on eggs or egg products produced outside of California shall serve for two years. Thereafter, the term of this member shall be as otherwise provided by this chapter.

(d) An elected or appointed commissioner shall not serve more than three consecutive terms.

SEC. 9. Section 75070 of the Food and Agricultural Code is amended to read:

75070. (a) The state shall not be liable for the acts of the commission or its contracts. Payments of all claims arising by reason of the administration of this chapter or acts of the commission are limited to the funds collected by the commission.

(b) No member of the commission or alternate member, or any employee or agent thereof, is personally liable on the contracts of the commission or responsible individually in any way to any producer, any handler, or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or

employee, except for his or her own individual acts of dishonesty or crime.

(c) The commission shall accept full responsibility to defend any member of the commission or alternate member, or any employee or agent thereof, against any such claim, except for individual acts of dishonesty or crime.

(d) No commissioner or alternate member shall be held responsible individually for any act or omission of any other member of the commission. The liability of the commissioners are several and not joint, and no commissioner is liable for the default of any other commissioner.

SEC. 10. Section 75112 of the Food and Agricultural Code is amended to read:

75112. This chapter, except as necessary to conduct an implementation referendum, does not become operative until the director finds in a referendum conducted by him or her, or a person designated by the director, that at least 40 percent of the total number of handlers from the list established by the director pursuant to Section 75111, participated, and that he or she finds either one of the following:

(a) Sixty-five percent or more of the handlers who voted in the referendum voted in favor of this chapter, and the handlers so voting handled a majority of the volume of eggs and egg products in the preceding season by all of the handlers who voted in the referendum.

(b) A majority of the handlers who voted in the referendum voted in favor of this chapter, and the handlers so voting handled 65 percent or more of the volume of eggs and egg products in the preceding season by all of the handlers who voted in the referendum.

SEC. 11. Section 75131.3 of the Food and Agricultural Code is amended to read:

75131.3. The assessment established pursuant to Section 75131 may be collected from out-of-state handlers in accordance with procedures established by the commission on eggs or egg products handled in this state.

SEC. 12. Section 75133 of the Food and Agricultural Code is amended to read:

75133. Every handler, and any person required to be registered pursuant to Section 75135.5, shall keep a complete and accurate record of all eggs and egg products handled by him or her. These records shall be in the form and contain the information prescribed by the commission. The records shall be retained for a period of five years and shall be submitted for inspection at any reasonable time upon written demand of the commission or its duly authorized agent.

SEC. 13. Section 75135.5 of the Food and Agricultural Code is amended to read:

75135.5. Persons handling eggs or egg products in California which originated out of state, including persons shipping eggs or egg products into California, shall register with the commission in the

manner prescribed by the commission, before handling eggs or egg products in this state.

SEC. 14. Section 75151 of the Food and Agricultural Code is amended to read:

75151. It is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding five hundred dollars ($500), or by both the fine and imprisonment, for any person to do any of the following:

(a) Willfully render or furnish a false report, statement, or record required by the commission.

(b) When engaged in the handling of eggs or egg products or in the wholesale or retail trade of the handling of eggs or egg products, fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the name and address of the persons from whom eggs or egg products have been received and the quantity so received.

(c) Secrete, destroy, or alter records required to be kept under this chapter.

SEC. 15. Section 75172 of the Food and Agricultural Code is amended to read:

75172. (a) Following a favorable referendum conducted prior to December 31, 1989, a referendum shall be conducted by the commission every fifth year thereafter between January 1st and December 31st, following procedures provided in this article, unless a referendum is conducted as the result of a petition filed pursuant to Section 75173. In that case, the referendum shall be every fifth year following the industry-petitioned referendum.

(b) A favorable vote under this section shall be found if the secretary determines from the referendum that a majority of the handlers eligible to vote in the referendum voted in favor of continuing the operations of this chapter, or that the handlers so voting handled a majority or more of the volume of eggs or egg products handled in the preceding season by all of the handlers who voted in the referendum.

(c) If the secretary finds that a favorable vote has been given, he or she shall so certify and this chapter shall remain operative. If the secretary finds that a favorable vote has not been given, he or she shall so certify and declare the operation of this chapter and the commission suspended upon the expiration of the then current marketing season. Thereupon, the operations of the commission shall be concluded and funds distributed in the manner provided in Section 75175.

(d) No bond or security is required for a referendum conducted pursuant to this section.

SEC. 16. Section 75173 of the Food and Agricultural Code is amended to read:

75173. (a) Upon a finding by a two-thirds vote of the commission that the operation of this chapter has not tended to effectuate its

declared purposes, the commission may recommend to the secretary that the operation of this chapter be suspended. However, the suspension shall not become effective until the expiration of the current marketing season.

(b) The secretary shall, upon receipt of this recommendation, or may, after a public hearing to review a petition filed with him or her requesting the suspension, signed by 20 percent of the total number of handlers by number who handled not less than 20 percent of the volume of eggs and egg products handled in the immediately preceding marketing season, conduct a referendum among the handlers to determine if the operation of the commission shall be suspended. However, the secretary shall not hold a referendum as a result of the petition unless the petitioner shows by a preponderance of the evidence that the operation of this chapter has not tended to effectuate its declared purpose.

(c) The secretary shall establish a referendum period, which shall not be less than 10 or more than 60 days in duration. The secretary may prescribe additional procedures as may be necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period.

(d) If at least 40 percent of the total number of handlers from the list established by the secretary participated in the referendum, the secretary shall suspend the operation of this chapter, if he or she finds either one of the following:

(1) Sixty-five percent or more of the total number of handlers who voted in the referendum voted in favor of suspension, and the handlers so voting handled a majority or more of the volume of eggs and egg products handled in the preceding marketing season by all of the handlers who voted in the referendum.

(2) A majority of the total number of handlers who voted in the referendum voted in favor of suspension, and the handlers so voting handled 65 percent or more of the volume of eggs and egg products handled in the preceding season by all of the handlers who voted in the referendum.

CHAPTER 122

An act to amend Sections 1247.5 and 1247.6 of the Business and Professions Code, relating to clinical laboratory technology.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 1247.5 of the Business and Professions Code is amended to read:

1247.5. A hemodialysis clinic or unit within a licensed clinic or hospital, as defined respectively in Sections 1204 and 1250 of the Health and Safety Code, may operate a hemodialysis training and testing program. A hemodialysis technician training program and competency test, provided under this section, or provided by an accredited college, an accredited university, or a private training program, shall be approved by the department, shall comply with the regulations adopted pursuant to Section 1247.4, and shall include training and testing in the administration of local anesthetics, heparin, and sodium chloride solutions.

SEC. 2. Section 1247.6 of the Business and Professions Code is amended to read:

1247.6. (a) Except during training under immediate supervision, no person shall provide services as a hemodialysis technician without meeting one or more of the following requirements:

(1) Certification by the department as having been certified by the Board of Nephrology Examination for Nurses and Technicians (BONENT).

(2) Certification by the department as having completed a department-approved training and testing program in a hemodialysis clinic or unit.

(3) Certification by the department as being a graduate of a local training and testing program operated by an accredited college or accredited university approved by the department, or a graduate of a private training program approved by the department. As used in this article, accredited has the same meaning as defined by Section 94711 of the Education Code.

(4) Certification by the department as hemodialysis technicians on or before the effective date of regulations adopted pursuant to Section 1247.4.

(b) This article does not apply to home dialysis patients, or patient helpers not employed by the licensed facility, who have undergone a home dialysis training program operated by a licensed clinic or hospital as defined in Sections 1204 and 1250 of the Health and Safety Code and have been certified by the medical director of the facility as being competent to perform home dialysis treatment.

(c) A hemodialysis technician training program and competency test, that is approved by the department before January 1, 1998, shall not be required to be reapproved pursuant to this section or Section 1247.5 unless the department determines reapproval to be necessary to protect patient safety.

CHAPTER 123

An act to add Section 29530.2 to the Government Code, and to amend Section 99310.55 of the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 29530.2 is added to the Government Code, to read:

29530.2. (a) Notwithstanding any other provision of law, the board of supervisors for any county of the first class may, upon the adoption of a resolution approved by a majority of all of its members, modify, for one fiscal year, its contract with the State Board of Equalization, as described in Section 29530, to require that not more than sixty million dollars ($60,000,000) of the county sales and use tax revenues described in Section 29530 be deposited in the county general fund. No deposit in a county general fund made under this subdivision shall exceed the total of a court-ordered refund of deposits in the county general fund made under Section 29530.3 and any interest accruing thereon. No portion of any amount deposited in the county general fund under this subdivision shall be subject to repayment under Section 2106.4 of the Streets and Highways Code or any other provision of law.

(b) Funds deposited in the local transportation fund pursuant to the final determination specified in subdivision (d) shall be allocated exclusively to a county transportation authority created under Division 12 (commencing with Section 130000) of the Public Utilities Code, in addition to any other funds that would otherwise be allocated to that authority.

(c) Any refund pursuant to the final determination specified in subdivision (d) that is made directly to a county transportation authority created under Division 12 (commencing with Section 130000) of the Public Utilities Code shall be expended in accordance with the requirements of Article 3 (commencing with Section 99230) of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code.

(d) This section shall become operative on the date that a court of appellate jurisdiction renders a final determination invalidating Chapter 518 of the Statutes of 1995 to the extent that the final determination requires repayment of the funds transferred under that chapter.

SEC. 2. Section 99310.55 of the Public Utilities Code is amended to read:

99310.55. (a) (1) For any fiscal year for which Section 29530.2 of the Government Code is operative, the amount to be allocated, pursuant to this article, to the Los Angeles County Metropolitan Transportation Authority shall be reduced by the transportation services support amount unless the authority elects to deposit that amount into the county's local transportation fund established pursuant to Section 29530 of the Government Code. Any moneys deposited in the county's local transportation fund pursuant to the preceding sentence shall be available for allocation exclusively to the Los Angeles County Metropolitan Transportation Authority for bus operations.

(2) For purposes of this section, "transportation services support amount" means that amount of revenue that is equal to the amount of revenue transferred to the county general fund pursuant to Section 29530.3 of the Government Code, other than revenue that is necessary to fund the outstanding indebtedness or other outstanding contractual obligations of the authority, or revenue, the deposit of which, in accordance with paragraph (1) is prohibited by the California Constitution.

(3) If the Los Angeles County Metropolitan Transportation Authority does not elect to deposit the transportation services support amount into the county's local transportation fund as provided in paragraph (1), and the transportation services support amount exceeds the amount to be allocated to the authority pursuant to this article in the absence of any reduction pursuant to paragraph (1), the difference between these latter two amounts shall, in accordance with Section 188.95 of the Streets and Highways Code, be deducted from the amount of revenues allocated from the State Highway Account for expenditure in the county for rail transit purposes.

(b) (1) In any revelant fiscal year, the Los Angeles County Metropolitan Transportation Authority shall not do any of the following:

(A) Reduce bus service or operations or paratransit service or operations directly or indirectly as a result of the enactment of this section or of any other provision of the act that enacted this section.

(B) Replace any funding reduction or deduction described in this section with money from another source if doing so would be a detriment to bus service or operations or paratransit service or operations. For purposes of this paragraph, "detriment to bus service or operations or paratransit service or operations" includes, but is not limited to, fare increases, reductions in the number of routes served and the level of service on these lines, reductions in security, decreases in quality of service, delaying regular maintenance of vehicles, and lengthening the replacement schedule for vehicles that have reached the ends of their useful lives.

(2) For purposes of this section, "bus service or operations or paratransit service or operations" includes service and operations of

bus and paratransit services operated by the authority, including, but not limited to, the Immediate Needs Transportation Program, or any other bus or paratransit operator in Los Angeles County that receives funds from the authority.

(3) For purposes of this section "relevant fiscal year" includes the 1995–96 fiscal year, any fiscal year for which Section 29530.2 of the Government Code is operative, and the two fiscal years during which funds are transferred to the Los Angeles County Metropolitan Transportation Authority pursuant to Section 2106.4 of the Streets and Highways Code.

(4) Nothing in this section shall be construed to mean that the Los Angeles County Metropolitan Transportation Agency should not or may not directly or indirectly increase bus service or operations or paratransit service or operations.

(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. 3. The provisions of this act are severable. 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.

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:

Counties of the first class cannot provide vital public services due to the escalating costs of health services, social services, and public safety services imposed on those counties. Therefore, in order to help ensure, at the earliest possible time, that those critical public services are maintained and county insolvency is prevented, it is necessary that this act take effect immediately.

CHAPTER 124

An act to amend Section 66499.7 of the Government Code, relating to land use.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 66499.7 of the Government Code is amended to read:

66499.7. The security furnished by the subdivider shall be released in whole or in part in the following manner:

(a) Security given for faithful performance of any act or agreement shall be released upon the performance of the act or final completion and acceptance of the required work, or the legislative body may provide for the partial release of the security upon the partial performance of the act or the acceptance of the work as it progresses, under rules established by the legislative body. If the security furnished by the subdivider is a letter of credit, the legislative body shall release the letter of credit by returning the original letter of credit to the issuer of the letter of credit upon performance of the act or final completion and acceptance of the required work. In the event that the legislative body is unable to return the original letter of credit to the issuer of the letter of credit, the security shall be released by written notice sent by certified mail to the subdivider and issuer of the letter of credit within 30 days of the acceptance of the work. The written notice shall contain a statement that the work for which the security was furnished has been performed or completed and accepted by the legislative body, a description of the project subject to the letter of credit and the notarized signature of the authorized representative of the legislative body.

(b) Security securing the payment to the contractor, his or her subcontractors and to persons furnishing labor, materials or equipment shall, after passage of the time within which claims of lien are required to be recorded pursuant to Article 3 (commencing with Section 3114) of Chapter 2 of Title 15 of Part 4 of Division 3 of the Civil Code and after acceptance of the work, be reduced to an amount equal to the total claimed by all claimants for whom claims of lien have been recorded and notice thereof given in writing to the legislative body, and if no claims have been recorded, the security shall be released in full.

The release shall not apply to any required guarantee and warranty period required by Section 66499.9 for the guarantee or warranty nor to the amount of the security deemed necessary by the local agency for the guarantee and warranty period nor to costs and reasonable expenses and fees, including reasonable attorneys' fees.

The legislative body may authorize any of its public officers or employees to authorize release or reduction of the security in accordance with the conditions hereinabove set forth and in accordance with any rules that it may prescribe.

CHAPTER 125

An act to add Section 873 to the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 873 is added to the Welfare and Institutions Code, to read:

873. (a) Upon approval of the board of supervisors of a county, the chief probation officer of the county may establish, maintain, and operate a store in connection with the juvenile hall or other county juvenile facilities and for this purpose may purchase goods, articles and supplies, including, but not limited to, confectionery, snack foods and beverages, postage and writing materials, and toilet articles and supplies, and may sell these goods, articles, and supplies for cash to wards and detainees confined in the juvenile hall or other county juvenile facilities.

(b) The sale prices of the articles offered for sale at the store shall be fixed by the chief probation officer. Any profit shall be deposited in a Ward Welfare Fund which shall be established in the treasury of the county, if a store is established pursuant to subdivision (a).

(c) There shall also be deposited in the Ward Welfare Fund, if any, 10 percent of all gross sales of confined minor hobbycraft.

(d) There shall be deposited in the Ward Welfare Fund, if any, any money, refund, rebate, or commission received from a telephone company or pay telephone provider when the money, refund, rebate, or commission is attributable to the use of pay telephones which are primarily used by confined wards or detainees while incarcerated.

(e) The money and property deposited in the Ward Welfare Fund shall be expended by the chief probation officer primarily for the benefit, education, and welfare of the wards and detainees confined within the juvenile hall or other county juvenile facilities. Any funds that are not needed for the welfare of the confined wards and detainees may be expended by the chief probation officer at his or her sole discretion for the maintenance of county juvenile facilities. Maintenance of the juvenile hall or other county juvenile facilities may include, but is not limited to, the salary and benefits of personnel used in the programs to benefit the confined wards and detainees including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the chief probation officer.

(f) The operation of a store within any other county juvenile detention facility which is not under the jurisdiction of the chief probation officer shall be governed by the provisions of this section, except that the board of supervisors shall designate the proper county official to exercise the duties otherwise allocated in this section to the chief probation officer.

(g) The treasurer may, pursuant to Article 1 (commencing with Section 53600), or Article 2 (commencing with Section 53630), of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, deposit, invest, or reinvest any part of the Ward Welfare Fund, in

excess of that which the treasurer deems necessary for immediate use. The interest or increment accruing on these funds shall be deposited in the Ward Welfare Fund.

(h) The chief probation officer may expend money from the Ward Welfare Fund to provide indigent wards and detainees, prior to release from the juvenile hall, any county juvenile facility, or other juvenile detention facility under the jurisdiction of the chief probation officer, with essential clothing and transportation expenses within the county or, at the discretion of the chief probation officer, transportation to the minor's county of residence, if the county is within the state or 500 miles from the county of incarceration. This subdivision does not authorize expenditure of money from the Ward Welfare Fund for the transfer of any ward or detainees to the custody of any other law enforcement official or jurisdiction.

CHAPTER 126

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 July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. This act may be cited as the First Validating Act of 1997.

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 127

An act to amend Section 832.6 of the Penal Code, relating to peace officers.

[Approved by Governor July 27, 1997. Filed with
Secretary of State July 28, 1997.]

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

SECTION 1. Section 832.6 of the Penal Code is amended to read:

832.6. (a) Every person deputized or appointed, as described in subdivision (a) of Section 830.6, shall have the powers of a peace officer only when the person is any of the following:

(1) A level I reserve officer deputized or appointed pursuant to paragraph (1) or (2) of subdivision (a) or subdivision (b) of Section 830.6 and assigned to the prevention and detection of crime and the general enforcement of the laws of this state, whether or not working alone, and the person has completed the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training. For level I reserve officers appointed prior to January 1, 1997, the basic training requirement shall be the course that was prescribed at the time of their appointment. Reserve officers appointed pursuant to this paragraph shall satisfy the continuing professional training requirement prescribed by the commission.

(2) A level II reserve officer assigned to the prevention and detection of crime and the general enforcement of the laws of this state while under the immediate supervision of a peace officer who has completed the basic training course for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training, and the level II reserve officer has completed the course required by Section 832 and any other training prescribed by the commission.

Level II reserve officers appointed pursuant to this paragraph may be assigned, without immediate supervision, to those limited duties that are authorized for level III reserve officers pursuant to paragraph (3).

(3) Level III reserve officers may be deployed and are authorized only to carry out limited support duties not requiring general law enforcement powers in their routine performance. Those limited duties shall include traffic control, security at parades and sporting events, prisoner and evidence transportation, parking enforcement, and other duties that are not likely to result in physical arrests. Level III reserve officers while assigned these duties shall be proximately supervised by a level I reserve officer or a peace officer, as defined pursuant to this chapter. Those persons shall have completed the training required under Section 832 and any other training prescribed by the commission for those persons.

(4) A person assigned to the prevention and detection of a particular crime or crimes or to the detection or apprehension of a particular individual or individuals while working under the supervision of a California peace officer in a county adjacent to the state border who possesses a basic certificate issued by the Commission on Peace Officer Standards and Training, and the person is a law enforcement officer who is regularly employed by a local or state law enforcement agency in an adjoining state and has completed the basic training required for peace officers in his or her state.

This training shall fully satisfy any other training requirements required by law, including those specified in Section 832.

In no case shall a peace officer of an adjoining state provide services within a California jurisdiction during any period in which the regular law enforcement agency of the jurisdiction is involved in a labor dispute.

(b) Notwithstanding subdivision (a), a person who is issued a level I reserve officer certificate before January 1, 1981, shall have the full powers and duties of a peace officer as provided by Section 830.1 if so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, if the appointing authority determines the person is qualified to perform general law enforcement duties by reason of the person's training and experience. Persons who were qualified to be issued the level I reserve officer certificate before January 1, 1981, and who state in writing under penalty of perjury that they applied for but were not issued the certificate before January 1, 1981, may be issued the certificate before July 1, 1984. For purposes of this section, certificates so issued shall be deemed to have the full force and effect of any level I reserve officer certificate issued prior to January 1, 1981.

(c) In carrying out this section, the commission:

(1) May use proficiency testing to satisfy reserve training standards.

(2) Shall provide for convenient training to remote areas in the state.

(3) Shall establish a professional certificate for reserve officers as defined in paragraph (1) of subdivision (a) and may establish a professional certificate for reserve officers as defined in paragraphs (2) and (3) of subdivision (a).

(4) Shall facilitate the voluntary transition of reserve officers to regular officers with no unnecessary redundancy between the training required for level I and level II reserve officers.

(5) Shall develop a supplemental course for existing level I reserve officers desiring to satisfy the basic training course for deputy sheriffs and police officers.

(d) In carrying out paragraphs (1) and (3) of subdivision (c), the commission may establish and levy appropriate fees, provided the fees do not exceed the cost for administering the respective services. These fees shall be deposited in the Peace Officers' Training Fund established by Section 13520.

(e) The commission shall include an amount in its annual budget request to carry out this section.

CHAPTER 128

An act to amend Section 1203.05 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 1203.05 of the Penal Code is amended to read:

1203.05. Any report of the probation officer filed with the court, including any report arising out of a previous arrest of the person who is the subject of the report, may be inspected or copied only as follows:

(a) By any person, from the date judgment is pronounced or probation granted or, in the case of a report arising out of a previous arrest, from the date the subsequent accusatory pleading is filed, to and including 60 days from the date judgment is pronounced or probation is granted, whichever is earlier.

(b) By any person, at any time, by order of the court, upon filing a petition therefor by the person.

(c) By the general public, if the court upon its own motion orders that a report or reports shall be open or that the contents of the report or reports shall be disclosed.

(d) By any person authorized or required by law to inspect or receive copies of the report.

(e) By the district attorney of the county at any time.

(f) By the subject of the report at any time.

CHAPTER 129

An act to amend Section 65858 of the Government Code, relating to land use.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 65858 of the Government Code is amended to read:

65858. (a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses which

may be in conflict with a contemplated general plan, specific plan, or zoning proposal which the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.

(b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.

(c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare.

(d) Ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

(e) When an interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or a part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim ordinance or any extension of the ordinance as provided in this section.

(f) Notwithstanding subdivision (e), upon termination of a prior interim ordinance, the legislative body may adopt another interim ordinance pursuant to this section provided that the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance.

SEC. 2. In enacting this act to amend Section 65858 of the Government Code by adding a subdivision (f) to that section, it is the intent of the Legislature that an ordinance that complies with that subdivision and was in existence on or before April 14, 1997, shall not

be invalidated if challenged pursuant to subdivision (e) of Section 65858 of the Government Code.

CHAPTER 130

An act to add Section 827.6 to the Welfare and Institutions Code, relating to minors.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 827.6 is added to the Welfare and Institutions Code, to read:

827.6. (a) Notwithstanding any other provision of law, the presiding judge of the juvenile court may authorize a law enforcement agency to disclose only the name and other information necessary to identify a minor who is lawfully sought for arrest as a suspect in the commission of any felony listed in subdivision (b) of Section 707 where the disclosure is imperative for the apprehension of the minor. The court order shall be solely for the limited purpose of enabling law enforcement to apprehend the minor, and shall contain the exact nature of the data to be released. In determining whether to authorize the release of information pursuant to this section, the court shall balance the confidentiality interests of the minor under this chapter, the due diligence of law enforcement to apprehend the minor prior to the filing of a petition for disclosure, and public safety interests raised by the facts of the minor's case.

(b) When seeking an order of disclosure pursuant to this section, in addition to any other information requested by the presiding judge, a law enforcement agency shall submit to the court a verified declaration and any supporting exhibits indicating the probable cause for the lawful arrest of the minor, efforts to locate the minor, including, but not limited, to persons contacted, surveillance activity, search efforts, and any other pertinent information, and all evidence regarding why the order is critical, including a minor's danger to himself or herself, the minor's danger to others, the minor's flight risk, and any other information indicating the urgency for a court order.

CHAPTER 131

An act to amend Section 990.8 of, and to add Section 6512.2 to, the Government Code, relating to insurance.

[Approved by Governor July 27, 1997. Filed with
Secretary of State July 28, 1997.]

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

SECTION 1. Section 990.8 of the Government Code is amended to read:

990.8. (a) Two or more local public entities, by a joint powers agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7, may provide insurance authorized by this part or for any other purpose by any one or more of the methods specified in Section 990.4. Where two or more hospital districts have joined together to pool their self-insurance claims or losses, any nonprofit corporation created pursuant to subdivision (p) of Section 32121 of the Health and Safety Code, and affiliated with a hospital district which is a party to the pool may participate in the pool.

(b) Two or more local public entities having the same governing board may be coinsured under a master policy and the total premium may be prorated among those entities.

(c) The pooling of self-insured claims or losses among entities as authorized in subdivision (a) of Section 990.4 shall not be considered insurance nor be subject to regulation under the Insurance Code.

(d) Any liability or loss under a joint powers agreement for the pooling of self-insured claims or losses authorized by this part and provided pursuant to this section may, notwithstanding Section 620 of the Insurance Code or any other provision of law, be reinsured to the same extent and the same manner as insurance provided by an insurer.

(e) Where a joint powers agreement authorized by this part or authorized pursuant to Section 6516 provides for the pooling of self-insured claims or losses among entities, if any peril insured or covered under contract has existed, and the joint powers authority or other parties to the pool have been liable for any period, however short, the agreement may provide that the party insured or covered under contract is not entitled to the return of premiums, contributions, payments, or advances so far as that particular risk is concerned.

SEC. 2. Section 6512.2 is added to the Government Code, to read:

6512.2. If the purpose set forth in the agreement is to pool the self-insurance claims of two or more local public entities, the agreement may provide that termination by any party to the agreement shall not be construed as a completion of the purpose of the agreement and shall not require the repayment or return to the parties of all or any part of any contributions, payments, or advances made by the parties until the agreement is rescinded or terminated as to all parties. The agreement may provide that after the completion of its purpose, any surplus money remaining in the pool

shall be returned in proportion to the contributions made and the claims or losses paid.

SEC. 3. It is the intent of the Legislature that the provisions of this act shall not apply to any lawsuits filed on or before May 2, 1994.

CHAPTER 132

An act to amend, repeal, and add Section 820.9 of the Government Code, relating to governmental tort liability.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 820.9 of the Government Code is amended to read:

820.9. Members of city councils, mayors, members of boards of supervisors, members of school boards, members of governing boards of other local public entities, members of locally appointed boards and commissions, members of locally appointed or elected advisory bodies, and members of locally elected town councils established by members of boards of supervisors to advise the board concerning services which may be provided to that area by the county or other local governmental entities are not vicariously liable for injuries caused by the act or omission of the public entity or advisory body. Nothing in this section exonerates an official from liability for injury caused by that individual's own wrongful conduct. Nothing in this section affects the immunity of any other public official. 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.

SEC. 2. Section 820.9 is added to the Government Code, to read:

820.9. Members of city councils, mayors, members of boards of supervisors, members of school boards, members of governing boards of other local public entities, members of locally appointed boards and commissions, and members of locally appointed or elected advisory bodies are not vicariously liable for injuries caused by the act or omission of the public entity or advisory body. Nothing in this section exonerates an official from liability for injury caused by that individual's own wrongful conduct. Nothing in this section affects the immunity of any other public official.

This section shall become operative January 1, 2000.

CHAPTER 133

An act to amend Section 1417.5 of, and to add Section 11108.5 to, the Penal Code, relating to criminal procedure.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 1417.5 of the Penal Code is amended to read:

1417.5. Except as provided in Section 1417.6, 60 days after the final determination of a criminal action or proceeding, the clerk of the court shall dispose of all exhibits introduced or filed in the case and remaining in the clerk's possession, as follows:

(a) If the name and address of the person from whom the exhibit was taken is contained in the court record, the clerk shall notify the person that he or she may make application to the court for release of the exhibits within 15 days of receipt of the notification.

(b) The court shall order the release of exhibits free of charge, without prejudice to the state, upon application, to the following:

(1) First, the person from whom the exhibits were taken into custody, provided that the person was in lawful possession of the exhibits.

(2) Second, a person establishing title to, or a right to possession of, the exhibits.

(c) If the party entitled to an exhibit fails to apply for the return of the exhibit prior to the date for disposition under this section, the following procedures shall apply:

(1) Exhibits of stolen or embezzled property other than money shall be disposed of pursuant to court order as provided in Section 1417.6.

(2) Exhibits of property other than property which is stolen or embezzled or property which consists of money or currency shall, except as otherwise provided in this paragraph and in paragraph (3), be transferred to the appropriate county agency for sale to the public in the same manner provided by Article 7 (commencing with Section 25500) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code for the sale of surplus personal property. If the county determines that any property is needed for a public use, the property may be retained by the county and need not be sold.

(3) Exhibits of property, other than money, currency, or stolen or embezzled property, that are determined by the court to have no value at public sale shall be destroyed or otherwise disposed of pursuant to court order.

(4) Exhibits of money or currency shall be disposed of pursuant to Section 1420.

SEC. 2. Section 11108.5 is added to the Penal Code, to read:

11108.5. (a) If a law enforcement agency identifies serialized property that has been reported lost or stolen by the owner or a person entitled to possession of the property and the property has been entered into the appropriate Department of Justice automated property system pursuant to Section 11108, the agency shall notify the owner or person entitled to possession of the property of the location of the property within 15 days of making the identification. If the location of the property was reported by a licensed pawnbroker or secondhand dealer pursuant to Section 21630 of the Business and Professions Code, notice shall be given to the party who reported the property lost or stolen pursuant to Section 21647 of the Business and Professions Code.

(b) If the property is in the custody of the law enforcement agency and it is determined that the property is no longer required for use as evidence in a criminal case, the property shall be made available to the person entitled to possession pursuant to Section 1417.5.

(c) Subdivision (a) shall not apply to the return to an owner of a lost or stolen vehicle, as defined in Section 670 of the Vehicle Code.

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 pursuant to this act because counties will receive funding under the Brown-Presley Trial Court Funding Act (Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code) in lieu of that requirement.

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 134

An act to amend Sections 273a, 273d, and 1203.097 of the Penal Code, relating to crimes.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 273a of the Penal Code is amended to read:

273a. (a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 48 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3) (A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best

interests of justice. The court shall state on the record its reasons for any waiver.

SEC. 2. Section 273d of the Penal Code is amended to read:

273d. (a) Any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years, or in a county jail for not more than one year, by a fine of up to six thousand dollars ($6,000), or by both that imprisonment and fine.

(b) Any person who is found guilty of violating subdivision (a) shall receive a four-year enhancement for a prior conviction of that offense provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense that results in a felony conviction.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 36 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3) (A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

SEC. 3. Section 1203.097 of the Penal Code is amended to read:

1203.097. (a) If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following:

(1) A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.

(2) A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.

(3) Notice to the victim of the disposition of the case.

(4) Booking the defendant within one week of sentencing if the defendant has not already been booked.

(5) The defendant shall pay a minimum of a two-hundred-dollar ($200) payment to be disbursed as specified in this paragraph. If, after a hearing in court on the record, the court finds that the defendant does not have the ability to pay, the court may reduce or waive this fee.

Out of moneys deposited with the county treasurer pursuant to this section, one-third shall be retained by counties and deposited in the domestic violence programs special fund created pursuant to Section 18305 of the Welfare and Institutions Code to be expended for the purposes of Chapter 5 (commencing with Section 18290) of Part 6 of Division 9 of the Welfare and Institutions Code. The remainder shall be transferred, once a month, to the Controller for deposit in the Domestic Violence Fund, which is hereby created, in an amount equal to two-thirds of funds collected during the preceding month. Moneys deposited in the Domestic Violence Fund pursuant to this section shall be available upon appropriation by the Legislature, and shall be distributed as follows:

(A) One-half shall be distributed to the counties, based on the number of restraining orders issued and registered in the state domestic violence restraining order registry maintained by the Department of Justice, for the development and maintenance of the domestic violence restraining order data bank system.

(B) One-half shall support the development of a statewide training and education program to increase public awareness of domestic violence and to improve the scope and quality of services provided to the victims of domestic violence. Grants to support this program shall be awarded on a competitive basis and be administered by the State Department of Health Services, in consultation with the statewide domestic violence coalition, which is eligible to receive funding under this section.

(6) Successful completion of a batterer's program, as defined in subdivision (c), or if none is available, another appropriate counseling program designated by the court, for a period not less than one year with periodic progress reports by the program to the court every three months or less and weekly sessions of a minimum of two hours classtime duration.

(7) (A) (i) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon the ability to pay.

(ii) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(B) Upon request by the batterer's program, the court shall provide the defendant's arrest report, prior incidents of violence, and treatment history to the program.

(8) The court also shall order the defendant to perform a specified amount of appropriate community service, as designated by the court. The defendant shall present the court with proof of completion of community service and the court shall determine if the community service has been satisfactorily completed. If sufficient staff and resources are available, the community service shall be performed under the jurisdiction of the local agency overseeing a community service program.

(9) If the program finds that the defendant is unsuitable, the program shall immediately contact the probation department or the court. The probation department or court shall either recalendar the case for hearing or refer the defendant to an appropriate alternative batterer's program.

(10) (A) Upon recommendation of the program, a court shall require a defendant to participate in additional sessions throughout the probationary period, unless it finds that it is not in the interests of justice to do so, states its reasons on the record, and enters them into the minutes. In deciding whether the defendant would benefit from more sessions, the court shall consider whether any of the following conditions exist:

(i) The defendant has been violence free for a minimum of six months.

(ii) The defendant has cooperated and participated in the batterer's program.

(iii) The defendant demonstrates an understanding of and practices positive conflict resolution skills.

(iv) The defendant blames, degrades, or has committed acts that dehumanize the victim or puts at risk the victim's safety, including, but not limited to, molesting, stalking, striking, attacking, threatening, sexually assaulting, or battering the victim.

(v) The defendant demonstrates an understanding that the use of coercion or violent behavior to maintain dominance is unacceptable in an intimate relationship.

(vi) The defendant has made threats to harm anyone in any manner.

(vii) The defendant has complied with applicable requirements under paragraph (6) of subdivision (c) or subparagraph (C) to receive alcohol counseling, drug counseling, or both.

(viii) The defendant demonstrates acceptance of responsibility for the abusive behavior perpetrated against the victim.

(B) The program shall immediately report any violation of the terms of the protective order, including any new acts of violence or failure to comply with the program requirements, to the court, the prosecutor, and, if formal probation has been ordered, to the probation department. The probationer shall file proof of enrollment in a batterer's program with the court within 30 days of conviction.

(C) Concurrent with other requirements under this section, in addition to, and not in lieu of, the batterer's program, and unless prohibited by the referring court, the probation department or the court may make provisions for a defendant to use his or her resources to enroll in a chemical dependency program or to enter voluntarily a licensed chemical dependency recovery hospital or residential treatment program that has a valid license issued by the state to provide alcohol or drug services to receive program participation credit, as determined by the court. The probation department shall document evidence of this hospital or residential treatment participation in the defendant's program file.

(11) The conditions of probation may include, in lieu of a fine, but not in lieu of the fund payment required under paragraph (5), one or more of the following requirements:

(A) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000).

(B) That the defendant reimburse the victim for reasonable expenses that the court finds are the direct result of the defendant's offense.

For any order to pay a fine, to make payments to a battered women's shelter, or to pay restitution as a condition of probation under this subdivision, the court shall make a determination of the defendant's ability to pay. Determination of a defendant's ability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating lack of his or her ability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property shall not be used to discharge the liability of the offending spouse for restitution to the injured spouse, as required by Section 1203.04, as operative on or before August 2, 1995, or Section 1202.4, or to a shelter for costs with

regard to the injured spouse, until all separate property of the offending spouse is exhausted.

(12) If it appears to the prosecuting attorney, the court, or the probation department that the defendant is performing unsatisfactorily in the assigned program, is not benefiting from counseling, or has engaged in criminal conduct, upon request of the probation officer, the prosecuting attorney, or on its own motion, the court, as a priority calendar item, shall hold a hearing to determine whether further sentencing should proceed. The court may consider factors, including, but not limited to, any violence by the defendant against the former or a new victim while on probation and noncompliance with any other specific condition of probation. If the court finds that the defendant is not performing satisfactorily in the assigned program, is not benefiting from the program, has not complied with a condition of probation, or has engaged in criminal conduct, the court shall terminate the defendant's participation in the program and shall proceed with further sentencing.

(b) If a person is granted formal probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, in addition to the terms specified in subdivision (a), all of the following shall apply:

(1) The probation department shall make an investigation and take into consideration the defendant's age, medical history, employment and service records, educational background, community and family ties, prior incidents of violence, police report, treatment history, if any, demonstrable motivation, and other mitigating factors in determining which batterer's program would be appropriate for the defendant. This information shall be provided to the batterer's program if it is requested. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendations to the court.

(2) The court shall advise the defendant that the failure to report to the probation department for the initial investigation, as directed by the court, or the failure to enroll in a specified program, as directed by the court or the probation department, shall result in possible further incarceration. The court, in the interests of justice, may relieve the defendant from the prohibition set forth in this subdivision based upon the defendant's mistake or excusable neglect. Application for this relief shall be filed within 20 court days of the missed deadline. This time limitation may not be extended. A copy of any application for relief shall be served on the office of the prosecuting attorney.

(3) After the court orders the defendant to a batterer's program, the probation department shall conduct an initial assessment of the defendant, including, but not limited to, all of the following:

(A) Social, economic, and family background.

(B) Education.
(C) Vocational achievements.
(D) Criminal history.
(E) Medical history.
(F) Substance abuse history.
(G) Consultation with the probation officer.
(H) Verbal consultation with the victim, only if the victim desires to participate.

(I) Assessment of the future probability of the defendant committing murder.

(4) The probation department shall attempt to notify the victim regarding the requirements for the defendant's participation in the batterer's program, as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(c) The court or the probation department shall refer defendants only to batterer's programs that follow standards outlined in paragraph (1), which may include, but are not limited to, lectures, classes, group discussions, and counseling. The probation department shall design and implement an approval and renewal process for batterer's programs and shall solicit input from criminal justice agencies and domestic violence victim advocacy programs.

(1) The goal of a batterer's program under this section shall be to stop domestic violence. A batterer's program shall consist of the following components:

(A) Strategies to hold the defendant accountable for the violence in a relationship, including, but not limited to, providing the defendant with a written statement that the defendant shall be held accountable for acts or threats of domestic violence.

(B) A requirement that the defendant participate in ongoing same-gender group sessions.

(C) An initial intake that provides written definitions to the defendant of physical, emotional, sexual, economic, and verbal abuse, and the techniques for stopping these types of abuse.

(D) Procedures to inform the victim regarding the requirements for the defendant's participation in the intervention program as well as regarding available victim resources. The victim also shall be informed that attendance in any program does not guarantee that an abuser will not be violent.

(E) A requirement that the defendant attend group sessions free of chemical influence.

(F) Educational programming that examines, at a minimum, gender roles, socialization, the nature of violence, the dynamics of power and control, and the effects of abuse on children and others.

(G) A requirement that excludes any couple counseling or family counseling, or both.

(H) Procedures that give the program the right to assess whether or not the defendant would benefit from the program and refuse to

enroll the defendant if it is determined the defendant would not benefit from the program, so long as the refusal is not because of the defendant's inability to pay. If possible, the program shall suggest an appropriate alternative program.

(I) Program staff who, to the extent possible, have specific knowledge regarding, but not limited to, spousal abuse, child abuse, sexual abuse, substance abuse, the dynamics of violence and abuse, the law, and procedures of the legal system.

(J) Program staff who are encouraged to utilize the expertise, training, and assistance of local domestic violence centers.

(K) A requirement that the defendant enter into a written agreement with the program that shall include an outline of the contents of the program, the attendance requirements, the requirement to attend group sessions free of chemical influence, and a statement that the defendant may be removed from the program if it is determined that the defendant is not benefiting from the program or is disruptive to the program.

(L) A requirement that the defendant sign a confidentiality statement prohibiting disclosure of any information obtained through participating in the program or during group sessions regarding other participants in the program.

(M) Program content that provides cultural and ethnic sensitivity.

(N) A requirement of a written referral from the court or probation department prior to permitting the defendant to enroll in the program. The written referral shall state the number of minimum sessions required by the court.

(O) Procedures for submitting to the probation department all of the following uniform written responses:

(i) Proof of enrollment, to be submitted to the court and the probation department and to include the fee determined to be charged to the defendant, based upon the ability to pay, for each session.

(ii) Periodic progress reports that include attendance, fee payment history, and program compliance.

(iii) Final evaluation that includes the program's evaluation of the defendant's progress, using the criteria set forth in paragraph (4) of subdivision (a) and recommendation for either successful or unsuccessful termination or continuation in the program.

(P) A sliding fee schedule based on the defendant's ability to pay. The batterer's program shall develop and utilize a sliding fee scale that recognizes both the defendant's ability to pay and the necessity of programs to meet overhead expenses. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee, if the defendant has the ability to pay the nominal fee. Upon a hearing and a finding by the court that the defendant does not have the financial ability to pay the nominal fee, the court shall waive this fee. The payment of the fee shall be made a condition of probation if the court determines the defendant has the present ability to pay the fee.

The fee shall be paid during the term of probation unless the program sets other conditions. The acceptance policies shall be in accordance with the scaled fee system.

(2) The court shall refer persons only to batterer programs that have been approved by the probation department pursuant to paragraph (5). The probation department shall do all of the following:

(A) Provide for the issuance of a provisional approval, provided that the applicant is in substantial compliance with applicable laws and regulations and an urgent need for approval exists. A provisional approval shall be considered an authorization to provide services and shall not be considered a vested right.

(B) If the probation department determines that a program is not in compliance with standards set by the department, the department shall provide written notice of the noncompliant areas to the program. The program shall submit a written plan of corrections within 14 days from the date of the written notice on noncompliance. A plan of correction shall include, but not be limited to, a description of each corrective action and timeframe for implementation. The department shall review and approve all or any part of the plan of correction and notify the program of approval or disapproval in writing. If the program fails to submit a plan of correction or fails to implement the approved plan of correction, the department shall consider whether to revoke or suspend approval and, upon revoking or suspending approval, shall have the option to cease referrals of defendants under this section.

(3) No program, regardless of its source of funding, shall be approved unless it meets all of the following standards:

(A) The establishment of guidelines and criteria for education services, including standards of services that may include lectures, classes, and group discussions.

(B) Supervision of the defendant for the purpose of evaluating the person's progress in the program.

(C) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program or for the successful completion of the program as ordered. The program shall notify the court and the probation department in writing within the period of time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.

(D) No victim shall be compelled to participate in a program or counseling and no program may condition a defendant's enrollment on participation by the victim.

(4) In making referrals of indigent defendants to approved batterer programs, the probation department shall apportion these referrals evenly among the approved programs.

(5) The probation department shall have the sole authority to approve a batterer's program for probation. The program shall be required to obtain only one approval but shall renew that approval annually.

(A) The procedure for the approval of a new or existing program shall include all of the following:

(i) The completion of a written application containing necessary and pertinent information describing the applicant program.

(ii) The demonstration by the program that it possesses adequate administrative and operational capability to operate a batterer's treatment program. The program shall provide documentation to prove that the program has conducted batterer's programs for at least one year prior to application. This requirement may be waived under subparagraph (A) of paragraph (2), if there is no existing batterer's program in the city, county, or city and county.

(iii) The onsite review of the program, including monitoring of a session to determine that the program adheres to applicable statutes and regulations.

(iv) The payment of the approval fee.

(B) The probation department shall fix a fee for approval not to exceed two hundred fifty dollars ($250) and for approval renewal not to exceed two hundred fifty dollars ($250) every year in an amount sufficient to cover its cost in administering the approval process under this section. No fee shall be charged for the approval of local governmental entities.

(C) The probation department has the sole authority to approve the issuance, denial, suspension, or revocation of approval and to cease new enrollments or referrals to a batterer's program under this section. The probation department shall review information relative to a program's performance or failure to adhere to standards, or both. The probation department may suspend or revoke any approval issued under this subdivision or deny an application to renew an approval or to modify the terms and conditions of approval, based on grounds established by probation, including, but not limited to, any of the following:

(i) Violation of this section by any person holding approval or by a program employee in a program under this section.

(ii) Misrepresentation of any material fact in obtaining the approval.

(6) For defendants who are chronic users or serious abusers of drugs or alcohol, standard components in the program shall include concurrent counseling for substance abuse and violent behavior, and in appropriate cases, detoxification and abstinence from the abused substance.

(7) The program shall conduct an exit conference that reflects the defendant's progress during the defendant's participation in the batterer's program.

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 135

An act to amend Sections 55601.5, 55601.6, and 55601.8 of the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 55601.5 of the Food and Agricultural Code is amended to read:

55601.5. (a) (1) Notwithstanding Section 55461, on or before January 10 of every year, every processor who crushes grapes in California shall furnish to the secretary, on forms provided by the secretary, a report that includes all of the following:

(A) The total number of tons of grapes purchased by the processor in the State of California during the preceding crush within each grape-pricing district, broken down by total tons purchased, variety, and price, including any bonuses or allowances, and sugar calculations.

(B) The total number of tons of grapes purchased by the processor in California in nonrelated purchases during the preceding crush within each grape-pricing district, broken down by total tons purchased, variety, and price, including any bonuses or allowances, and sugar calculations.

(C) The total number of tons of each variety crushed within each grape-pricing district and the average sugar content of each variety within each grape-pricing district.

(2) (A) When reporting price within the category of all tonnage purchased, processors shall include grapes purchased from (i) growers for wine, wine vinegar, juice, concentrate, and beverage brandy, (ii) another processor only if that processor was also the grower of the grapes, (iii) growers that are considered separate entities from the processor operation, or (iv) growers or other processors, but not by the reporting processor; and shall exclude (i) material other than grapes, and defects, or other weight adjustments deducted from the gross-weight ticket, (ii) any raisin-distilling material, (iii) grapes grown by the processor from vineyards that are not considered separate entities, (iv) grapes purchased from other processors that were previously purchased from growers, or (v) grapes crushed to grower accounts or crushed for other wineries. If several varieties were packaged together and purchased for one price, the processor shall report the average price per ton as one mixed lot, and when reporting crush information, shall report individual variety and tonnage information.

(B) When reporting price within the category of nonrelated purchases, processors shall exclude tonnage of grapes purchased from a grower if, during the reporting year: (i) the grower or an affiliate of the grower, or both the grower and the affiliate of the grower, owned, directly or indirectly, at least 5 percent of the indicia of ownership or voting authority of the processor, (ii) the processor or an affiliate of the processor, or both the processor and the affiliate of the processor, owned, directly or indirectly, at least 5 percent of the indicia of ownership or voting authority of the grower, or (iii) the processor or an affiliate of the processor, or both the processor and the affiliate of the processor, provided long-term financing to the grower in exchange for rights or options to purchase a significant portion of the grower's harvest.

(b) On or before February 25 of every year, each processor who crushes grapes in California shall furnish to the secretary information concerning the final prices, including any bonuses or allowances, paid by variety and grape-pricing district to all growers holding reference price contracts in effect prior to January 1, 1977, which payments have not been reported on January 10.

(c) (1) The secretary may not release or otherwise make available any information furnished by an individual processor under this section, except in proceedings brought against the processor by the secretary for the purpose of enforcing this section, or in the case of a producer who holds any reference price-grape purchase contract, to whom there may be furnished, upon request and at a reasonable cost, the information needed to verify the reference price, including any bonuses or allowances, set forth in the contract.

(2) The secretary shall not release or otherwise make available any information furnished by an individual processor under this section to any other division of the department except in accordance

with a subpoena issued in accordance with Section 1985.3 of the Code of Civil Procedure.

(d) The secretary shall enforce the collection of the information and, on or before February 10 of each year, shall publish a preliminary summary report on the preceding crush. The report shall include all of the following:

(1) The weighted average price paid on the basis of the prices, including any bonuses or allowances, reported and average sugar content for each grape variety purchased within each grape-pricing district.

(2) The total number of tons of grapes crushed and the average sugar content for each grape variety within each grape-pricing district.

(3) Each price category paid, separated by sugar calculations, if any, and the percentage each represents of the total for each variety within each grape-pricing district.

(4) Commencing with the report for the 1997 crush, in a separate and independent table without affecting or modifying existing tables, by weighted average price only, nonrelated purchases, by variety within each grape-pricing district excluding any bonuses, allowances, sugar calculations, and tonnage.

On or before March 10 of each year, the secretary shall publish a final summary report, which shall contain all of the data furnished by the processors on or before January 10 and on or before February 25 of each year covering purchases under reference price contracts. The secretary may publish an addendum or supplemental report when reasonably necessary to correct any erroneous or misleading information contained in the annual report required by this section.

(e) The forms provided to processors by the secretary pursuant to this section shall provide for the separate reporting of grapes used by a processor (1) as distilling material and (2) for both beverage brandy and other than beverage brandy. A processor shall report all grapes used as distilling material by variety. The secretary, in determining the weighted average price paid for each grape variety purchased within each grape-pricing district, shall not include the prices paid for grapes of any variety used as distilling material for other than beverage brandy in determining the weighted average price. The secretary's report shall include a separate summary regarding grapes used by processors as distilling material.

(f) All grape purchase contracts entered into on or after January 1, 1977, shall provide for a final price, including any bonuses or allowances, to be set on or before the January 10 following delivery of the grapes purchased. Any grape purchase contract entered into in violation of this provision is illegal and unenforceable. For the purpose of this section, a grape purchase contract shall not include any existing supply contract between a nonprofit cooperative association and a commercial processor.

(g) (1) If the department reasonably believes that a processor has failed, refused, or neglected to provide the information required herein, or if the department finds apparent discrepancies in the information reported, the department may audit or investigate in accordance with Article 11 (commencing with Section 55721) or proceed in accordance with Article 15 (commencing with Section 55841). Injunctive relief under Section 55921 shall issue only upon a finding by a court of competent jurisdiction that a processor has done any of the following:

(A) Refused to submit required information after the department provides reasonable notice to the processor of the processor's obligations and rights under this chapter.

(B) Misreported a fact, knowing that fact to be false, or in reckless disregard for whether the fact was true.

(2) Both the refusal to submit after the provision of reasonable notice and the misreporting of a fact under the circumstances set forth in this subdivision shall constitute violations of this chapter. Neither a refusal to submit nor a misreporting of a fact under this subdivision shall be prosecuted pursuant to Article 18 (commencing with Section 55901) or subject to civil penalties under Article 19 (commencing with Section 55921).

(3) In the case of misreporting in any action authorized by this section, it shall be a defense for a processor to rely on information provided to him or her by a producer with respect to whether a purchase is a related purchase.

(4) In the case of a refusal to report or misreporting, the department shall not commence an audit or investigation, other than a routine audit based on scientifically proven random sampling methods, without first disclosing to the processor being audited or investigated any and all information that constitutes the department's belief that the processor has not complied, including the identities of all persons providing information on potential violations to the department.

(5) Anonymous complaints, unattributable information, or undocumented information shall not constitute reasonable belief and shall not be the basis for any investigation or audit action brought under this section. The department shall inform the processor of its reasons for auditing.

(h) For the purposes of this section, the following definitions shall apply:

(1) "Affiliate" or "affiliated with" means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control of another person. For the purposes of this paragraph, "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of any person.

(2) “Grape-pricing district” means a district used by the federal-state cooperative market news services, as provided in Section 58231.

(3) “Long-term financing” means (i) financing that by its terms is due over a period of more than one year, or (ii) more than 180 days if there is a purchase agreement between a grower and a processor or (iii) if there is a farming agreement where the purchase price is on a per-acre basis.

(4) “Person” includes an individual, partnership, corporation, limited liability company, firm, company, or other entity.

(5) “Purchase” means the taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift, or any other voluntary transaction creating an interest in property. For the purposes of this paragraph, “sale” shall consist of the passing of title from the seller to the buyer for a price.

SEC. 2. Section 55601.6 of the Food and Agricultural Code is amended to read:

55601.6. (a) To provide funds to carry out Section 55601.5, each processor who crushes more than 100 tons of grapes in California shall pay to the secretary the amount determined by the secretary to be necessary to cover these costs, but not to exceed ten cents ($0.10) per ton of grapes received for crushing, fresh weight equivalent, during each marketing season beginning July 1 and ending the following June 30. However, five cents ($0.05) per ton of grapes received for crushing, or one-half of the fee if the fee is less than ten cents ($0.10), shall be paid by the processor who crushes grapes and five cents ($0.05) per ton of grapes received for crushing, including any grapes produced by the processor, or one-half of the fee if the fee is less than ten cents ($0.10), shall be paid by the processor who crushes grapes and may be deducted from moneys owed to the producer.

(b) The amount of the fee shall be paid to the secretary on or before January 10 of each year on all grapes received for crushing through December 15. The amount of the fee on any grapes received for crushing after December 15 shall be paid to the secretary on or before June 30 of that marketing season.

(c) The secretary may fix the fee at a lesser amount and may adjust the fee from marketing season to marketing season.

(d) Any processor who crushes grapes who fails, neglects, or refuses to pay the required fee shall be in violation of this chapter. Any processor who crushes grapes shall not be entitled to pass the penalty on to the producer of the grapes.

(e) If the secretary conducts an acreage survey pursuant to Section 55613, the secretary may increase the fee charged pursuant to subdivision (a) by not more than four cents ($0.04) per ton of grapes received for crushing, fresh weight equivalent, to cover costs of the survey. The same ratio of payment between processor and producer shall be maintained if the fee is increased pursuant to this subdivision.

(f) The fee authorized by subdivision (a) for the reports required to be prepared by the secretary pursuant to Section 55601.5 and the increase in that fee authorized by subdivision (e) for the survey authorized by Section 55613 shall be established by the secretary so as to generate only the amount of revenue that the secretary reasonably anticipates will be needed to cover the cost incurred by the secretary in gathering and producing the reports required by Section 55601.5, in conducting the survey authorized by Section 55613, and in conducting related enforcement activities. The funds generated by the fees authorized by this section shall be used only for the purpose of gathering the information and producing the reports required to be prepared by the secretary pursuant to Section 55601.5 and conducting the survey authorized by Section 55613.

(g) All moneys received under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 3. Section 55601.8 of the Food and Agricultural Code is amended to read:

55601.8. (a) The secretary shall not release, or otherwise make available, any information furnished by a cooperative or an individual processor under Section 55601.7 or this section, including information relating to the weighted average prices paid, except in proceedings brought against the processor by the secretary for the purpose of enforcing this section.

(b) The secretary shall (1) enforce the collection of the information required in Section 55601.7, (2) on or before January 15, publish a summary report for freestone peaches used for freezing and drying and, (3) on or before October 20, publish a summary report for walnuts, raisins, and prunes, reflecting the statistics derived from the processor reports. The summary reports shall include summaries of all information required to be furnished to the secretary.

(c) The secretary may dispense with the reporting requirements and his or her duties to enforce the collection of this information and the publishing of summary reports if the secretary determines that the same or similar information is made public information within the same time periods of subdivision (b) by any federal or state committee or organization responsible for regulating the handling of any of the commodities subject to this section.

(d) (1) To provide funds to carry out Section 55601.7 and this section, each processor, including agricultural cooperatives, subject to these reporting requirements shall pay to the secretary the amount determined by the secretary to be necessary to cover these costs, but not to exceed twelve cents ($0.12) per fresh ton for freestone peaches, twelve cents ($0.12) per dry ton for raisins and prunes, and twelve cents ($0.12) per inshell dry ton for walnuts handled by the processor during each marketing season.

(2) (A) The amount of the fee for freestone peaches used for freezing and drying shall be paid to the secretary on or before

December 10 for all freestone peaches used for freezing and drying received from April 1 through November 30.

(B) The amount of the fee for any freestone peaches used for freezing and drying received from December 1 to March 31, inclusive, shall be paid to the secretary on or before May 1 of the next marketing season.

(C) The amount of the fee shall be paid to the secretary on or before May 1 of each year for all other commodities received from September 1 to March 31, inclusive.

(D) The amount of the fee for any other commodity received from April 1 to August 31, inclusive, shall be paid to the secretary on or before September 1 of the next marketing season.

(3) The secretary may fix the fee at a lesser amount and may adjust the fee from marketing season to marketing season. Any processor who fails, neglects, or refuses to pay the required fee is in violation of this chapter. Any such processor shall not pass the penalty on to the producer of the commodity.

(4) All funds received under this subdivision shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

(e) If the secretary finds that any processor has failed, refused, or neglected to provide the information required by this section, the secretary may proceed in accordance with Article 11 (commencing with Section 55721).

(f) Any cooperative subject to the reporting provisions of this section shall, in lieu of reporting prices, report all advances and other payments made as of the reporting date and its good faith estimate of the market value of the commodity for the crop year.

(g) The willful failure of any processor to report to the secretary, as required by this section, is a violation of this chapter and is a separate and distinct violation of this chapter for each day the processor fails to meet the reporting requirements.

(h) For the purpose of Section 55601.7 and this section, “marketing season” means the crop year that runs from September 1 to August 31, inclusive, for walnuts, raisins, and prunes, and the crop year that runs from April 1 to March 31, inclusive, for freestone peaches.

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 apply the provisions of this act to the 1997 grape harvest, it is necessary that this act take effect at the earliest possible time.

CHAPTER 136

An act to amend Sections 307, 706, 903, 5211, 7211, and 9211 of the Corporations Code, relating to corporations.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 307 of the Corporations Code, as amended by Section 1 of Chapter 811 of the Statutes of 1995, is amended to read:

307. (a) Unless otherwise provided in the articles or (subject to paragraph (5) of subdivision (a) of Section 204) in the bylaws, all of the following apply:

(1) Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to a director who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communication, or other communications equipment. Participation

in a meeting through use of conference telephone pursuant to this subdivision constitutes presence in person at that meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through the use of electronic video screen communication or other communications equipment (other than conference telephone) pursuant to this subdivision constitutes presence in person at that meeting if all of the following apply:

(A) Each member participating in the meeting can communicate with all of the other members concurrently.

(B) Each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

(C) The corporation adopts and implements some means of verifying both of the following:

(i) A person participating in the meeting is a director or other person entitled to participate in the board meeting.

(ii) All actions of, or votes by, the board are taken or cast only by the directors and not by persons who are not directors.

(7) A majority of the authorized number of directors constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-third the authorized number of directors or less than two, whichever is larger, unless the authorized number of directors is one, in which case one director constitutes a quorum.

(8) An act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board, subject to the provisions of Section 310 and subdivision (e) of Section 317. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as a unanimous vote of the directors.

(c) The provisions of this section apply also to committees of the board and incorporators and action by those committees and incorporators, mutatis mutandis.

(d) 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 before January 1, 2003, deletes or extends that date.

SEC. 2. Section 307 of the Corporations Code, as amended by Section 2 of Chapter 811 of the Statutes of 1995, is amended to read:

307. (a) Unless otherwise provided in the articles or (subject to paragraph (5) of subdivision (a) of Section 204) in the bylaws:

(1) Meetings of the board may be called by the chairperson of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, as long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the authorized number of directors constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-third the authorized number of directors or less than two, whichever is larger, unless the authorized number of directors is one, in which case one director constitutes a quorum.

(8) Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board, subject to the provisions of Section 310 and

subdivision (e) of Section 317. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as a unanimous vote of such directors.

(c) The provisions of this section apply also to committees of the board and incorporators and action by such committees and incorporators, mutatis mutandis.

(d) This section shall become operative on January 1, 2003.

SEC. 3. Section 706 of the Corporations Code is amended to read:

706. (a) Notwithstanding any other provision of this division, an agreement between two or more shareholders of a corporation, if in writing and signed by the parties thereto, may provide that in exercising any voting rights the shares held by them shall be voted as provided by the agreement, or as the parties may agree or as determined in accordance with a procedure agreed upon by them, and the parties may but need not transfer the shares covered by such an agreement to a third party or parties with authority to vote them in accordance with the terms of the agreement. Such an agreement shall not be denied specific performance by a court on the ground that the remedy at law is adequate or on other grounds relating to the jurisdiction of a court of equity.

(b) Shares in any corporation may be transferred by written agreement to trustees in order to confer upon them the right to vote and otherwise represent the shares for such period of time, not exceeding 10 years, as may be specified in the agreement. The validity of a voting trust agreement, otherwise lawful, shall not be affected during a period of 10 years from the date when it was created or last extended as hereinafter provided by the fact that under its terms it will or may last beyond such 10-year period. At any time within two years prior to the time of expiration of any voting trust agreement as originally fixed or as last extended as provided in this subdivision, one or more beneficiaries under the voting trust agreement may, by written agreement and with the written consent of the voting trustee or trustees, extend the duration of the voting trust agreement with respect to their shares for an additional period not exceeding 10 years from the expiration date of the trust as originally fixed or as last extended as provided in this subdivision. A duplicate of the voting trust agreement and any extension thereof shall be filed with the secretary of the corporation and shall be open to inspection by a shareholder, a holder of a voting trust certificate

or the agent of either, upon the same terms as the record of shareholders of the corporation is open to inspection.

(c) No agreement made pursuant to subdivision (a) shall be held to be invalid or unenforceable on the ground that it is a voting trust that does not comply with subdivision (b) or that it is a proxy that does not comply with Section 705.

(d) This section shall not invalidate any voting or other agreement among shareholders or any irrevocable proxy complying with subdivision (e) of Section 705, which agreement or proxy is not otherwise illegal.

SEC. 4. Section 903 of the Corporations Code is amended to read:

903. (a) A proposed amendment must be approved by the outstanding shares (Section 152) of a class, whether or not such class is entitled to vote thereon by the provisions of the articles, if the amendment would:

(1) Increase or decrease the aggregate number of authorized shares of such class, other than an increase as provided in either subdivision (b) of Section 405 or subdivision (c) of Section 902.

(2) Effect an exchange, reclassification, or cancellation of all or part of the shares of such class, including a reverse stock split but excluding a stock split.

(3) Effect an exchange, or create a right of exchange, of all or part of the shares of another class into the shares of such class.

(4) Change the rights, preferences, privileges or restrictions of the shares of such class.

(5) Create a new class of shares having rights, preferences or privileges prior to the shares of such class, or increase the rights, preferences or privileges or the number of authorized shares of any class having rights, preferences or privileges prior to the shares of such class.

(6) In the case of preferred shares, divide the shares of any class into series having different rights, preferences, privileges or restrictions or authorize the board to do so.

(7) Cancel or otherwise affect dividends on the shares of such class which have accrued but have not been paid.

(b) Different series of the same class shall not constitute different classes for the purpose of voting by classes except when a series is adversely affected by an amendment in a different manner than other shares of the same class.

(c) In addition to approval by a class as provided in subdivision (a), a proposed amendment must also be approved by the outstanding voting shares (Section 152).

SEC. 5. Section 5211 of the Corporations Code, as amended by Section 3 of Chapter 811 of the Statutes of 1995, is amended to read:

5211. (a) Unless otherwise provided in the articles or in the bylaws, all of the following apply:

(1) Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to a director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communication, or other communications equipment. Participation in a meeting through use of conference telephone pursuant to this subdivision constitutes presence in person at that meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through use of electronic video screen communication or other communications equipment (other than conference telephone) pursuant to this subdivision constitutes presence in person at that meeting if all of the following apply:

(A) Each member participating in the meeting can communicate with all of the other members concurrently.

(B) Each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

(C) The corporation adopts and implements some means of verifying both of the following:

(i) A person participating in the meeting is a director or other person entitled to participate in the board meeting.

(ii) All actions of, or votes by, the board are taken or cast only by the directors and not by persons who are not directors.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 5212, 5233, 5234, 5235, and subdivision (e) of Section 5238, an act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting, or a greater number required by this division, the articles or bylaws.

(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as the unanimous vote of the directors. For the purposes of this section only, “all members of the board” shall not include an “interested director” as defined in Section 5233.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by those incorporators or committees mutatis mutandis.

(d) 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 before January 1, 2003, deletes or extends that date.

SEC. 6. Section 5211 of the Corporations Code, as amended by Section 4 of Chapter 811 of the Statutes of 1995, is amended to read:

5211. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairperson of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days’ notice by first-class mail or 48 hours’ notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages,

telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, as long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 5212, 5233, 5234, 5235, and subdivision (e) of Section 5238, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division, the articles or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have

the same force and effect as the unanimous vote of such directors. For the purposes of this section only, "all members of the board" shall not include any "interested director" as defined in Section 5233.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis.

(d) This section shall become operative on January 1, 2003.

SEC. 7. Section 7211 of the Corporations Code, as amended by Section 5 of Chapter 811 of the Statutes of 1995, is amended to read:

7211. (a) Unless otherwise provided in the articles or in the bylaws, all of the following apply:

(1) Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to a director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of an adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communications, or other communications equipment. Participation in a meeting through use of conference telephone pursuant to this subdivision constitutes presence in person at that meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through use of electronic video

screen communication or other communications equipment (other than conference telephone) pursuant to this subdivision constitutes presence in person at that meeting if all of the following apply:

(A) Each member participating in the meeting can communicate with all of the other members concurrently.

(B) Each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

(C) The corporation adopts and implements some means of verifying both of the following:

(i) A person participating in the meeting is a director or other person entitled to participate in the board meeting.

(ii) All actions of, or votes by, the board are taken or cast only by the directors and not by persons who are not directors.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 7212, 7233, 7234, and subdivision (e) of Section 7237 and Section 5233, insofar as it is made applicable pursuant to Section 7238, an act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting, or a greater number required by this division, the articles or bylaws.

(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as a unanimous vote of the directors. For the purposes of this section only, "all members of the board" shall not include an "interested director" as defined in Section 5233, insofar as it is made applicable pursuant to Section 7238.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by those incorporators or committees mutatis mutandis.

(d) 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 before January 1, 2003, deletes or extends that date.

SEC. 8. Section 7211 of the Corporations Code, as amended by Section 6 of Chapter 811 of the Statutes of 1995, is amended to read:

7211. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairperson of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, as long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 7212, 7233, 7234, and subdivision (e) of Section 7237 and Section 5233, insofar as it is made

applicable pursuant to Section 7238, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division, the articles or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as a unanimous vote of such directors. For the purposes of this section only, "all members of the board" shall not include any "interested director" as defined in Section 5233, insofar as it is made applicable pursuant to Section 7238.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis.

(d) This section shall become operative on January 1, 2003.

SEC. 9. Section 9211 of the Corporations Code, as amended by Section 7 of Chapter 811 of the Statutes of 1995, is amended to read:

9211. (a) Unless otherwise provided in the articles or in the bylaws, all of the following apply:

(1) Meetings of the board may be called by the chair of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of the meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to a director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to that director. These waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

(5) Meetings of the board may be held at a place within or without the state that has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone, electronic video screen communication, or other communications equipment. Participation in a meeting through use of conference telephone pursuant to this subdivision constitutes presence in person at that meeting as long as all members participating in the meeting are able to hear one another. Participation in a meeting through use of electronic video screen communication or other communications equipment (other than conference telephone) pursuant to this subdivision constitutes presence in person at that meeting, if all of the following apply:

(A) Each member participating in the meeting can communicate with all of the other members concurrently.

(B) Each member is provided the means of participating in all matters before the board, including, without limitation, the capacity to propose, or to interpose an objection to, a specific action to be taken by the corporation.

(C) The corporation adopts and implements some means of verifying both of the following:

(i) A person participating in the meeting is a director or other person entitled to participate in the board meeting.

(ii) All actions of or votes by the board are taken or cast only by the directors and not by persons who are not directors.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business.

(8) An act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting, or a greater number as is required by this division, the articles or bylaws.

(b) An action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to that action. The written consent or consents shall be filed with the minutes of the proceedings of the board. The action by written consent shall have the same force and effect as the unanimous vote of such directors.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by those incorporators or committees mutatis mutandis.

(d) 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 before January 1, 2003, deletes or extends that date.

SEC. 10. Section 9211 of the Corporations Code, as amended by Section 8 of Chapter 811 of the Statutes of 1995, is amended to read:

9211. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairperson of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, as long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business.

(8) Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is

the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division, the articles or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as the unanimous vote of such directors.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis.

(d) This section shall become operative on January 1, 2003.

CHAPTER 137

An act to add Section 706.034 to the Code of Civil Procedure, relating to wage garnishment.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 706.034 is added to the Code of Civil Procedure, to read:

706.034. The employer may deduct from the earnings of the employee the sum of one dollar ($1) for each payment made in accordance with an earnings withholding order issued pursuant to this chapter.

CHAPTER 138

An act to amend Section 44466 of the Education Code, relating to certificated school employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. (a) The Legislature finds and declares the following:

(1) Qualified teachers are an important prerequisite for providing a quality education to all pupils.

(2) The dramatic increase in the demand for new teachers caused by the Class Size Reduction Program coupled with recent legislation making intern programs available to more school districts has intensified the focus on teacher preparation and qualifications.

(3) The requirements for the attainment of permanent status by interns who are participating in the two teacher intern programs authorized pursuant to Article 7.5 (commencing with Section 44325) of Chapter 2 and Article 3 (commencing with Section 44450) of Chapter 3 of Part 25 of the Education Code are inconsistent.

(b) Therefore, it is the intent of the Legislature to achieve consistency between the requirements for the attainment of permanent status by interns who are participating in teacher intern programs authorized pursuant to Article 7.5 (commencing with Section 44325) of Chapter 2 and Article 3 (commencing with Section 44450) of Chapter 3 of Part 25 of the Education Code.

SEC. 2. Section 44466 of the Education Code is amended to read:

44466. An intern shall not acquire tenure while serving on an internship credential. A person who, after completing a teaching internship program authorized pursuant to this article, is employed for at least one complete school year in a position requiring certification qualifications by the school district that employed the person as an intern during the immediately preceding school year and is reelected for the next succeeding school year to a position requiring certification qualifications shall, at the commencement of the succeeding school year, acquire tenure.

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 meet the suddenly increased demand for new teachers that is a consequence of the Class Size Reduction Program and to achieve consistency between the requirements for the attainment of permanent status by interns who are participating in teacher intern programs authorized pursuant to Article 7.5 (commencing with Section 44325) of Chapter 2 and Article 3 (commencing with Section 44450) of Chapter 3 of Part 25 of the Education Code, it is necessary that this act take effect immediately.

CHAPTER 139

An act to add Section 43.98 to the Civil Code, relating to health care service plans.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 43.98 is added to the Civil Code, to read:

43.98. (a) There shall be no monetary liability on the part of, and no cause of action shall arise against, any consultant on account of any communication by that consultant to the Commissioner of Corporations or any other officer, employee, agent, contractor, or consultant of the Department of Corporations, when that communication is for the purpose of determining whether health care services have been or are being arranged or provided in accordance with the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and any regulation adopted thereunder and the consultant does all of the following:

(1) Acts without malice.

(2) Makes a reasonable effort to obtain the facts of the matter communicated.

(3) Acts with a reasonable belief that the communication is warranted by the facts actually known to the consultant after a reasonable effort to obtain the facts.

(4) Acts pursuant to a contract entered into on or after January 1, 1998, between the Commissioner of Corporations and a state licensing board or committee, including, but not limited to, the Medical Board of California, or pursuant to a contract entered into on or after January 1, 1998, with the Commissioner of Corporations pursuant to Section 1397.6 of the Health and Safety Code.

(b) The immunities afforded by this section shall not affect the availability of any other privilege or immunity which may be afforded under this part. Nothing in this section shall be construed to alter the laws regarding the confidentiality of medical records.

CHAPTER 140

An act to amend Sections 13019 and 13035 of, to add Section 13035.1 to, and to repeal Section 13050.1 of, the Public Resources Code, relating to resort improvement districts.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 13019 of the Public Resources Code is amended to read:

13019. "Voter" means a voter, as defined in Section 359 of the Elections Code, who resides within the boundaries of the district.

SEC. 2. Section 13035 of the Public Resources Code is amended to read:

13035. Exclusive of the supervisorial member, the directors shall be voters in the district.

SEC. 3. Section 13035.1 is added to the Public Resources Code, to read:

13035.1. The number of directors elected by voters in the district at the first general district election held after January 1, 1998, shall be equal to the number of directors whose terms have expired by the date of that election. Any director whose term has not expired by the date of that election shall continue to serve until the person's term of office expires and the person's successor has been elected by the voters in the district. At the first general district election held after January 1, 1998, and at all subsequent general district elections, the form of the ballot and the conduct of the election shall comply with the requirements of the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) governing resident voting elections.

SEC. 4. Section 13050.1 of the Public Resources Code is repealed.

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 141

An act to amend Section 798.86 of the Civil Code, relating to mobilehomes.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 798.86 of the Civil Code is amended to read:

798.86. In the event a homeowner or former homeowner of a park is the prevailing party in a civil action, including a small claims court action, against the management to enforce his or her rights under this chapter, the homeowner, in addition to damages afforded by law, may, in the discretion of the court, be awarded an amount not to exceed two thousand dollars ($2,000) for each willful violation of this chapter by the management.

CHAPTER 142

An act to amend Sections 9650, 9650.3, 9653, 9701.5, and 9757 of, and to add Section 9656.25 to, the Business and Professions Code, and to amend Sections 8550, 8725, 8731, 8733, and 8733.5 of the Health and Safety Code, relating to cemeteries.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 9650 of the Business and Professions Code is amended to read:

9650. (a) Each cemetery authority shall file with the board annually, on or before June 1, or within five months after close of their fiscal year provided approval has been granted by the board as provided for in Section 9650.1, a written report in form prescribed by the board setting forth:

(1) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care by specific periods as set forth in the form prescribed.

(2) The amount collected and deposited in both the general and special endowment care funds segregated as to the amounts for crypts, niches and grave space by specific periods as set forth either on the accrual or cash basis at the option of the cemetery authority.

(3) A statement showing separately the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall actually show the financial condition of the funds.

(4) A statement showing separately the location, description, and character of the investments in which the special endowment care funds are invested. The statement shall show the valuations of any securities held in the endowment care fund as valued pursuant to Section 9659.

(5) A statement showing the transactions entered into between the corporation or any officer, employee or stockholder thereof and the trustees of the endowment care funds with respect to those endowment care funds. The statement shall show the dates, amounts of the transactions, and shall contain a statement of the reasons for those transactions.

(b) The report shall be verified by the president or vice president and one other officer of the cemetery corporation. The information submitted pursuant to paragraphs (2), (3), (4), and (5) shall be accompanied by an annual audit report of the endowment care fund and special care fund signed by a certified public accountant or public accountant. The scope of the audit shall include the inspection, review, and audit of the general purpose financial statements of the endowment care fund and special care fund, which shall include the balance sheet, the statement of revenues, expenditures, and changes in fund balance.

(c) If a cemetery authority files a written request prior to the date the report is due, the board may, in its discretion, grant an additional 30 days within which to file the report.

SEC. 2. Section 9650.3 of the Business and Professions Code is amended to read:

9650.3. The most recent report filed pursuant to Section 9650 shall be a public record. A copy of the most recent report shall also be open for public inspection at the offices of the cemetery authority during normal business hours. If the cemetery authority does not maintain offices in the county in which its cemetery is located, it shall file a copy of the annual audit report with the county clerk of the county, which shall be subject to public inspection.

SEC. 3. Section 9653 of the Business and Professions Code is amended to read:

9653. (a) In making the examination the board:

(1) Shall have free access to the books and records relating to the trust funds, their collection and investment, and the number of graves, crypts and niches under endowment care.

(2) Shall inspect and examine the trust funds to determine their condition and the existence of the investments.

(3) Shall ascertain if the cemetery corporation has complied with all the laws applicable to trust funds.

(b) Upon request by the Department of Consumer Affairs, a cemetery authority shall provide records to substantiate the expenditures of the income of the trust funds. If a cemetery authority fails to reasonably comply with this request, the department may have access to books, records, and accounts of a cemetery authority for purposes of ascertaining compliance with applicable laws.

SEC. 4. Section 9656.25 is added to the Business and Professions Code, to read:

9656.25. If any city, county, or city and county exercises its authority to address public health, safety, or welfare issues in

connection with a cemetery within its jurisdiction and if the certificate of authority of the cemetery has been revoked or suspended or has not been renewed, and the Department of Consumer Affairs holds the endowment care fund of the certificate of authority under applicable provisions of this code, the costs of any action that constitutes care, maintenance, or embellishment of the cemetery within the meaning of Section 8726 of the Health and Safety Code shall be eligible for reimbursement from available income from any endowment care fund in existence for the cemetery. For purposes of this section, local jurisdiction action may be based on charter, ordinance, or inherent police powers. Any claim for money or damages for an act or omission by the local jurisdiction acting in accord with this section shall be subject to all otherwise applicable immunities contained in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 5. Section 9701.5 of the Business and Professions Code is amended to read:

9701.5. Notwithstanding any other provision of this chapter, Section 9702.5 does not apply to an applicant for a cemetery salesperson's license.

SEC. 6. Section 9757 of the Business and Professions Code is amended to read:

9757. A cemetery salesperson's license fee is payable on each filing of an application for a cemetery salesperson's license.

SEC. 7. Section 8550 of the Health and Safety Code is amended to read:

8550. Every cemetery authority, from time to time as its property may be required for interment purposes, shall:

(a) In case of land, survey and subdivide it into sections, blocks, plots, avenues, walks or other subdivisions; make a good and substantial map or plat showing the sections, plots, avenues, walks or other subdivisions, with descriptive names or numbers.

(b) In case of a mausoleum, or crematory and columbarium it shall make a good and substantial map or plat on which shall be delineated the sections, halls, rooms, corridors, elevations, and other divisions, with descriptive names or numbers.

(c) The maps or plats shall be clearly and legibly drawn, printed, or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. If ink is used on a polyester base film, the ink surface shall be coated with a suitable substance to insure permanent legibility. The size of each sheet shall be 18 by 26 inches or as otherwise prescribed by the county recorder or local agency. A marginal line shall be drawn completely around each sheet, leaving an entire blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheets and the total number of sheets comprising the map shall

be stated on each of the sheets and its relationship to each adjoining sheet shall be clearly shown.

(d) Upon modification of an existing section after January 1, 1990, or development of a new section after January 1, 1990, the cemetery authority shall amend and file with the county recorder or local agency the maps or plats as described in subdivisions (a), (b), and (c). Within 12 months of the initial sale, the cemetery authority shall file with the county recorder or local agency the map or plat. For purposes of this subdivision, "section" means a burial space, mausoleum, or columbarium.

SEC. 8. Section 8725 of the Health and Safety Code is amended to read:

8725. Every cemetery authority which now or hereafter maintains a cemetery may place its cemetery under endowment care and establish, maintain, and operate an endowment care fund. Endowment care and special care funds consisting of trust funds created by irrevocable trust agreements may be commingled for investment and the income therefrom shall be divided between the endowment care and special care funds in the proportion that each fund contributed to the principal sum invested. Special care funds derived from trusts created by a revocable agreement shall not be commingled for investment and shall be accounted for separately from all other funds. The funds may be held in the name of the cemetery authority or its directors or in the name of the trustees appointed by the cemetery authority.

SEC. 9. 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.

(c) (1) Each member of the board of trustees shall provide signatory acknowledgment of understanding of the role of a trustee in managing trust funds in the following areas:

(A) Trustee duties, powers, and liabilities as contained in Part 4 (commencing with Section 16000) of Division 9 of the Probate Code.

(B) Reporting and regulatory requirements contained in Article 3 (commencing with Section 9650) of Chapter 19 of Division 3 of the Business and Professions Code.

(C) Provisions related to the care of active cemeteries contained in Chapter 5 (commencing with Section 8700) of Part 3 of Division 8.

(2) The signatory acknowledgment shall be retained by the cemetery authority during the duration of the trustee's term of office.

SEC. 10. Section 8733 of the Health and Safety Code is amended to read:

8733. No sum in excess of 5 percent of the net income derived from an endowment care fund, or special care fund, or both, in any year shall be paid as compensation to the board of trustees for its services as trustee. This amount shall be the total compensation from the fund to be paid to a trustee for services. For purposes of this section, "net income" means the amount of income remaining after reasonable administrative expenses, including bookkeeping, postage, taxes, and other costs directly related to generating income to the trust fund, have been deducted from the gross income derived from the fund.

SEC. 11. 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. If a cemetery authority appoints a bank or trust company, the sum paid to the bank or trust company may exceed 5 percent of the net income derived from the endowment care fund, or special care fund, or both, notwithstanding Section 8733.

SEC. 12. 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 143

An act to amend Section 12021 of the Penal Code, relating to firearms.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand

dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction prior to January 1, 1991, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was

sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or

any offense enumerated in paragraph (1) of subdivision (c), and (2) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c) shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order as defined in Section 6218 of the Family Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code. However, this subdivision does not apply if the firearm is received as part of the disposition of community property pursuant to Division 7 (commencing with Section 2500) of the Family Code.

SEC. 2. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in

subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or

otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1), may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c), and (2) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c) shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order as defined in Section 6218 of the Family Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code. However, this subdivision does not apply if the firearm is received as part of the disposition of community property pursuant to Division 7 (commencing with Section 2500) of the Family Code.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

SEC. 3. Section 2 of this bill incorporates amendments to Section 12021 of the Penal Code proposed by both this bill and AB 78. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section

12021 of the Penal Code, and (3) this bill is enacted after AB 78, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs 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 144

An act to amend Section 25259.5 of, and to add Section 25259.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 25259.1 is added to the Vehicle Code, to read:

25259.1. (a) Any vehicle operated by a disaster service worker who has received training in accordance with subdivision (b) and used by that worker in the performance of emergency or disaster services ordered by lawful authority during a state of war emergency, a state of emergency, or a local emergency, as those terms are defined in Section 8558 of the Government Code, may display flashing amber warning lights to the front, sides, or rear while at the scene of the emergency or disaster.

(b) Any disaster service worker operating a vehicle that displays flashing amber warning lights shall receive a training course from the public agency, disaster council, or emergency organization described in Section 3101 of the Government Code concerning the safe operation of the use of flashing amber warning lights prior to operating a vehicle that displays flashing amber warning lights.

(c) A person operating a vehicle that is authorized to display flashing amber warning lights under this section shall either completely cover or remove those lights when the lights are not in use.

SEC. 2. Section 25259.5 of the Vehicle Code is amended to read:

25259.5. An emergency response or disaster service vehicle owned or leased and operated by the American National Red Cross, or any chapter or branch thereof, and equipped and clearly marked as a Red Cross emergency service or disaster service vehicle, may display flashing amber warning lights to the front, sides, or rear of the vehicle while at the scene of an emergency or disaster operation. Vehicles not used on emergency response shall not be included.

CHAPTER 145

An act to amend Sections 87104 and 87205 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 87104 of the Government Code is amended to read:

87104. (a) No public official of a state agency shall, for compensation, act as an agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance before, or any oral or written communication to, his or her state agency or any officer or employee thereof, if the appearance or communication is for the purpose of influencing a decision on a contract, grant, loan, license, permit, or other entitlement for use.

(b) For purposes of this section, "public official" includes a member, officer, employee, or consultant of an advisory body to a state agency, whether the advisory body is created by statute or otherwise, except when the public official is representing his or her employing state, local, or federal agency in an appearance before, or communication to, the advisory body.

SEC. 2. Section 87205 of the Government Code is amended to read:

87205. A person who completes a term of an office specified in Section 87200 and within 30 days begins a term of the same office or another such office of the same jurisdiction is not deemed to assume office or leave office.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 146

An act to amend Section 19032 of, and to add Sections 18932.1, 18932.2, and 19033.1 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 18932.1 is added to the Food and Agricultural Code, to read:

18932.1. Any person that violates any provision of this chapter, or any regulation that is issued pursuant to it, is liable civilly for a penalty not to exceed fifteen thousand dollars ($15,000) for each violation. Any money that is received pursuant to this section, less associated investigative and legal costs incurred by the department, shall be deposited in the General Fund.

SEC. 2. Section 18932.2 is added to the Food and Agricultural Code, to read:

18932.2. (a) In lieu of any civil action brought pursuant to Section 18932.1 and in lieu of seeking prosecution pursuant to Section 18932, the department may levy an administrative penalty not to exceed five thousand dollars ($5,000) upon any person for each violation of this chapter.

(b) Before an administrative penalty is levied, the person charged with the violation shall be given a written notice of the proposed action, including the nature of the violation and the amount of the proposed penalty, and that person shall have the right to request a hearing. The request shall be made within 20 days after the person receives notice of the proposed action. A notice of the proposed action, which shall be 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. At the hearing, the person shall be given an opportunity to review the department's evidence and to present evidence on his or her own behalf.

(c) Any person upon whom an administrative penalty is levied may appeal to the department, within 20 days of the date of receiving notification of the penalty, as follows:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent and shall state the grounds for the appeal.

(2) Any party, at the time of filing the appeal or within 10 days thereafter, may present written evidence and a written argument to the department.

(3) The department may grant oral arguments upon application made at the time written arguments are made.

(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 prior to the date set therefor. This time requirement may be changed upon agreement between the department and the person appealing the penalty.

(5) The department shall decide the appeal based on any oral or written arguments, briefs, and evidence received.

(6) The department shall render a written decision within 45 days of the date of the appeal, or within 15 days of the date of oral arguments. A copy of the department's decision shall be delivered or mailed to the appellant.

(7) The department may sustain the decision, modify the decision by reducing the amount of the penalty levied, or reverse the decision.

(8) A review of the department's decision may be sought by the person against whom the penalty was levied pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After completion of the review procedure provided in this section, the department may file a certified copy of the department's final decision that directs payment of an administrative penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered 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 a judgment pursuant to this section.

(e) Any money that is received pursuant to this section, less associated investigative and legal costs incurred by the department, shall be deposited in the General Fund.

SEC. 3. Section 19032 of the Food and Agricultural Code is amended to read:

19032. Any person that violates any provision of this chapter, or any regulation that is issued pursuant to it, is liable civilly for a penalty in an amount not to exceed five hundred dollars ($500). If the court finds that the violation of this chapter was a serious violation, or that the violation is a second or subsequent violation, the person is liable civilly for a penalty not to exceed fifteen thousand dollars ($15,000) for each such violation. Any money that is recovered pursuant to this section, less associated investigative and legal costs incurred by the department, shall be deposited in the General Fund.

SEC. 4. Section 19033.1 is added to the Food and Agricultural Code, to read:

19033.1. (a) In lieu of any civil action brought pursuant to Section 19032 and in lieu of seeking prosecution pursuant to Section 19031, the department may levy an administrative penalty not to exceed five thousand dollars ($5,000) upon any person for each violation of this chapter.

(b) Before an administrative penalty is levied, the person charged with the violation shall be given a written notice of the proposed

action, including the nature of the violation and the amount of the proposed penalty, and that person shall have the right to request a hearing. The request shall be made within 20 days after the person receives notice of the proposed action. A notice of the proposed action, which shall be 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. At the hearing, the person shall be given an opportunity to review the department's evidence and to present evidence on his or her own behalf.

(c) Any person upon whom an administrative penalty is levied may appeal to the department, within 20 days of the date of receiving notification of the penalty, as follows:

(1) The appeal shall be in writing and signed by the appellant or his or her authorized agent and shall state the grounds for the appeal.

(2) Any party, at the time of filing the appeal or within 10 days thereafter, may present written evidence and a written argument to the department.

(3) The department may grant oral arguments upon application made at the time written arguments are made.

(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 prior to the date set therefor. This time requirement may be changed upon agreement between the department and the person appealing the penalty.

(5) The department shall decide the appeal based on any oral or written arguments, briefs, and evidence received.

(6) The department shall render a written decision within 45 days of the date of the appeal, or within 15 days of the date of oral arguments. A copy of the department's decision shall be delivered or mailed to the appellant.

(7) The department may sustain the decision, modify the decision by reducing the amount of the penalty levied, or reverse the decision.

(8) A review of the department's decision may be sought by the person against whom the penalty was levied pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After completion of the review procedure provided in this section, the department may file a certified copy of the department's final decision that directs payment of an administrative penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered 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 a judgment pursuant to this section.

(e) Any money that is received pursuant to this section, less associated investigative and legal costs incurred by the department, shall be deposited in the General Fund.

CHAPTER 147

An act to amend Sections 2110 and 2112 of the Fish and Game Code, relating to endangered species, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 1997. Filed with
Secretary of State July 28, 1997.]

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

SECTION 1. Section 2110 of the Fish and Game Code is amended to read:

2110. If the department determines, based on the best scientific evidence available, that the recovery strategy should also contain specifications regarding allowable taking of the species and guidelines for consultation, the recommended recovery strategy shall also contain general policies to guide the department's issuance of memoranda of understanding pursuant to Section 2081 and the department's consultation procedures to be followed pursuant to Section 2090. The general policies shall be consistent with the recommended recovery strategy.

SEC. 2. Section 2112 of the Fish and Game Code is amended to read:

2112. If a recovery strategy for one of the species identified pursuant to Section 2106 includes policies to guide the department's issuance of memoranda of understanding pursuant to Section 2081 and the department's consultation procedures pursuant to Section 2090, the department shall develop and adopt rules and guidelines to implement those policies. The rules and guidelines shall be based upon the best available scientific evidence and shall be consistent with the recovery strategy adopted. The rules and guidelines may clearly specify conditions and circumstances under which the taking of a species listed as a threatened species or endangered species would be prohibited by the department, or, conversely, when it would not require a memorandum of understanding pursuant to Section 2081.

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 correct an erroneous cross-reference in the California Endangered Species Act at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 148

An act to amend Sections 3304 and 3309.5 of the Government Code, relating to public safety officers.

[Approved by Governor July 27, 1997. Filed with
Secretary of State July 28, 1997.]

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

SECTION 1. Section 3304 of the Government Code is amended to read:

3304. (a) No public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure.

Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him or her with insubordination.

(b) No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency without providing the public safety officer with an opportunity for administrative appeal.

(c) Except as provided in this subdivision and subdivision (f), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed disciplinary action within that year, except in any of the following circumstances:

(1) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.

(2) If the public safety officer waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.

(3) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.

(4) If the investigation involves more than one employee and requires a reasonable extension.

(5) If the investigation involves an employee who is incapacitated or otherwise unavailable.

(6) If the investigation involves a matter in civil litigation where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.

(7) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.

(8) If the investigation involves an allegation of workers' compensation fraud on the part of the public safety officer.

(d) Where a predisciplinary response or grievance procedure is required or utilized, the time for this response or procedure shall not be governed or limited by this chapter.

(e) If, after investigation and any predisciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the public safety officer in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the public safety officer is unavailable for discipline.

(f) Notwithstanding the one-year time period specified in subdivision (c), an investigation may be reopened against a public safety officer if both of the following circumstances exist:

(1) Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

(2) One of the following conditions exist:

(A) The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.

(B) The evidence resulted from the public safety officer's predisciplinary response or procedure.

(g) For those members listed in subdivision (a) of Section 830.2 of the Penal Code, the 30-day time period provided for in subdivision (e) shall not commence with the service of a preliminary notice of adverse action, should the public agency elect to provide the public safety officer with such a notice.

SEC. 2. Section 3309.5 of the Government Code is amended to read:

3309.5. (a) It shall be unlawful for any public safety department to deny or refuse to any public safety officer the rights and protections guaranteed to them by this chapter.

(b) The superior court shall have initial jurisdiction over any proceeding brought by any public safety officer against any public safety department for alleged violations of this chapter.

(c) In any case where the superior court finds that a public safety department has violated any of the provisions of this chapter, the court shall render appropriate injunctive or other extraordinary relief to remedy the violation and to prevent future violations of a like or similar nature, including, but not limited to, the granting of a temporary restraining order, preliminary, or permanent injunction prohibiting the public safety department from taking any punitive action against the public safety officer.

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 149

An act to amend Sections 13553 and 13554 of the Water Code, relating to water.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

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

SECTION 1. Section 13553 of the Water Code is amended to read:

13553. (a) The Legislature hereby finds and declares that the use of potable domestic water for toilet and urinal flushing in structures is a waste or an unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(b) The state board may require a public agency or person subject to this section to furnish whatever information may be relevant to making the determination required in subdivision (a).

(c) For the purposes of this section and Section 13554, "structure" or "structures" means commercial, retail, and office buildings, theaters, auditoriums, schools, hotels, apartments, barracks, dormitories, jails, prisons, and reformatories, and other structures as determined by the State Department of Health Services.

(d) Nothing in this section or Section 13554 applies to a pilot program adopted pursuant to Section 13553.1.

SEC. 2. Section 13554 of the Water Code is amended to read:

13554. (a) Any public agency, including a state agency, city, county, city and county, district, or any other political subdivision of the state, may require the use of recycled water for toilet and urinal flushing in structures, except a mental hospital or other facility operated by a public agency for the treatment of persons with mental disorders, if all of the following requirements are met:

(1) Recycled water, for these uses, is available to the user and meets the requirements set forth in Section 13550, as determined by the state board after notice and a hearing.

(2) The use of recycled water does not cause any loss or diminution of any existing water right.

(3) The public agency has prepared an engineering report pursuant to Section 60323 of Title 22 of the California Code of Regulations that includes plumbing design, cross-connection control, and monitoring requirements for the use site, which are in compliance with criteria established pursuant to Section 13521.

(b) This section applies only to either of the following:

(1) New structures for which the building permit is issued on or after March 15, 1992, or, if a building permit is not required, new structures for which construction begins on or after March 15, 1992.

(2) Any construction pursuant to subdivision (a) for which the State Department of Health Services has, prior to January 1, 1992, approved the use of recycled water.

(c) Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to any project which only involves the repiping, redesign, or use of recycled water by a structure necessary to comply with a requirement issued by a public agency under subdivision (a). This exemption does not apply to any project to develop recycled water, to construct conveyance facilities for recycled water, or any other project not specified in this subdivision.

CHAPTER 150

An act to add Section 21356.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1997. Filed with
Secretary of State July 28, 1997.]

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

SECTION 1. The Legislature finds and declares that alleyways often end in blind intersections that are safety hazards to both drivers and pedestrians. Therefore, it is the intent of the Legislature, through the enactment of Section 21356.5 of the Vehicle Code, to provide for the safety of all persons using sidewalks by authorizing local jurisdictions to provide cautionary warnings to both pedestrians and drivers at exits from alleys.

SEC. 2. Section 21356.5 is added to the Vehicle Code, to read:

21356.5. Local authorities may place signs, mirrors, or other visual or audible devices at exits from alleys that are under their jurisdiction to warn drivers to watch for pedestrians and bicyclists on the sidewalk prior to exiting the alley.

CHAPTER 151

An act to amend Sections 130051, 130051.5, 130051.9, and 130051.12 of the Public Utilities Code, relating to transportation.

[Approved by Governor July 27, 1997. Filed with
Secretary of State July 28, 1997.]

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

SECTION 1. Section 130051 of the Public Utilities Code is amended to read:

130051. The Los Angeles County Metropolitan Transportation Authority consists of 14 members, as follows:

(a) Five members of the Los Angeles County Board of Supervisors.

(b) The Mayor of the City of Los Angeles or an alternate appointed by the mayor.

(c) Two public members and one member of the City Council of the City of Los Angeles appointed by the Mayor of the City of Los Angeles.

(d) Four members, each of whom shall be a mayor or a member of a city council, appointed by the Los Angeles County City Selection Committee. For purposes of the selection of these four members, the County of Los Angeles, excluding the City of Los Angeles, shall be divided into the following four sectors:

(1) The North County/San Fernando Valley sector.

(2) The Southwest Corridor sector.

(3) The San Gabriel Valley sector.

(4) The Southeast Long Beach sector.

The League of California Cities, Los Angeles County Division, shall define the sectors. Every city within a sector shall be entitled to vote to nominate one or more candidates from that sector for consideration for appointment by the Los Angeles County City Selection Committee. A city's vote shall be weighted in the same proportion that its population bears to the total population of all cities within the sector.

The members appointed pursuant to this subdivision, and their alternates, shall be appointed by the Los Angeles County City Selection Committee upon an affirmative vote of its members which represent a majority of the population of all cities within the county, excluding the City of Los Angeles.

The members selected by the city selection committee shall serve four-year terms with no limitation on the number of terms that may be served by any individual. The city selection committee may shorten the initial four-year term for one or more of the members for the purpose of ensuring that the members will serve staggered terms.

(e) If the population of the City of Los Angeles, at any time, becomes less than 35 percent of the combined population of all cities in the county, the position of one of the two public members appointed pursuant to subdivision (c), as determined by the Mayor of the City of Los Angeles by lot, shall be vacated, and the vacant position shall be filled by appointment by the city selection committee pursuant to subdivision (d) from a city not represented by any other member appointed pursuant to subdivision (d).

(f) One nonvoting member appointed by the Governor.

SEC. 2. Section 130051.5 of the Public Utilities Code is amended to read:

130051.5. Every member of the Los Angeles County Metropolitan Transportation Authority is subject to Section 87100 of the Government Code.

SEC. 3. Section 130051.9 of the Public Utilities Code is amended to read:

130051.9. (a) The Los Angeles County Metropolitan Transportation Authority shall appoint a full-time chief executive officer who shall act for the authority under its direction and perform those duties delegated by the authority.

(b) The chief executive officer shall be appointed to a term of four years and shall be removed from office only upon the occurrence of one or both of the following:

(1) A two-thirds majority of the members of the authority votes for removal.

(2) The chief executive officer violates a federal or state law, regulation, local ordinance, or policy or practice of the authority, relative to ethical practices, including, but not limited to, the acceptance of gifts or contributions.

(c) The chief executive officer shall approve and award all contracts for construction, and that approval shall be based upon the lowest responsive bid submitted.

(d) The Los Angeles County Metropolitan Transportation Authority shall appoint a general counsel, inspector general, and board secretary.

(e) The inspector general shall, at a noticed public hearing of the authority, report quarterly on the expenditures of the authority for travel, meals and refreshments, private club dues, membership fees and other charges, and any other expenditures which are specified by the authority.

(f) Any investigatory file compiled by the inspector general is an investigatory file compiled by a local law enforcement agency subject to disclosure pursuant to subdivision (f) of Section 6254 of the Government Code.

SEC. 4. Section 130051.12 of the Public Utilities Code is amended to read:

130051.12. The Los Angeles County Metropolitan Transportation Authority shall, at a minimum, reserve to itself exclusively, all of the following powers and responsibilities:

(a) Establishment of overall goals and objectives.

(b) Adoption of the aggregate budget for all organizational units of the authority.

(c) Designation of additional included municipal operators pursuant to subdivision (f) of Section 99285.

(d) Approval of final rail corridor selections.

(e) Final approval of labor contracts covering employees of the authority and organizational units of the authority.

(f) Establishment of the authority's organizational structure.

(g) Conducting hearings and the setting of fares for the operating organizational unit established pursuant to paragraph (2) of subdivision (a) of Section 130051.11.

(h) Approval of transportation zones.

(i) Approval of the issuance of any debt instrument with a maturity date that exceeds the end of the fiscal year in which it is issued.

(j) Approval of benefit assessment districts and assessment rates.

(k) Approval of contracts for transit equipment acquisition that exceed five million dollars ($5,000,000), and making the findings required by subdivision (c) of Section 130238.

CHAPTER 152

An act to amend Sections 5358, 5359, 5481, and 5485 of, and to repeal and add Sections 5360 and 5482 of, the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor July 27, 1997. Filed with
Secretary of State July 28, 1997.]

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

SECTION 1. Section 5358 of the Business and Professions Code is amended to read:

5358. When the application is in full compliance with this chapter and if the advertising display will not be in violation of any other state law, the director or the director's authorized agent shall, within 10 days after compliance and upon payment by the applicant of the fee provided by this chapter, issue a permit to place the advertising display for the remainder of the calendar year in the year in which the permit is issued and for an additional four calendar years.

SEC. 2. Section 5359 of the Business and Professions Code is amended to read:

5359. (a) The issuance of a permit for the placing of an advertising display includes the right to change the advertising copy without obtaining a new permit and without the payment of any additional permit fee.

(b) The issuance of a permit does not affect the obligation of the owner of the advertising display to comply with a zoning ordinance applicable to the advertising display under the provisions of this chapter nor does the permit prevent the enforcement of the applicable ordinance by the county.

SEC. 3. Section 5360 of the Business and Professions Code is repealed.

SEC. 4. Section 5360 is added to the Business and Professions Code, to read:

5360. (a) The director shall establish a permit renewal term of five years, which shall be reflected on the face of the permit.

(b) The director shall adopt regulations for permit renewal that include procedures for late renewal within a period not to exceed one year from the date of permit expiration. Any permit that was not renewed after January 1, 1993, is deemed revoked.

SEC. 5. Section 5481 of the Business and Professions Code is amended to read:

5481. All license, permit, application, and renewal fees, and all fines, collected by the director and his or her authorized agents in accordance with this chapter shall be deposited in the State Highway Account in the State Transportation Fund, except that 20 percent of all fees and fines collected by county clerks appointed by the director shall be retained by the county in which the fees are collected. All money received by the state from the United States pursuant to subsection (c) of Section 131 of Title 23 of the United States Code shall be deposited in the same account. All fees and fines shall be accounted for by the director in the manner provided by law.

SEC. 6. Section 5482 of the Business and Professions Code is repealed.

SEC. 7. Section 5482 is added to the Business and Professions Code, to read:

5482. Any display owner who does not remove an advertising display that is placed or maintained in violation of this chapter and is removed and destroyed by the director or any authorized employee pursuant to Section 5463, shall pay to the director a fine in an amount equivalent to any costs related to that removal and destruction.

SEC. 8. Section 5485 of the Business and Professions Code is amended to read:

5485. (a) The permit fee for each advertising sign is twenty dollars ($20) for an original permit and for each year the permit is operative, except where the applicant has placed or maintained the sign without a valid, unrevoked, and unexpired permit therefor, the fee for any issuance of the first permit thereafter is ninety-five dollars ($95), seventy-five dollars ($75) of which is the penalty.

(b) The permit fee for an advertising structure for the original permit and for each year the permit is operative is twenty dollars ($20), except where the applicant has placed or maintained the structure without a valid, unrevoked, and unexpired permit therefor, the fee for any issuance of the first permit thereafter is ninety-five dollars ($95), seventy-five dollars ($75) of which is the penalty.

CHAPTER 153

An act to amend Sections 27315, 27360, and 27360.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 1997. Filed with
Secretary of State July 28, 1997.]

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

SECTION 1. Section 27315 of the Vehicle Code is amended to read:

27315. (a) The Legislature finds that a mandatory seatbelt law will contribute to reducing highway deaths and injuries by encouraging greater usage of existing manual seatbelts, that automatic crash protection systems which require no action by vehicle occupants offer the best hope of reducing deaths and injuries, and that encouraging the use of manual safety belts is only a partial remedy for addressing this major cause of death and injury. The Legislature declares that the enactment of this section is intended to be compatible with support for federal safety standards requiring automatic crash protection systems and should not be used in any

manner to rescind federal requirements for installation of automatic restraints in new cars.

(b) This section shall be known and may be cited as the Motor Vehicle Safety Act.

(c) As used in this section, "motor vehicle" means any passenger vehicle or any motortruck or truck tractor, but does not include a motorcycle.

(d) (1) No person shall operate a motor vehicle on a highway unless that person and all passengers 16 years of age or over are properly restrained by a safety belt. This paragraph does not apply to the operator of a taxicab, as defined in Section 27908, when the taxicab is driven on a city street. The safety belt requirement established by this paragraph is the minimum safety standard applicable to employees being transported in a motor vehicle. This paragraph does not preempt any more stringent or restrictive standards imposed by the Labor Code or any other state or federal regulation regarding the transportation of employees in a motor vehicle.

(2) The operator of a limousine for hire or the operator of an authorized emergency vehicle, as defined in subdivision (a) of Section 165, shall not operate the limousine for hire or authorized emergency vehicle unless the operator and any passengers four years of age or over and weighing 40 pounds or more, in the front seat are properly restrained by a safety belt.

(3) The operator of a taxicab shall not operate the taxicab unless any passengers four years of age or over and weighing 40 pounds or more, in the front seat are properly restrained by a safety belt.

(e) No person 16 years of age or over shall be a passenger in a motor vehicle on a highway unless that person is properly restrained by a safety belt. This subdivision does not apply to a passenger in a sleeper berth, as defined in subdivision (v) of Section 1201 of Title 13 of the California Code of Regulations.

(f) Every owner of a motor vehicle, including every owner or operator of a taxicab, as defined in Section 27908, or a limousine for hire, operated on a highway shall maintain safety belts in good working order for the use of occupants of the vehicle. The safety belts shall conform to motor vehicle safety standards established by the United States Department of Transportation. This subdivision does not, however, require installation or maintenance of safety belts where not required by the laws of the United States applicable to the vehicle at the time of its initial sale.

(g) This section does not apply to a passenger or operator with a physically disabling condition or medical condition which would prevent appropriate restraint in a safety belt, if the condition is duly certified by a licensed physician and surgeon or by a licensed chiropractor who shall state the nature of the condition, as well as the reason the restraint is inappropriate. This section also does not apply to a public employee, when in an authorized emergency vehicle as

defined in paragraph (1) of subdivision (b) of Section 165, or to any passenger in any seat behind the front seat of an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165 operated by the public employee, unless required by the agency employing the public employee.

(h) Notwithstanding subdivision (a) of Section 42001, any violation of subdivision (d), (e), or (f) is an infraction punishable by a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than twenty dollars ($20) for a first offense, and a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than fifty dollars ($50) for each subsequent offense. In lieu of the fine and any penalty assessment or court costs, the court, pursuant to Section 42005, may order that a person convicted of a first offense attend a school for traffic violators or a driving school in which the proper use of safety belts is demonstrated.

(i) For any violation of subdivision (d), (e), or (f), in addition to the fines provided for pursuant to subdivision (h) and the penalty assessments provided for pursuant to Section 1464 of the Penal Code, an additional penalty assessment of two dollars ($2) shall be levied for any first offense, and an additional penalty assessment of five dollars ($5) shall be levied for any subsequent offense.

All moneys collected pursuant to this subdivision shall be utilized in accordance with Section 1464 of the Penal Code.

(j) In any civil action, a violation of subdivision (d), (e), or (f) or information of a violation of subdivision (h) shall not establish negligence as a matter of law or negligence per se for comparative fault purposes, but negligence may be proven as a fact without regard to the violation.

(k) If the United States Secretary of Transportation fails to adopt safety standards for manual safety belt systems by September 1, 1989, no motor vehicle manufactured after that date for sale or sold in this state shall be registered unless it contains a manual safety belt system which meets the performance standards applicable to automatic crash protection devices adopted by the Secretary of Transportation pursuant to Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208) as in effect on January 1, 1985.

(*l*) Each motor vehicle offered for original sale in this state which has been manufactured on or after September 1, 1989, shall comply with the automatic restraint requirements of Section S4.1.2.1 of Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208), as published in Volume 49 of the Federal Register, No. 138, page 29009. Any automobile manufacturer who sells or delivers a motor vehicle subject to the requirements of this subdivision, and fails to comply with this subdivision, shall be punished by a fine of not more than five hundred dollars ($500) for each sale or delivery of a noncomplying motor vehicle.

(m) Compliance with subdivision (k) or (*l*) by a manufacturer shall be made by self-certification in the same manner as self-certification is accomplished under federal law.

(n) This section does not apply to a person actually engaged in delivery of newspapers to customers along the person's route if the person is properly restrained by a safety belt prior to commencing and subsequent to completing delivery on the route.

(o) This section does not apply to a person actually engaged in collection and delivery activities as a rural delivery carrier for the United States Postal Service if the person is properly restrained by a safety belt prior to stopping at the first box and subsequent to stopping at the last box on the route.

(p) Subdivisions (d), (e), (f), (g), and (h) shall become inoperative immediately upon the date that the United States Secretary of Transportation, or his or her delegate, determines to rescind the portion of the Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208) which requires the installation of automatic restraints in new motor vehicles, except that those subdivisions shall not become inoperative if the secretary's decision to rescind that Standard No. 208 is not based, in any respect, on the enactment or continued operation of those subdivisions.

SEC. 2. Section 27360 of the Vehicle Code is amended to read:

27360. (a) No parent or legal guardian, when present in a motor vehicle, as defined in Section 27315, shall permit his or her child or ward under the age of four years, regardless of weight, or weighing less than 40 pounds, regardless of age, to be transported upon a highway in the motor vehicle without providing and properly using, for each child or ward, a child passenger restraint system meeting applicable federal motor vehicle safety standards.

(b) No driver shall transport on a highway any child under four years of age, regardless of weight, or weighing less than 40 pounds, regardless of age, in a motor vehicle, as defined in Section 27315, without providing and properly securing the child in a child passenger restraint system meeting applicable federal motor vehicle safety standards. This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

(c) (1) A first offense under this section is punishable by a fine of one hundred dollars ($100), except that the court may waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged and the court, instead, refers the defendant to a child passenger restraint low-cost purchase or loaner program. If the fine is waived, the court shall nevertheless report the conviction to the department pursuant to Section 1803.

(2) A second or subsequent offense under this section is punishable by a fine of one hundred dollars ($100), no part of which may be waived by the court.

(d) Notwithstanding any other provision of law, the fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to county health departments where the violation occurred, to be used for a child passenger restraint low-cost purchase or loaner program which shall include, but not be limited to, education on the proper installation and use of a child passenger restraint system. The county health department shall designate a coordinator to facilitate the creation of a special account and to develop a relationship with the municipal court system to facilitate the transfer of funds to the program. The county may contract for the implementation of the program. Prior to obtaining possession of a child passenger restraint system pursuant to this section, a person shall receive information relating to the importance of utilizing that system.

As the proceeds from fines become available, county health departments shall prepare and maintain a listing of all child passenger restraint low-cost purchase or loaner programs in their counties, including a semiannual verification that all programs listed are in existence. Each county shall forward the listing to the Office of Traffic Safety in the Business, Transportation and Housing Agency and the courts, birthing centers, community child health and disability prevention programs, county clinics, prenatal clinics, women, infants, and children programs, and county hospitals in that county, who shall make the listing available to the public. The Office of Traffic Safety shall maintain a listing of all of the programs in the state.

(2) Twenty-five percent to the county for the administration of the program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

SEC. 3. Section 27360.5 of the Vehicle Code is amended to read:

27360.5. (a) No parent or legal guardian, when present in a motor vehicle, as defined in Section 27315, shall permit his or her child or ward who is four years of age or older but less than 16 years of age and weighs 40 pounds or more to be transported upon a highway in the motor vehicle without providing and properly using, for each child or ward, a safety belt meeting applicable federal motor vehicle safety standards.

(b) No driver shall transport on a highway any child who is four years of age or older but less than 16 years of age and weighs 40 pounds or more in a motor vehicle, as defined in Section 27315, without providing and properly using a safety belt meeting applicable federal motor vehicle safety standards. This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

(c) (1) A first offense under this section is punishable by a fine of fifty dollars ($50).

(2) A second or subsequent offense under this section is punishable by a fine of one hundred dollars ($100).

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 154

An act to amend Section 987.65 of the Military and Veterans Code, relating to veterans.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 987.65 of the Military and Veterans Code is amended to read:

987.65. (a) The purchase price of a home to the department, or the sum to be expended by the department pursuant to a contract for the construction of a dwelling house and other improvements, or the purchase price of a mobilehome sited on a lot owned by the purchaser and installed on a foundation system pursuant to Section 18551 of the Health and Safety Code, or the purchase price of a mobilehome converted to a fixture and improvement to the underlying real property in a mobilehome park that has been converted to a resident-owned subdivision, cooperative, condominium, or nonprofit corporation as set forth in Section 18555 of the Health and Safety Code, shall not exceed two hundred fifty thousand dollars ($250,000).

(b) The purchase price of a mobilehome that is to be sited in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, in addition to any assistance provided by the department to a veteran pursuant to subdivision (e) of Section 987.85, shall not exceed seventy thousand dollars ($70,000).

(c) A veteran purchasing the home may advance, subject to Section 987.64, the difference between the total price or cost of the home and the sum of the purchase price of the home to the department and any amount the department is required, under Section 987.69, to add to the purchase price of the home in fixing the selling price to the veteran. Any amount of the purchase price to the department may be provided by funds from participation contracts or revenue bonds.

(d) The purchase price of a farm to the department shall not exceed three hundred thousand dollars ($300,000). A veteran purchasing the farm may advance the difference between the total price of the farm, or the cost of the dwelling and improvements to be constructed on a farm under a contract, and the sum of the purchase price to the department or contract price to the department and any amount which the department is required, under Section 987.69, to add to the purchase or contract price to the department in fixing the selling price of the farm to the veteran.

CHAPTER 155

An act to amend Sections 980 and 987.56 of the Military and Veterans Code, relating to veterans.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 980 of the Military and Veterans Code is amended to read:

980. (a) As used in this chapter, "veteran" means any of the following:

(1) Any citizen of the United States who served in the active military, naval, or air service of the United States on or after April 6, 1917, and prior to November 12, 1918, and who received an honorable discharge or was released from active duty under honorable conditions.

(2) Any person who did all of the following:

(A) Served in the active military, naval, or air service of the United States for a period of not less than 90 consecutive days or was discharged from the service due to a service-connected disability within that 90-day period.

(B) Received an honorable discharge or was released from active duty under honorable conditions.

(C) Performed any portion of that service during any of the following periods:

(i) On or after December 7, 1941, and prior to January 1, 1947, including, but not limited to, members of the Philippine Commonwealth Army, the Regular Scouts ("Old Scouts"), and the Special Philippine Scouts ("New Scouts").

(ii) On or after June 27, 1950, and prior to February 1, 1955.

(iii) On or after February 28, 1961, and prior to August 5, 1964, in the case of a veteran who served in the Republic of Vietnam during that period.

(iv) On or after August 5, 1964, and prior to May 8, 1975.

(v) On or after August 2, 1990, to and including the date on which the territories in and around the Arabian Peninsula cease to be designated as a place where the armed forces of the United States are engaged in combat, as described in Executive Order 12744 of the President of the United States. It is the intent of the Legislature, in enacting this clause, that the benefits provided by this chapter shall be available to all veterans who were on active duty in the armed forces of the United States or who were called to active duty in the reserves or National Guard during the pendency of the deployment of forces for Operation Desert Shield or Desert Storm, which resulted in Executive Order 12744, irrespective of whether these veterans served overseas or in the United States.

(vi) At any time, in a campaign or expedition for service in which a medal has been authorized by the government of the United States, regardless of the number of days served on active duty.

(vii) At any time in Somalia, or in direct support of the troops in Somalia, including, but not limited to, persons stationed on ships of the United States armed forces conducting support activities offshore in the vicinity of Somalia, during Operation Restore Hope, regardless of the number of days served.

(3) Any member of the reserves or National Guard who does all the following:

(A) Is called to, and released from, active duty, regardless of the number of days served.

(B) Is called during any period when a presidential executive order specifies the United States is engaged in combat.

(C) Has received an honorable discharge or was released from active duty under honorable conditions.

(4) Any person who did all of the following:

(A) Served in the Merchant Marine Service of the United States.

(B) Has been granted veteran status by the United States Secretary of Defense under Title IV of the GI Improvement Act of 1977 (Public Law 95-202, as amended).

(5) Any person who qualifies under federal laws for revenue bond or unrestricted funds (26 U.S.C. Sec. 143) and did all of the following:

(A) Served in the active military, naval, or air service of the United States for a period of not less than 90 consecutive days.

(B) Received an honorable discharge or was released from active duty under honorable conditions.

(b) For purposes of this chapter "veteran" does not include any of the following:

(1) A person who was separated from the armed forces under other than honorable conditions.

(2) A person who was separated from the armed forces on account of alienage.

(3) A person who performed no military duty whatever or refused to wear the uniform.

(4) A person who served only in an auxiliary or reserve component of the armed forces whose service therein did not provide an exemption from the operation of the Selective Training and Service Act of 1940 (54 Stat. 885, as amended).

(5) A person whose service with the armed forces was due to temporary active duty orders for the sole purpose of training duty, processing, or a physical examination.

(6) A person whose only service was as a student at a military academy and who, for any reason, failed to complete the course of study and subsequently did not serve on active duty.

SEC. 2. Section 987.56 of the Military and Veterans Code is amended to read:

987.56. (a) The department shall prescribe and determine the qualifications of all veterans. Any person deeming himself or herself a veteran and desiring to benefit hereunder, shall submit to the department information, in the form prescribed by the department, that will enable the department to determine his or her eligibility and qualifications. The department may make further inquiries and investigations in order to determine eligibility and qualifications.

(b) Veterans who are otherwise qualified because of service during a time of war and who were wounded or disabled as a result of their service shall be given first preference in the benefits conferred by this article. The department shall determine, in each case, whether the veteran was wounded or disabled as a result of service.

(c) The following group shall be given second preference in the benefits conferred by this article:

(1) The unremarried spouse of individuals who were members of the armed forces on active military duty, entered active duty while in the State of California, lived in this state for six months immediately preceding his or her entry into active duty, and were killed in the line of duty while on active duty.

(2) Members of the armed forces who entered active military duty while in the State of California, lived in this state for six months preceding his or her entry into active duty, and were held as prisoners of war.

(3) The unremarried spouse of members of the armed forces who entered active military duty while in the State of California, lived in this state for six months preceding his or her entry into active duty, and have been designated by the armed forces as missing in action.

(d) The following group shall be given third preference in the benefits conferred by this article:

(1) Indian veterans whose eligibility was or could have been established prior to the effective date of this legislation.

(2) Veterans whose eligibility is derived from service any portion of which was on or after August 5, 1964, and prior to May 8, 1975, and veterans with wartime service discharged or released from active duty within 10 years of their application to the department.

(e) Veterans with wartime service discharged or released from active duty more than 10 years prior to their application to the department shall be given fourth preference in the benefits conferred by this article.

(f) Veterans who are otherwise qualified and whose only military service was during a time of peace shall be given fifth preference for the benefits conferred by this article.

(g) Veterans eligible for a subsequent loan under subdivision (a) of Section 987.86 shall be given sixth preference in the benefits conferred by this article.

(h) Nothing in this section regarding preferences shall affect any eligibility requirement for benefits conferred by this article.

CHAPTER 156

An act to amend Sections 987.60, 987.603, 987.78, and 987.86 of the Military and Veterans Code, relating to veterans.

[Approved by Governor August 2, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 987.60 of the Military and Veterans Code is amended to read:

987.60. (a) The department may acquire the farm or home from its owner or may contract with a veteran for the construction of a dwelling house and other improvements for a farm or home, upon the terms agreed under all of the following terms and conditions:

(1) The department is satisfied of the desirability of the property submitted.

(2) The veteran has agreed with the department that he or she, or members of his or her immediate family, will actually reside on the property within 60 days from the date of purchase by the department, or, if the residence on the property is not complete on the date of purchase, within 60 days after the residence is completed, and will continue to reside on the property until all payments due the department have been paid or the farm or home is sold, except where the occupancy requirement is waived pursuant to Section 987.62.

(3) If the department is to contract with a veteran for the construction of a dwelling house and other buildings, or for the purchase of a mobilehome, all of the following are required:

(A) The veteran shall be the owner of the real property on which the dwelling house and other buildings are to be constructed, or shall be the owner of the real property or shall be the owner of an undivided interest in common in a portion of a parcel of real property on which a mobilehome is to be situated, and agrees to convey that property to the department without cost.

(B) The veteran has paid a reasonable fee set by the department to cover the cost of any preliminary service of the department that may be necessary to process the application.

(C) The veteran has filed with the department adequate plans and specifications for the improvements to be constructed upon the real property, together with a contract, executed by a contractor licensed by the State of California for the construction of the improvements in accordance with the plans and specifications within 12 months after the acquisition of the real property by the department. The department may require a bond or other security instrument executed by the contractor in an amount determined by the department providing for compliance with the terms of the contract and for the payment of persons furnishing material or labor on the job, executed by a surety company, or other financial institution, authorized to do business in the State of California. The department may also require course-of-construction insurance for public liability, property damage, and workers' compensation.

(D) The plans, specifications, contract, and other required documents or security instruments are approved by the department.

(E) The veteran has placed in escrow all sums of money to be advanced by him or her, where the cost is in excess of the maximum that may be expended by the department.

(b) As used in this section "immediate family" includes only the veteran's spouse, natural or adoptive dependent children, and parents only if the parents are dependent upon the veteran for 50 percent or more of their support.

SEC. 2. Section 987.603 of the Military and Veterans Code is amended to read:

987.603. The department may acquire an assignment of an Indian veteran's beneficial interest in trust land held by the United States for that veteran or a leasehold interest in trust land acquired by the Indian veteran from an Indian beneficiary and contract with an Indian veteran as provided in Sections 987.601 and 987.602 upon the terms agreed if all of the following conditions are met:

(a) The department is satisfied of the desirability of the property submitted.

(b) The Indian veteran has agreed with the department that the veteran, or members of the veteran's immediate family, will actually reside on the property within 60 days from the date of acquisition by

the department, or if the residence on the property is not complete on the date of acquisition, within 60 days after the residence is completed.

(c) The sum to be expended by the department pursuant to a contract for the acquisition of a home or the construction of a dwelling house and other improvements does not exceed the maximum loan amount established pursuant to subdivision (a) of Section 987.65. The sum to be expended by the department pursuant to a contract for the acquisition of a mobilehome on trust land or leasehold land does not exceed the maximum loan amount established pursuant to subdivision (b) of Section 987.65. The sum to be expended by the department pursuant to a contract for the acquisition of a farm on trust land or leasehold land does not exceed the maximum loan amount established pursuant to subdivision (e) of Section 987.65.

(d) The Indian veteran has paid a reasonable fee set by the department to cover the cost of preliminary service of the department that may be necessary to process the application.

(e) The Indian veteran has filed with the department adequate plans and specifications for the improvements to be constructed upon the real property, together with a contract executed by a contractor licensed by the State of California or by an Indian contractor approved by the department for the construction of the improvements, in accordance with the plans and specifications, within 12 months after the assignment of the Indian veteran's beneficial interest or acquisition of the Indian veteran's leasehold interest in the real property by the department. The department may require a bond or other security instrument executed by the contractor in an amount determined by the department providing for compliance with the terms of the contract and for the payment of persons furnishing material or labor on the job, executed by a surety company, or other financial institution, authorized to do business in the State of California. The department may also require course-of-construction insurance for public liability, property damage, and workers' compensation.

(f) The plans, specifications, contract, and other required documents or security instruments are approved by the department.

(g) The Indian veteran has placed in escrow all sums of money to be advanced by the veteran where the cost is in excess of the maximum that may be expended by the department.

SEC. 3. Section 987.78 of the Military and Veterans Code is amended to read:

987.78. (a) In the event of a forfeiture of a contract of purchase under this article, the department may sell or otherwise dispose of the property covered by the forfeited contract to any person and upon any terms and conditions as it determines to be proper, under the conditions set forth in this section.

(b) The department shall give first preference to a veteran who qualifies under this article and who served during a time of war, second preference to any other person serving in or honorably discharged from the armed forces of the United States, third preference to any person who is a first-time home buyer, and fourth preference to any other person.

(c) Where the department elects in the event of a forfeiture to sell or otherwise dispose of an assignment of an Indian veteran's beneficial interest or of a leasehold interest in allotment trust land, the department shall first offer it for sale to the person or persons for whom the land is held in trust, including an Indian veteran having a beneficial interest in the trust land on which the forfeiture occurred, at a price equal to the unpaid balance of the contract price. If none of the persons for whom the land is held in trust accepts the offer, the department shall next offer it to the United States Secretary of the Interior at the same price.

(d) Where the department elects in the event of forfeiture to sell or otherwise dispose of a leasehold interest in tribal trust land, the department shall first offer it for sale to the tribe for whom the land is held in trust at a price equal to the unpaid balance of the contract price. If the tribe fails to accept the offer, the department shall next offer it to the United States Secretary of the Interior at the same price.

(e) Where all the parties to whom the department is required to offer the property under subdivision (c) or (d) fail to accept the offer, the department may sell or otherwise dispose of the property covered by the forfeited contract as provided by subdivision (a) and, in so doing, the department shall give first preference to any good faith offer by a person approved by the tribal council of the reservation, rancheria, or land held under the jurisdiction of that particular tribal governing body on which the allotment land is sited.

(f) If the property is subject to a participation contract, the department may, at its option, pay the balance due upon the participation contract, including accrued interest, without penalty.

(g) Nothing in this section invalidates a transfer to, or affects the interest of, a good faith purchaser for value without notice of any failure of the department to comply with any requirement of this section in the disposition of any property subject to a forfeited contract.

SEC. 4. Section 987.86 of the Military and Veterans Code is amended to read:

987.86. (a) Any veteran for whom a farm or home is purchased under this article may be granted a subsequent opportunity to purchase another farm or home when the farm or home purchased under this article is sold, refinanced, or the veteran's interest is divested through divorce or dissolution of marriage. The maximum amount that the department may advance under this subdivision is limited to the maximum amounts set forth in Section 987.65 at the time the application is made for the subsequent loan.

(b) Only one farm or home purchased under this article shall be owned by a veteran or a veteran and the veteran's spouse at any one time. This subdivision does not apply to an interest of a former spouse.

CHAPTER 157

An act to amend Section 230.8 of the Labor Code, relating to employees.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 230.8 of the Labor Code is amended to read:

230.8. (a) (1) No employer who employs 25 or more employees working at the same location shall discharge or in any way discriminate against an employee who is a parent, guardian, or grandparent having custody, of one or more children in kindergarten or grades 1 to 12, inclusive, or attending a licensed child day care facility, for taking off up to 40 hours each year, not exceeding eight hours in any calendar month of the year, to participate in activities of the school or licensed child day care facility of any of his or her children, if the employee, prior to taking the time off, gives reasonable notice to the employer of the planned absence of the employee.

(2) If both parents of a child are employed by the same employer at the same worksite, the entitlement under paragraph (1) of a planned absence as to that child applies, at any one time, only to the parent who first gives notice to the employer, such that the other parent may take a planned absence simultaneously as to that same child under the conditions described in paragraph (1) only if he or she obtains the employer's approval for the requested time off.

(b) (1) The employee shall utilize existing vacation, personal leave, or compensatory time off for purposes of the planned absence authorized by this section, unless otherwise provided by a collective bargaining agreement entered into before January 1, 1995, and in effect on that date. An employee also may utilize time off without pay for this purpose, to the extent made available by his or her employer. The entitlement of any employee under this section shall not be diminished by any collective bargaining agreement term or condition that is agreed to on or after January 1, 1995.

(2) Notwithstanding paragraph (1), in the event that all permanent, full-time employees of an employer are accorded vacation during the same period of time in the calendar year, an employee of that employer may not utilize that accrued vacation

benefit at any other time for purposes of the planned absence authorized by this section.

(c) The employee, if requested by the employer, shall provide documentation from the school or licensed child day care facility as proof that he or she participated in school or licensed child day care facility activities on a specific date and at a particular time. For purposes of this subdivision, "documentation" means whatever written verification of parental participation the school or licensed child day care facility deems appropriate and reasonable.

(d) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in terms and conditions of employment by his or her employer because the employee has taken time off to participate in school or licensed child day care facility activities as described in this section shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law shall be subject to a civil penalty in an amount equal to three times the amount of the employee's lost wages and work benefits.

CHAPTER 158

An act to amend Sections 12020, 12021, 12026.2, 12092, 12094, 12201, 12316, and 12322 of the Penal Code, relating to firearms.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

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

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, or any instrument or weapon of the kind commonly known as a

blackjack, slungshot, billy, sandclub, sap, or sandbag, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition, or who carries concealed upon his or her person any dirk or dagger is punishable by imprisonment in a county jail not exceeding one year or in the state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

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

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

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

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

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

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

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more

than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

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

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

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

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

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

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

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

(15) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(16) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(17) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) As used in this section, a “wallet gun” means any firearm mounted or enclosed in a case, resembling a wallet, designed to be

or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least $2^1/_2$ inches.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(24) As used in this section, a “dirk” or “dagger” means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

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

SEC. 2. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has

in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1), may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in

which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c), (2) is found to be a fit and proper subject to be dealt with under the juvenile court law, and (3) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c) shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order as defined in Section 6218 of the Family Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code. However, this subdivision does not apply if the firearm is received as part of the disposition of community property pursuant to Division 7 (commencing with Section 2500) of the Family Code.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

SEC. 2.5. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any

other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition,

impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1), may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3), shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

(d) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c), and (2) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c) shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to

this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

(g) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a protective order as defined in Section 6218 of the Family Code, or a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in Section 6304 of the Family Code. However, this subdivision does not apply if the firearm is received as part of the disposition of community property pursuant to Division 7 (commencing with Section 2500) of the Family Code.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

(D) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

SEC. 3. Section 12026.2 of the Penal Code is amended to read:

12026.2. (a) Section 12025 does not apply to, or affect, any of the following:

(1) The possession of a firearm by an authorized participant in a motion picture, television, or video production or entertainment event when the participant lawfully uses the firearm as part of that production or event or while going directly to, or coming directly from, that production or event.

(2) The possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other firearms, while the member is at meetings of the clubs or organizations or while going directly to, and coming directly from, those meetings.

(3) The transportation of a firearm by a participant when going directly to, or coming directly from, a recognized safety or hunter safety class, or a recognized sporting event involving that firearm.

(4) The transportation of a firearm by a person listed in Section 12026 directly between any of the places mentioned in Section 12026.

(5) The transportation of a firearm by a person when going directly to, or coming directly from, a fixed place of business or private residential property for the purpose of the lawful repair or the lawful transfer, sale, or loan of that firearm.

(6) The transportation of a firearm by a person listed in Section 12026 when going directly from the place where that person lawfully received that firearm to that person's place of residence or place of business or to private property owned or lawfully possessed by that person.

(7) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show, swap meet, or similar event to which the public is invited, for the purpose of displaying that firearm in a lawful manner.

(8) The transportation of a firearm by an authorized employee or agent of a supplier of firearms when going directly to, or coming directly from, a motion picture, television, or video production or entertainment event for the purpose of providing that firearm to an authorized participant to lawfully use as a part of that production or event.

(9) The transportation of a firearm by a person when going directly to, or coming directly from, a target range, which holds a regulatory or business license, for the purposes of practicing shooting at targets with that firearm at that target range.

(10) The transportation of a firearm by a person when going directly to, or coming directly from, a place designated by a person authorized to issue licenses pursuant to Section 12050 when done at the request of the issuing agency so that the issuing agency can

determine whether or not a license should be issued to that person to carry that firearm.

(11) The transportation of a firearm by a person when going directly to, or coming directly from, a law enforcement agency for the purpose of a lawful transfer, sale, or loan of that firearm pursuant to Section 12084.

(12) The transportation of a firearm by a person when going directly to, or coming directly from, a lawful camping activity for the purpose of having that firearm available for lawful personal protection while at the lawful campsite. This paragraph shall not be construed to override the statutory authority granted to the Department of Parks and Recreation or any other state or local governmental agencies to promulgate rules and regulations governing the administration of parks and campgrounds.

(13) The transportation of a firearm by a person in order to comply with subdivision (c) or (i) of Section 12078 as it pertains to that firearm.

(14) The transportation of a firearm by a person in order to utilize subdivision (*l*) of Section 12078 as it pertains to that firearm.

(15) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show or event, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, for the purpose of lawfully transferring, selling, or loaning that firearm in accordance with subdivision (d) of Section 12072.

(16) The transportation of a firearm by a person in order to utilize paragraph (3) of subdivision (a) of Section 12078 as it pertains to that firearm.

(17) The transportation of a firearm by a person who finds the firearm in order to comply with Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code as it pertains to that firearm and if that firearm is being transported to a law enforcement agency, the person gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency.

(18) The transportation of a firearm by a person who finds the firearm and is transporting it to a law enforcement agency for disposition according to law, if he or she gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

(b) In order for a firearm to be exempted under subdivision (a), while being transported to or from a place, the firearm shall be unloaded, kept in a locked container, as defined in subdivision (d), and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(c) This section does not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm

capable of being concealed upon the person in accordance with this chapter.

(d) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device. The term "locked container" does not include the utility or glove compartment of a motor vehicle.

SEC. 4. Section 12092 of the Penal Code is amended to read:

12092. The Department of Justice upon request may assign a distinguishing number or mark of identification to any firearm whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the department has been destroyed or obliterated.

SEC. 5. Section 12094 of the Penal Code is amended to read:

12094. (a) Any person with knowledge of any change, alteration, removal, or obliteration described herein, who buys, receives, disposes of, sells, offers for sale, or has in his or her possession any pistol, revolver, or other firearm which has had the name of the maker, model, or the manufacturer's number or other mark of identification including any distinguishing number or mark assigned by the Department of Justice changed, altered, removed, or obliterated is guilty of a misdemeanor.

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

(1) The acquisition or possession of a firearm described in subdivision (a) by any member of the military forces of the this state or of the United States, while on duty and acting within the scope and course of his or her employment.

(2) The acquisition or possession of a firearm described in subdivision (a) by any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, while on duty and acting within the scope and course of his or her employment.

(3) The acquisition or possession of a firearm described in subdivision (a) by any employee of a forensic laboratory, while on duty and acting within the scope and course of his or her employment.

(4) The possession and disposition of a firearm described in subdivision (a) by a person who meets, all of the following:

(A) He or she is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency in order to

deliver the firearm to the law enforcement agency for the agency's disposition according to law.

(D) If the person is transporting the firearm to a law enforcement agency, he or she has given prior notice to the law enforcement agency that he or she is transporting the firearm to that law enforcement agency for that agency's disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

SEC. 6. Section 12201 of the Penal Code is amended to read:

12201. Nothing in this chapter shall affect or apply to any of the following:

(a) The sale to, purchase by, or possession of machineguns by police departments, sheriffs' offices, marshals' offices, district attorneys' offices, the California Highway Patrol, the Department of Justice, the Department of Corrections for use by the department's Special Emergency Response Teams and Law Enforcement Liaison/Investigations Unit, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.

(b) The possession of machineguns by regular, salaried, full-time peace officer members of a police department, sheriff's office, marshal's office, district attorney's office, the California Highway Patrol, the Department of Justice, or the Department of Corrections for use by the department's Special Emergency Response Teams and Law Enforcement Liaison/Investigations Unit when on duty and if the use is within the scope of their duties.

SEC. 7. Section 12316 of the Penal Code is amended to read:

12316. (a) Any person, corporation, or dealer who sells ammunition or reloaded ammunition to a person knowing that person to be a minor under 18 years of age shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars ($1,000), or by both the imprisonment and fine.

Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this subdivision. As used in this subdivision, "bona fide evidence of majority and identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, California state identification card, identification card issued to a member of the armed forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(b) (1) No person prohibited from owning or possessing a firearm under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall own, possess, or have under

his or her custody or control, any ammunition or reloaded ammunition.

(2) For purposes of this subdivision, "ammunition" shall include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence.

(3) A violation of this subdivision is punishable by imprisonment in a county jail not to exceed one year or in the state prison, by a fine not to exceed one thousand dollars ($1,000), or by both the fine and imprisonment.

(c) Unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under subparagraph (A) of paragraph (1) of subdivision (a) of Section 12027. This subdivision shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making an arrest or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code. A violation of this subdivision is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars ($1,000), or both the imprisonment and fine.

(d) (1) A violation of paragraph (1) of subdivision (b) is justifiable where all of the following conditions are met:

(A) The person found the ammunition or reloaded ammunition or took the ammunition or reloaded ammunition from a person who was committing a crime against him or her.

(B) The person possessed the ammunition or reloaded ammunition no longer than was necessary to deliver or transport the ammunition or reloaded ammunition to a law enforcement agency for that agency's disposition according to law.

(C) The person is prohibited from possessing any ammunition or reloaded ammunition solely because that person is prohibited from owning or possessing a firearm only by virtue of Section 12021.

(2) Upon the trial for violating paragraph (1) of subdivision (b), the trier of fact shall determine whether the defendant is subject to the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she is subject to the exemption provided by this subdivision.

SEC. 8. Section 12316 of the Penal Code is amended to read:

12316. (a) (1) Any person, corporation, or dealer who does either of the following shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars ($1,000), or by both the imprisonment and fine:

(A) Sells any ammunition or reloaded ammunition to a person knowing that person to be under 18 years of age.

(B) Sells any ammunition or reloaded ammunition designed and intended for use in a pistol, revolver, or other firearm capable of being concealed upon the person to a person knowing that person to be under 21 years of age. As used in this subparagraph, "ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323. Where ammunition or reloaded ammunition may be used in both a rifle and a handgun, federal law shall be considered for purposes of enforcing this subparagraph.

(2) Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this subdivision. As used in this subdivision, "bona fide evidence of majority and identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, California state identification card, identification card issued to a member of the armed forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(b) (1) No person prohibited from owning or possessing a firearm under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall own, possess, or have under his or her custody or control, any ammunition or reloaded ammunition.

(2) For purposes of this subdivision, "ammunition" shall include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence.

(3) A violation of this subdivision is punishable by imprisonment in a county jail not to exceed one year or in the state prison, by a fine not to exceed one thousand dollars ($1,000), or by both the fine and imprisonment.

(c) Unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under subparagraph (A) of paragraph (1) of subdivision (a) of Section 12027. This

subdivision shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making an arrest or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code. A violation of this subdivision is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars ($1,000), or both the imprisonment and fine.

(d) (1) A violation of paragraph (1) of subdivision (b) is justifiable where all of the following conditions are met:

(A) The person found the ammunition or reloaded ammunition or took the ammunition or reloaded ammunition from a person who was committing a crime against him or her.

(B) The person possessed the ammunition or reloaded ammunition no longer than was necessary to deliver or transport the ammunition or reloaded ammunition to a law enforcement agency for that agency's disposition according to law.

(C) The person is prohibited from possessing any ammunition or reloaded ammunition solely because that person is prohibited from owning or possessing a firearm only by virtue of Section 12021.

(2) Upon the trial for violating paragraph (1) of subdivision (b), the trier of fact shall determine whether the defendant is subject to the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she is subject to the exemption provided by this subdivision.

SEC. 9. Section 12322 of the Penal Code is amended to read:

12322. Nothing in this chapter shall apply to or affect either of the following:

(a) The sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his or her employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued pursuant to Section 12305.

(b) The possession of handgun ammunition designed primarily to penetrate metal or armor by a person who found the ammunition, if he or she is not prohibited from possessing firearms or ammunition pursuant to Section 12021, 12021.1, or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare

and Institutions Code and is transporting the ammunition to a law enforcement agency for disposition according to law.

SEC. 10. Section 2.5 of this bill incorporates amendments to Section 12021 of the Penal Code proposed by both this bill and AB 688. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 12021 of the Penal Code, and (3) this bill is enacted after AB 688, in which case Section 2 of this bill shall not become operative.

SEC. 11. Section 8 of this bill incorporates amendments to Section 12316 of the Penal Code proposed by both this bill and AB 1221. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 12316 of the Penal Code, and (3) this bill is enacted after AB 1221, in which case Section 7 of this bill shall not become operative.

CHAPTER 159

An act to add Article 9 (commencing with Section 2838) to Chapter 6 of Division 2 of, and to repeal Section 2718 of, the Business and Professions Code, relating to nursing, and making an appropriation therefor.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

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

(a) Various and conflicting definitions of “clinical nurse specialists” are being created and applied by public agencies and private employers within the State of California.

(b) The public is harmed by conflicting usage of the title “clinical nurse specialist” and lack of correspondence between the use of the title and the qualifications of the registered nurse using that title.

(c) These findings are documented by the Board of Registered Nursing in the “Clinical Nurse Specialist Survey,” December 1994, conducted pursuant to Chapter 77 of the Statutes of 1993.

(d) Therefore, the public interest would be served by determining the legitimate uses of the title “clinical nurse specialist” by registered nurses.

SEC. 2. Section 2718 of the Business and Professions Code is repealed.

SEC. 3. Article 9 (commencing with Section 2838) is added to Chapter 6 of Division 2 of the Business and Professions Code, to read:

Article 9. Clinical Nurse Specialists

2838. No person shall advertise or hold himself or herself out as a "clinical nurse specialist" unless he or she is a nurse licensed under this chapter, and meets the standards for a clinical nurse specialist established by the board.

2838.1. (a) On and after July 1, 1998, any registered nurse who holds himself or herself out as a clinical nurse specialist or who desires to hold himself or herself out as a clinical nurse specialist shall, within the time prescribed by the board and prior to his or her next license renewal or the issuance of an initial license, submit his or her education, experience, and other credentials, and any other information as required by the board to determine that the person qualifies to use the title "clinical nurse specialist."

(b) Upon finding that a person is qualified to hold himself or herself out as a clinical nurse specialist, the board shall appropriately indicate on the license issued or renewed that the person is qualified to use the title "clinical nurse specialist." The board shall also issue to each qualified person a certificate indicating that the person is qualified to use the title "clinical nurse specialist."

2838.2. (a) A clinical nurse specialist is a registered nurse with advanced education, who participates in expert clinical practice, education, research, consultation, and clinical leadership as the major components of his or her role.

(b) The board may establish categories of clinical nurse specialists and the standards required to be met for nurses to hold themselves out as clinical nurse specialists in each category. The standards shall take into account the types of advanced levels of nursing practice that are or may be performed and the clinical and didactic education, experience, or both needed to practice safety at those levels. In setting the standards, the board shall consult with clinical nurse specialists, physicians and surgeons appointed by the Medical Board with expertise with clinical nurse specialists, and health care organizations that utilize clinical nurse specialists.

(c) A registered nurse who meets one of the following requirements may apply to become a clinical nurse specialist:

(1) Possession of a master's degree in a clinical field of nursing.

(2) Possession of a master's degree in a clinical field related to nursing with course work in the components referred to in subdivision (a).

(3) On or before July 1, 1998, meets the following requirements:

(A) Current licensure as a registered nurse.

(B) Performs the role of a clinical nurse specialist as described in subdivision (a).

(C) Meets any other criteria established by the board.

(d) A nonrefundable fee of not less than seventy-five dollars ($75), but not to exceed one hundred fifty dollars ($150), shall be paid by a registered nurse applying to be a clinical nurse specialist for the

evaluation of his or her qualifications to use the title "clinical nurse specialist." A biennial renewal fee shall be paid upon submission of an application to renew the clinical nurse specialist certificate and shall be established by the board at no less than fifty dollars ($50) and no more than one hundred dollars ($100). The penalty fee for failure to renew a certificate within the prescribed time shall be 50 percent of the renewal fee in effect on the date of the renewal of the license, but not less than twenty-five dollars ($25), nor more than fifty dollars ($50). The fees authorized by this subdivision shall not exceed the amount necessary to cover the costs to the board to administer this section.

2838.3. This article shall become operative on July 1, 1998.

2838.4. Nothing in this article shall be construed to limit, revise, or expand the current scope of practice of a registered nurse.

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 160

An act to amend Section 1203.085 of the Penal Code, relating to crimes.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 1203.085 of the Penal Code is amended to read:

1203.085. (a) Any person convicted of an offense punishable by imprisonment in the state prison but without an alternate sentence to a county jail shall not be granted probation or have the execution or imposition of sentence suspended, if the offense was committed while the person was on parole from state prison pursuant to Section 3000, following a term of imprisonment imposed for a violent felony, as defined in subdivision (c) of Section 667.5, or a serious felony, as defined in subdivision (c) of Section 1192.7.

(b) Any person convicted of a violent felony, as defined in subdivision (c) of Section 667.5, or a serious felony, as defined in subdivision (c) of Section 1192.7, shall not be granted probation or have the execution or imposition of sentence suspended, if the offense was committed while the person was on parole from state prison pursuant to Section 3000.

(c) The existence of any fact that would make a person ineligible for probation under subdivision (a) or (b) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 2. Section 1 of this act, which amends Section 1203.085 of the Penal Code, shall not be construed to affect or supersede the application of Sections 667 or 1170.12 of the Penal Code.

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 161

An act to amend Section 496 of the Penal Code, relating to crimes.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 496 of the Penal Code is amended to read:

496. (a) Every person who buys or receives any property that has been stolen or that has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding any property from the owner, knowing the property to be so stolen or obtained, shall be punished by imprisonment in a state prison, or in a county jail for not more than one year. However, if the district attorney or the grand jury determines that this action would be in the interests of justice, the district attorney or the grand jury,

as the case may be, may, if the value of the property does not exceed four hundred dollars ($400), specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in a county jail not exceeding one year.

A principal in the actual theft of the property may be convicted pursuant to this section. However, no person may be convicted both pursuant to this section and of the theft of the same property.

(b) Every swap meet vendor, as defined in Section 21661 of the Business and Professions Code, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value in excess of four hundred dollars ($400) that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be punished by imprisonment in a state prison, or in a county jail for not more than one year.

Every swap meet vendor, as defined in Section 21661 of the Business and Professions Code, and every person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives any property of a value of four hundred dollars ($400) or less that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be guilty of a misdemeanor.

(c) Any person who has been injured by a violation of subdivision (a) or (b) may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit, and reasonable attorney's fees.

(d) Notwithstanding Section 664, any attempt to commit any act prohibited by this section, except an offense specified in the accusatory pleading as a misdemeanor, is punishable by imprisonment in the state prison, or in a county jail for not more than one year.

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 162

An act to amend Section 30301.2 of the Public Resources Code, relating to coastal resources.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 30301.2 of the Public Resources Code is amended to read:

30301.2. (a) The appointments of the Governor, the Senate Committee on Rules, and the Speaker of the Assembly, pursuant to subdivision (f) of Section 30301, shall be made as prescribed in this section. Within 45 days from the date of receipt of a request for nominations by the appointing authority, the board of supervisors and city selection committee of each county within the region shall nominate supervisors or city council members who reside in the region from which the Governor, the Senate Committee on Rules, or the Speaker of the Assembly shall appoint a replacement. In regions composed of three counties, the board of supervisors and the city selection committee in each county within the region shall each nominate one or more supervisors and one or more city council members. In regions composed of two counties, the board of supervisors and the city selection committee in each county within the region shall each nominate not less than two supervisors and not less than two city council members. In regions composed of one county, the board of supervisors and the city selection committee in the county shall each nominate not less than three supervisors and not less than three city council members. Immediately upon selecting the nominees, the board of supervisors and the city selection committee shall send the names of the nominees to either the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, whoever will appoint the replacement.

(b) Within 30 days from the date of receipt of the names of the nominees pursuant to subdivision (a), the Governor, the Speaker of the Assembly, or the Senate Committee on Rules, whoever will appoint the replacement, shall either appoint one of the nominees or notify the boards of supervisors and city selection committees within

the region that none of the nominees are acceptable and request the boards of supervisors and city selection committees to make additional nominations. Within 45 days from the date of receipt of a notice rejecting all the nominees, the boards of supervisors and city selection committees within the region shall nominate and send to the appointing authority the names of additional nominees in accordance with subdivision (a). Upon receipt of the names of those additional nominees, the appointing authority shall appoint one of the nominees.

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 163

An act to add Section 406.5 to, and to repeal Article 1.5 (commencing with Section 400) of Chapter 4 of Part 1 of Division 1 of, the Insurance Code, relating to insurance.

[Approved by Governor August 2, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 406.5 is added to the Insurance Code, to read:

406.5. This article 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. 2. It is the intent of the Legislature that nothing in this act shall be construed as prohibiting an insurer from voluntarily implementing a vehicle inspection program.

CHAPTER 164

An act to add and repeal Article 3.5 (commencing with Section 23345) of Chapter 3 of Division 1 of Title 3 of the Government Code, relating to local governmental agencies.

[Approved by Governor August 2, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Article 3.5 (commencing with Section 23345) is added to Chapter 3 of Division 1 of Title 3 of the Government Code, to read:

Article 3.5. Los Angeles County Division Commission

23345. (a) The Legislature finds and declares the necessity to study the fiscal health of Los Angeles County and the capability and efficiency of service delivery by Los Angeles County.

(b) As used in this section, "local agency" means any city within the boundaries of Los Angeles County, or the County of Los Angeles.

23346. (a) There may be created a commission called the Los Angeles County Division Commission.

(b) On or before January 1, 1999, the governing body of any local agency within and including Los Angeles County may adopt a resolution declaring its intent to form the commission. The governing body of each local agency shall immediately transmit a copy of its resolution to the county clerk of the County of Los Angeles. As soon as feasible after receiving resolutions from one or more local agencies that have an aggregate population of 2,000,000 or more people, the county clerk shall declare the commission duly formed pursuant to this article.

(c) Each local agency that has adopted a resolution declaring its intent to form the commission shall contribute funding to the commission in proportion to the number of its representatives on the commission board.

23347. (a) The governing body of each local agency that adopted a resolution pursuant to Section 23346 shall appoint, by resolution, one representative to the commission board and shall appoint, by resolution, an additional representative for each 100,000 citizens within its territory. In the case of Los Angeles County, for the purpose of determining the number of representatives, the population shall be the total population of the unincorporated areas of the county. Representatives shall serve at the pleasure of the local agency the person represents. Each appointing authority shall endeavor to appoint members who reflect the geographic, ethnic, racial, gender, an cultural diversity of its territory. Each appointing authority shall

appoint members who have demonstrated an interest and have proven academic or professional ability in one or more of the fields of demography, urban economics, land use planning, public finance, and the legal aspects of local agency organization and boundaries.

(b) The commission shall select a chair and vice chair from among its own respective membership.

(c) The commission shall conduct public meetings to solicit the views and advice of the public, including elected and appointed officials, regarding the fiscal health and service delivery capabilities of Los Angeles County.

(d) The members of the commission may be reimbursed for their actual and necessary expenses for attending the meetings of the commission, except for members of the commission who are elected officials, officers, or employees of a local agency. The commission may authorize a payment of a per diem not to exceed one hundred dollars ($100) to the members of the commission for each day while they are in attendance at meetings of the commission. The per diem may be in addition to the reimbursement for actual and necessary expenses. Notwithstanding any other provision of law, the cost of the quarters, equipment, supplies, and operating expenses incurred by the commission shall not be a county charge but shall be paid from the funding made by the act which added this section. The commission shall not charge fees.

(e) The commission may appoint employees, including counsel, define their qualifications and duties, and provide compensation for the performance of their duties.

(f) The commission may contract with any other public or private agency for any services necessary to carry out the purposes of this section.

23348. Notwithstanding Section 7550.5 of the Government Code, the commission shall issue a report with recommendations to the Board of Supervisors of the County of Los Angeles, the Governor, and the Legislature by January 1, 2001. The report shall include, but not be limited to:

(a) A comprehensive analysis of the fiscal health of Los Angeles County.

(b) A comprehensive analysis of the capability and efficiency of service delivery by the County of Los Angeles.

(c) Whether or not a division of the County of Los Angeles into two or more smaller counties would result in enhanced fiscal health of the county and increased capability and efficiency in the delivery of services, and whether or not such a division would be detrimental to the fiscal health or capability and efficiency of service delivery of any territory that would be affected by the division.

(d) As part of its determination in subdivision (c), the commission may prescribe boundaries for any proposed division.

(e) Any other matters that the special commission deems relevant.

23349. This article 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 165

An act to amend Section 53891 of the Government Code, relating to local agency finance.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 53891 of the Government Code is amended to read:

53891. The officer of each local agency who has charge of the financial records shall furnish to the Controller a report of all the financial transactions of the local agency during the next preceding fiscal year. The report shall be furnished within 90 days after the close of each fiscal year and shall be in the form required by the Controller. If the report is filed in electronic format as prescribed by the Controller, the report shall be furnished within 110 days after the close of each fiscal year. However, in the case of local agencies filing annual financial materials with the California Health Facilities Commission or any successor thereto pursuant to Section 441.18 of the Health and Safety Code, the audited report shall be furnished within 120 days after the close of each fiscal year. Further, in the case of community redevelopment agencies filing annual reports with the Controller pursuant to Section 33080 of the Health and Safety Code, the report shall be furnished within six months of the end of the agency's fiscal year.

The Controller shall prescribe uniform accounting and reporting procedures which shall be applicable to all local agencies except cities, counties, and school districts, and except for local agencies which substantially follow a system of accounting prescribed by the Public Utilities Commission of the State of California or the Federal Power Commission. The procedures shall be adopted under the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. The Controller shall prescribe the procedures only after consultation with and approval of a local governmental advisory committee established pursuant to Section 12463.1. Approval of the procedures shall be by majority vote of the members present at a meeting of the committee called by the chairperson thereof.

CHAPTER 166

An act to amend Section 30055 of the Government Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 2, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 30055 of the Government Code is amended to read:

30055. For the 1996–97 fiscal year and each fiscal year thereafter, each county shall establish a Public Safety Augmentation Fund in the county treasury to receive those revenues allocated to the county pursuant to Sections 30052 and 30053. Amounts deposited in this fund shall be expended exclusively to fund public safety services, and for that purpose shall be allocated among the county and the cities in the county that provide public safety services, as follows:

(a) In allocating revenues from the Public Safety Augmentation Fund to cities, the auditor shall, except as otherwise provided in subdivision (b), (c), (d), or (e), comply with all of the following:

(1) For the 1997–98 fiscal year and each fiscal year thereafter, the auditor shall allocate to each city from the county's Public Safety Augmentation Fund the same percentage of the total amount of moneys deposited in that fund that was allocated to that city for the 1995–96 fiscal year.

(2) (A) In accordance with the payment schedule set forth in subparagraph (B), the auditor shall, commencing with September 1997, allocate to each city that city's reconciliation amount if, and only if, the reconciliation amount is a positive number. For purposes of this subparagraph, a city's reconciliation amount means the difference between the following amounts:

(i) The amount that would have been allocated to that city from the county's Public Safety Augmentation Fund for the 1996–97 fiscal year, if moneys had been so allocated to that city using the same percentage of the total amount of money deposited in that fund that was allocated to that city for the 1995–96 fiscal year.

(ii) The amount that was in fact allocated from the county's Public Safety Augmentation Fund to that city for the 1996–97 fiscal year.

(B) The auditor shall allocate each city's reconciliation amount to that city in 36 equal and consecutive monthly installments, commencing on September 1, 1997. Each of these installments shall be paid at the same time as the regular monthly allocation made to that city pursuant to this section, and no interest shall be paid on any of these installments. However, if directed by the board of

supervisors, the county auditor may expedite payment of the installments.

(b) Notwithstanding subdivision (a), the amount in the augmentation fund established pursuant to this section in each county described in paragraph (3) shall be allocated to the cities in that county that provide public safety services, as follows:

(1) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of the revenue shifted from that city to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of which shall be the amount of revenue shifted from all cities in the county to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(2) The auditor shall multiply 5 percent of the amount in the augmentation fund established pursuant to this section by the allocation factor determined for each city in paragraph (1). The amount so computed for each city shall be allocated to that city.

(3) This subdivision applies only to the Counties of Fresno, Kings, Merced, San Bernardino, San Joaquin, Solano, and Yolo.

(4) This subdivision shall apply to a particular county described in paragraph (3) only if the total amount allocated under this paragraph to all of the cities therein that provide public safety services is less than the amount that would otherwise be allocated to all of those cities pursuant to subdivision (a).

(c) Notwithstanding subdivision (a), the amount in the augmentation fund established pursuant to this section for the County of Alameda shall be allocated to the cities in the County of Alameda that provide public safety services as follows:

(1) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of the revenue shifted from that city to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of which shall be the amount of revenue shifted from all cities in the County of Alameda to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(2) The auditor shall multiply 6.1 percent of the amount in the augmentation fund established pursuant to this section by the allocation factor determined for each city in paragraph (1). The amount so computed for each city shall be allocated to that city.

(d) Notwithstanding subdivision (a), for the 1997–98 fiscal year and each fiscal year thereafter, the auditor in the County of San Diego shall allocate to each eligible city in the county that provides public safety services, from the county's Public Safety Augmentation Fund created pursuant to paragraph (1), an amount obtained by

multiplying the amount in the Public Safety Augmentation Fund by the allocation factor listed below for each city:

Carlsbad	0.3582694
Chula Vista	0.3126700
Coronado	0.1205707
Del Mar	0.0266781
El Cajon	0.1479797
Escondido	0.2874369
Imperial Beach	0.0543447
La Mesa	0.1035164
Lemon Grove	0.0151415
National City	0.0569347
Oceanside	0.6955004
San Diego	3.1831131
San Marcos	0.0585130
Vista	0.2269571

(e) All moneys in the Public Safety Augmentation Fund not allocated to any city within the county pursuant to subdivision (a), (b), (c), or (d) shall be allocated to the county.

(f) The amendments made to subdivision (a) by the act adding this subdivision shall be applicable for the 1997–98 fiscal year and each fiscal year thereafter.

SEC. 1.5. Section 30055 of the Government Code is amended to read:

30055. For the 1996–97 fiscal year and each fiscal year thereafter, each county shall establish a Public Safety Augmentation Fund in the county treasury to receive those revenues allocated to the county pursuant to Sections 30052 and 30053. Amounts deposited in this fund shall be expended exclusively to fund public safety services, and for that purpose shall be allocated among the county and the cities in the county that provide public safety services, as follows:

(a) In allocating revenues from the Public Safety Augmentation Fund to cities, the auditor shall, except as otherwise provided in subdivision (b), (c), (d), or (e), comply with all of the following:

(1) For the 1997–98 fiscal year and each fiscal year thereafter, the auditor shall allocate to each city from the county's Public Safety Augmentation Fund the same percentage of the total amount of moneys deposited in that fund that was allocated to that city for the 1995–96 fiscal year.

(2) (A) In accordance with the payment schedule set forth in subparagraph (B), the auditor shall, commencing with September 1997, allocate to each city that city's reconciliation amount if, and only if, the reconciliation amount is a positive number. For purposes of this

subparagraph, a city's reconciliation amount means the difference between the following amounts:

(i) The amount that would have been allocated to that city from the county's Public Safety Augmentation Fund for the 1996–97 fiscal year, if moneys had been so allocated to that city using the same percentage of the total amount of money deposited in that fund that was allocated to that city for the 1995–96 fiscal year.

(ii) The amount that was in fact allocated from the county's Public Safety Augmentation Fund to that city for the 1996–97 fiscal year.

(B) The auditor shall allocate each city's reconciliation amount to that city in 36 equal and consecutive monthly installments, commencing on September 1, 1997. Each of these installments shall be paid at the same time as the regular monthly allocation made to that city pursuant to this section, and no interest shall be paid on any of these installments. However, if directed by the board of supervisors, the county auditor may expedite payment of the installments.

(b) Notwithstanding subdivision (a), the amount in the augmentation fund established pursuant to this section in each county described in paragraph (3) shall be allocated to the cities in that county that provide public safety services, as follows:

(1) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of the revenue shifted from that city to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of which shall be the amount of revenue shifted from all cities in the county to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(2) The auditor shall multiply 5 percent of the amount in the augmentation fund established pursuant to this section by the allocation factor determined for each city in paragraph (1). The amount so computed for each city shall be allocated to that city.

(3) This subdivision applies only to the Counties of Fresno, Kings, Merced, San Bernardino, San Joaquin, Solano, and Yolo.

(4) This subdivision shall apply to a particular county described in paragraph (3) only if the total amount allocated under this paragraph to all of the cities therein that provide public safety services is less than the amount that would otherwise be allocated to all of those cities pursuant to subdivision (a).

(c) Notwithstanding subdivision (a), the amount in the augmentation fund established pursuant to this section for the County of Alameda shall be allocated to the cities in the County of Alameda that provide public safety services as follows:

(1) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of the revenue shifted from that city to the Educational Revenue

Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of which shall be the amount of revenue shifted from all cities in the County of Alameda to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(2) The auditor shall multiply 6.1 percent of the amount in the augmentation fund established pursuant to this section by the allocation factor determined for each city in paragraph (1). The amount so computed for each city shall be allocated to that city.

(d) Notwithstanding subdivision (a), for the 1997–98 fiscal year and each fiscal year thereafter, the auditor in the County of San Diego shall allocate to each eligible city in the county that provides public safety services, from the county's Public Safety Augmentation Fund created pursuant to paragraph (1), an amount obtained by multiplying the amount in the Public Safety Augmentation Fund by the allocation factor listed below for each city:

City	Allocation factor
Carlsbad	0.3582694
Chula Vista	0.3126700
Coronado	0.1205707
Del Mar	0.0266781
El Cajon	0.1479797
Escondido	0.2874369
Imperial Beach	0.0543447
La Mesa	0.1035164
Lemon Grove	0.0151415
National City	0.0569347
Oceanside	0.6955004
San Diego	3.1831131
San Marcos	0.0585130
Vista	0.2269571

(e) Notwithstanding subdivision (a), the amount in the Public Safety Augmentation Fund established pursuant to this section for the County of Los Angeles shall be allocated to each eligible city in the county that provides public safety services as follows:

(1) For the 1997–98 and each fiscal year thereafter, the auditor shall allocate to eligible cities within the county the same percentage share of the augmentation fund that each eligible city received from amounts deposited into the augmentation fund for the 1995–96 fiscal year.

(2) For the 1996–97 fiscal year, the auditor shall allocate to eligible cities within the county the amount that would have been allocated to each of those cities had subdivision (a), as it read on January 1, 1997,

been applied to amounts deposited into the augmentation fund for the 1995–96 fiscal year.

(3) Any amount calculated for a city pursuant to paragraph (2) that differs from the amount allocated to a city in the 1995–96 fiscal year shall be known as the "reconciliation amount."

(4) Any positive reconciliation amount calculated for a city pursuant to paragraph (3) shall be allocated to the appropriate city according to the following schedule:

(A) For the 1996–97 fiscal year, 50 percent of the reconciliation amount shall be paid within 31 days of the effective date of the act adding this subdivision.

(B) For the 1997–98 fiscal year, 25 percent of the reconciliation amount shall be paid, on a monthly basis, in 12 equal installments, with the first payment due July 20, 1997. However, any installment that is due prior to the effective date of the act adding this subdivision is due within 31 days of the effective date of the act adding this subdivision if that effective date is after July 20, 1997.

(C) For the 1998–99 fiscal year, 25 percent of the reconciliation amount shall be paid in full by September 30, 1998.

(5) The amount due a city in the fiscal year identified in paragraph (4) shall be offset by the positive growth calculated as follows:

(A) For the 1996–97 fiscal year, positive growth is the difference between a city's share of funds allocated in the 1995–96 fiscal year and the amount calculated as if paragraph (1) had been in effect for the 1996–97 fiscal year. If positive growth for the 1996–97 fiscal year cannot be calculated at the time the allocation is made to a city pursuant to subparagraph (A) of paragraph (4), the positive growth for the 1996–97 fiscal year will be treated as an additional offset against payments to that city required pursuant to subparagraph (B) of paragraph (4).

(B) For the 1997–98 fiscal year, positive growth is the difference between a city's share of funds that would have been allocated in the 1996–97 fiscal year, had the allocation requirement of paragraph (1) been in effect for the 1996–97 fiscal year, and the amount calculated pursuant to paragraph (1) for the 1997–98 fiscal year.

(C) For the 1998–99 fiscal year, positive growth is the difference between a city's share of funds allocated in the 1997–98 fiscal year, excluding the reconciliation amount for that year, and the amount calculated pursuant to paragraph (1) for the 1998–99 fiscal year.

(6) Reconciliation amounts due in the 1998–99 fiscal year that are paid later than September 30, 1998, shall be subject to interest at the rate of 7 percent calculated from July 1, 1997.

(f) All moneys in the Public Safety Augmentation Fund not allocated to any city within the county pursuant to subdivision (a), (b), (c), (d), or (e) shall be allocated to the county.

(g) The amendments made to subdivision (a) by the act adding this subdivision shall be applicable for the 1997–98 fiscal year and each fiscal year thereafter.

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. Section 1.5 of this bill incorporates amendments to Section 30055 of the Government Code proposed by both this bill and AB 334. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 30055 of the Government Code, and (3) this bill is enacted after AB 334, in which case Section 30055 of the Government Code, as amended by AB 334, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 4. This act shall become operative only if Assembly Bill 334 is enacted and becomes effective on or before January 1, 1998.

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 timely correct an unintended reduction, documented by specific calculations, to that portion of public safety revenues that is allocated in each county in each fiscal year to cities that provide essential public safety services, and to ensure that cities that provide these services receive their full and fair share of public safety revenues, it is necessary that this act take effect immediately.

CHAPTER 167

An act to amend Section 18025 of the Education Code, relating to libraries.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 18025 of the Education Code is amended to read:

18025. (a) For the 1982–83 fiscal year and each fiscal year thereafter, the State Librarian shall determine the amount to which each public library is entitled for support of the library during the fiscal year. The amount shall be equal to 10 percent of the cost of the foundation program as determined pursuant to Section 18022.

(b) If local revenues appropriated for a public library for the 1982–83 fiscal year and each fiscal year thereafter, including tax revenues made available under Chapter 282 of the Statutes of 1979, total less than 90 percent of the cost of the foundation program as determined pursuant to Section 18022, the state allocation for that fiscal year shall be reduced proportionately. A proportional reduction in the state allocation as described in this subdivision shall not be made, however, commencing with the 1997–98 fiscal year and each fiscal year thereafter, if the amount appropriated to the Public Library Fund for that fiscal year is equal to or greater than the amount necessary to fund each public library in the amount it received for the prior fiscal year, thus providing the state's share of the cost of the foundation program to each library based only on its population served, as certified by the State Librarian. After the first fiscal year in which the proportional reduction is not made, no further reductions based on this subdivision shall be made in any future fiscal year. It is the intent of this subdivision to make this change without harm to any library currently receiving an unreduced share of the state's cost of the foundation program.

(c) If local revenues appropriated for a public library for the 1982–83 fiscal year and each fiscal year thereafter, including tax revenues made available under the provisions of Chapter 282 of the Statutes of 1979, total more than 90 percent of the cost of the foundation program as determined pursuant to Section 18022, the state allocation for that fiscal year shall remain at 10 percent of the cost of the foundation program as determined pursuant to Section 18022.

(d) In order for a public library to receive state funds under this chapter in the 1983–84 fiscal year and any fiscal year thereafter, the total amount of local revenues appropriated for the public library for that fiscal year, including tax revenues made available under Chapter 282 of the Statutes of 1979 and other revenues deemed to be local revenues according to Section 18023, shall be equal to at least the total amount of local revenues, as defined, appropriated for the public library in the previous fiscal year. State funds provided under this chapter shall supplement, but not supplant, local revenues appropriated for the public library.

(e) (1) Notwithstanding subdivision (d), or any other provision of law, in the 1993–94 fiscal year, any city, county, district, or city and county, that reduces local revenues appropriated for the public library for the 1993–94 fiscal year shall continue to receive state funds appropriated under this chapter for the 1993–94 fiscal year only, provided that the amount of the reduction to the appropriation to

that public library for the 1993–94 fiscal year is no more than 20 percent of the 1992–93 fiscal year appropriation made to that public library as certified by the fiscal officer of the public library and transmitted to the State Librarian pursuant to Section 18023.

(2) Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, any city, county, district, or city and county may request from the State Librarian a waiver of the requirements of subdivision (d) or of paragraph (1) by demonstrating that the percentage of the reduction in local revenues appropriated for the public library is no greater than the percentage of the reduction of local revenues received by the city, county, district, or city and county operating the public library as a result of changes made to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code by statutes enacted during or after the 1991–92 Regular Session having the effect of shifting property tax revenues from cities, counties, special districts, and redevelopment agencies to school districts and community colleges. Requests for the waiver and the substantiating documentation shall be submitted to the State Librarian along with the annual report of appropriation required by Section 18023 or any other report of appropriations applying to public libraries required by any other provision of law.

(f) If the state allocations computed pursuant to this section exceed the total amount of funds appropriated for purposes of this section in any fiscal year, the State Librarian shall adjust on a pro rata basis public library allocations prescribed by this section so that the total amount in each fiscal year does not exceed this amount.

CHAPTER 168

An act to amend Sections 1800, 1805, 1806, and 1808 of, and to repeal Sections 1801, 1802, and 1803 of, the Business and Professions Code, and to amend Section 13401 of the Corporations Code, relating to dentistry.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 1800 of the Business and Professions Code is amended to read:

1800. A dental corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, if that corporation, its shareholders, officers, directors, and employees rendering professional services who are dentists are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of

Division 3 of Title 1 of the Corporations Code), this article, and other statutes, rules, and regulations applicable to a dental corporation and the conduct of its affairs. Subject to all applicable statutes, rules, and regulations, a dental corporation is entitled to practice dentistry. With respect to a dental corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Board of Dental Examiners.

SEC. 2. Section 1801 of the Business and Professions Code is repealed.

SEC. 3. Section 1802 of the Business and Professions Code is repealed.

SEC. 4. Section 1803 of the Business and Professions Code is repealed.

SEC. 5. Section 1805 of the Business and Professions Code is amended to read:

1805. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of a dental corporation shall be a licensed person as defined in the Moscone-Knox Professional Corporation Act.

SEC. 6. Section 1806 of the Business and Professions Code is amended to read:

1806. The income of a dental corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in the Moscone-Knox Professional Corporation Act) shall not in any manner accrue to the benefit of that shareholder or his or her shares in the dental corporation.

SEC. 7. Section 1808 of the Business and Professions Code is amended to read:

1808. The board may formulate and enforce rules and regulations to carry out the purposes and objectives of this article and the Moscone-Knox Professional Corporation Act, including rules and regulations requiring (a) that the articles of incorporation or bylaws of a dental corporation shall include a provision whereby the capital stock of that corporation owned by a disqualified person (as defined in the Moscone-Knox Professional Corporation Act), or a deceased person, shall be sold to the corporation or to the remaining shareholders of that corporation within the time as the rules and regulations may provide, and (b) that a dental corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 8. Section 13401 of the Corporations Code is amended to read:

13401. As used in this part:

(a) "Professional services" means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code or the Chiropractic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the Board of Dental Examiners, the California State Board of Pharmacy, the Veterinary Medical Board, the California Board of Architectural Examiners, the Court Reporters Board of California, or the Board of Registered Nursing shall not be required to obtain a certificate of registration in order to render those professional services.

(c) "Foreign professional corporation" means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

(d) "Licensed person" means any natural person who is duly licensed under the provisions of the Business and Professions Code or the Chiropractic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is or intends to become, an officer, director, shareholder, or employee.

(e) "Disqualified person" means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

CHAPTER 169

An act to add Section 6274 to the Family Code, and to add Section 646.91 to the Penal Code, relating to stalking.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 6274 is added to the Family Code, to read:

6274. A peace officer, as defined in Section 830.1 or 830.2 of the Penal Code, may seek an emergency protective order relating to stalking under Section 646.91 of the Penal Code if the requirements of that section are complied with.

SEC. 2. Section 646.91 is added to the Penal Code, to read:

646.91. (a) Notwithstanding any other law, a judicial officer may issue an ex parte emergency protective order where a peace officer, as defined in Section 830.1 or 830.2, asserts reasonable ground to believe that a person is in immediate and present danger of stalking based upon the person's allegation that he or she has been willfully, maliciously, and repeatedly followed or harassed by another person who has made a credible threat with the intent of placing the person who is the target of the threat in reasonable fear for his or her safety, or the safety of his or her immediate family, within the meaning of Section 646.9.

(b) A peace officer who requests an emergency protective order shall reduce the order to writing and sign it.

(c) An emergency protective order shall include all of the following:

(1) A statement of the grounds asserted for the order.

(2) The date and time the order expires.

(3) The address of the superior court for the district or county in which the protected party resides.

(4) The following statements, which shall be printed in English and Spanish:

(A) "To the protected person: This order will last until the date and time noted above. If you wish to seek continuing protection, you will have to apply for an order from the court at the address noted above. You may seek the advice of an attorney as to any matter connected with your application for any future court orders. The attorney should be consulted promptly so that the attorney may assist you in making your application."

(B) "To the restrained person: This order will last until the date and time noted above. The protected party may, however, obtain a more permanent restraining order from the court. You may seek the advice of an attorney as to any matter connected with the application. The attorney should be consulted promptly so that the attorney may assist you in responding to the application."

(c) An emergency protective order may be issued under this section only if the judicial officer finds both of the following:

(1) That reasonable grounds have been asserted to believe that an immediate and present danger of stalking, as defined in Section 646.9, exists.

(2) That an emergency protective order is necessary to prevent the occurrence or reoccurrence of the stalking activity.

(d) An emergency protective order may include either of the following specific orders as appropriate:

(1) A harassment protective order as described in Section 527.6 of the Code of Civil Procedure.

(2) A workplace violence protective order as described in Section 527.8 of the Code of Civil Procedure.

(e) An emergency protective order shall be issued without prejudice to any person.

(f) An emergency protective order expires at the earlier of the following times:

(1) The close of judicial business on the fifth court day following the day of its issuance.

(2) The seventh calendar day following the day of its issuance.

(g) A peace officer who requests an emergency protective order shall do all of the following:

(1) Serve the order on the restrained person, if the restrained person can reasonably be located.

(2) Give a copy of the order to the protected person, or, if the protected person is a minor child, to a parent or guardian of the protected child if the parent or guardian can reasonably be located, or to a person having temporary custody of the child.

(3) File a copy of the order with the court as soon as practicable after issuance.

(h) A peace officer shall use every reasonable means to enforce an emergency protective order.

(i) A peace officer who acts in good faith to enforce an emergency protective order is not civilly or criminally liable.

(j) A peace officer who requests an emergency protective order under this section shall carry copies of the order while on duty.

(k) “Judicial officer” as used in this section, means a judge, commissioner, or referee.

(*l*) Nothing in this section shall be construed to permit a court to issue an emergency protective order prohibiting speech or other activities that are constitutionally protected or protected by the laws of this state or by the United States or activities occurring during a labor dispute, as defined by Section 527.3 of the Code of Civil Procedure, including but not limited to, picketing and hand billing.

(m) The Judicial Council shall develop forms, instructions, and rules for the scheduling of hearings and other procedures established pursuant to this section.

(n) Any intentional disobedience of any emergency protective order granted under this section is punishable pursuant to Section 166. Nothing in this subdivision shall be construed to prevent punishment under Section 646.9, in lieu of punishment under this section, if a violation of Section 646.9 is also pled and proven.

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 170

An act to amend Section 7480 of the Government Code, and to add Section 830.13 to the Penal Code, relating to financial investigations.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 7480 of the Government Code, as amended by Section 1.5 of Chapter 1087 of the Statutes of 1996, is amended to read:

7480. Nothing in this chapter prohibits any of the following:

(a) The dissemination of any financial information which is not identified with, or identifiable as being derived from, the financial records of a particular customer.

(b) When any police or sheriff's department or district attorney in this state certifies to a bank, credit union, or savings association in writing that a crime report has been filed which involves the alleged fraudulent use of drafts, checks, or other orders drawn upon any bank, credit union, or savings association in this state, the police or sheriff's department or district attorney may request a bank, credit union, or savings association to furnish, and a bank, credit union, or savings association shall supply, a statement setting forth the following information with respect to a customer account specified by the police or sheriff's department or district attorney for a period 30 days prior to and up to 30 days following the date of occurrence of the alleged illegal act involving the account:

(1) The number of items dishonored.

(2) The number of items paid which created overdrafts.

(3) The dollar volume of the dishonored items and items paid which created overdrafts and a statement explaining any credit arrangement between the bank, credit union, or savings association and customer to pay overdrafts.

(4) The dates and amounts of deposits and debits and the account balance on these dates.

(5) A copy of the signature and any addresses appearing on a customer's signature card.

(6) The date the account opened and, if applicable, the date the account closed.

(c) The Attorney General, a supervisory agency, the Franchise Tax Board, the State Board of Equalization, the Employment Development Department, the Controller or an inheritance tax referee when administering the Prohibition of Gift and Death Taxes (Part 8 (commencing with Section 13301) of Division 2 of the Revenue and Taxation Code), a police or sheriff's department or district attorney, a county welfare department when investigating welfare fraud, a county auditor-controller or director of finance when investigating fraud against the county, or the Department of Corporations when conducting investigations in connection with the enforcement of laws administered by the Commissioner of Corporations, from requesting of an office or branch of a financial institution, and the office or branch from responding to a request, as to whether a person has an account or accounts at that office or branch and, if so, any identifying numbers of the account or accounts.

No additional information beyond that specified in this section shall be released to a county welfare department without either the accountholder's written consent or a judicial writ, search warrant, subpoena, or other judicial order.

A county auditor-controller or director of finance who unlawfully discloses information he or she is authorized to request under this subdivision is guilty of the unlawful disclosure of confidential data, a misdemeanor, which shall be punishable as set forth in Section 7485.

(d) The examination by, or disclosure to, any supervisory agency of financial records which relate solely to the exercise of its supervisory function. The scope of an agency's supervisory function shall be determined by reference to statutes which grant authority to examine, audit, or require reports of financial records or financial institutions as follows:

(1) With respect to the Commissioner of Financial Institutions by reference to Division 1 (commencing with Section 99), Division 1.5 (commencing with Section 4800), Division 2 (commencing with Section 5000), Division 5 (commencing with Section 14000), Division 7 (commencing with Section 18000), Division 15 (commencing with Section 31000), and Division 16 (commencing with Section 33000) of the Financial Code.

(2) With respect to the Controller by reference to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(3) With respect to the Administrator of Local Agency Security by reference to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The disclosure to the Franchise Tax Board of (1) the amount of any security interest a financial institution has in a specified asset of a customer or (2) financial records in connection with the filing or audit of a tax return or tax information return required to be filed

by the financial institution pursuant to Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or Part 18 (commencing with Section 38001) of the Revenue and Taxation Code.

(f) The disclosure to the State Board of Equalization of any of the following:

(1) The information required by Sections 6702, 6703, 8954, 8957, 30313, 30315, 32383, 32387, 38502, 38503, 40153, 40155, 41122, 41123.5, 43443, 43444.2, 44144, 45603, 45605, 46404, 46406, 50134, 50136, 55203, 55205, 60404, and 60407 of the Revenue and Taxation Code.

(2) The financial records in connection with the filing or audit of a tax return required to be filed by the financial institution pursuant to Part 1 (commencing with Section 6001), Part 2 (commencing with Section 7301), Part 3 (commencing with Section 8601), Part 13 (commencing with Section 30001), Part 14 (commencing with Section 32001), and Part 17 (commencing with Section 37001) of Division 2 of the Revenue and Taxation Code.

(3) The amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(g) The disclosure to the Controller of the information required by Section 7853 of the Revenue and Taxation Code.

(h) The disclosure to the Employment Development Department of the amount of any security interest a financial institution has in a specified asset of a customer, if the inquiry is directed to the branch or office where the interest is held.

(i) The disclosure by a construction lender, as defined in Section 3087 of the Civil Code, to the Registrar of Contractors, of information concerning the making of progress payments to a prime contractor requested by the registrar in connection with an investigation under Section 7108.5 of the Business and Professions Code.

(j) Upon receipt of a written request from a district attorney referring to a support order pursuant to Section 11475.1 of the Welfare and Institutions Code, a financial institution shall disclose the following information concerning the account or the person named in the request, whom the district attorney shall identify, whenever possible, by social security number:

(1) If the request states the identifying number of an account at a financial institution, the name of each owner of the account.

(2) Each account maintained by the person at the branch to which the request is delivered, and, if the branch is able to make a computerized search, each account maintained by the person at any other branch of the financial institution located in this state.

(3) For each account disclosed pursuant to paragraphs (1) and (2), the account number, current balance, street address of the branch where the account is maintained, and, to the extent available through the branch's computerized search, the name and address of any other person listed as an owner.

Whenever the request prohibits the disclosure, a financial institution shall not disclose either the request or its response, to an owner of the account or to any other person, except the officers and employees of the financial institution who are involved in responding to the request and to attorneys, auditors, and regulatory authorities who have a need to know in order to perform their duties, and except as disclosure may be required by legal process.

No financial institution, or any officer, employee, or agent thereof, shall be liable to any person for (A) disclosing information in response to a request pursuant to this subdivision, (B) failing to notify the owner of an account, or complying with a request under this paragraph not to disclose to the owner, the request or disclosure under this subdivision, or (C) failing to discover any account owned by the person named in the request pursuant to a computerized search of the records of the financial institution.

The district attorney may request information pursuant to this subdivision only when the district attorney has received at least one of the following types of physical evidence:

(A) Any of the following, dated within the last three years:

(i) Form 599.

(ii) Form 1099.

(iii) A bank statement.

(iv) A check.

(v) A bank passbook.

(vi) A deposit slip.

(vii) A copy of a federal or state income tax return.

(viii) A debit or credit advice.

(ix) Correspondence that identifies the child support obligor by name, the bank, and the account number.

(x) Correspondence that identifies the child support obligor by name, the bank, and the banking services related to the account of the obligor.

(xi) An asset identification report from a federal agency.

(B) A sworn declaration of the custodial parent during the 12 months immediately preceding the request that the person named in the request has had or may have had an account at an office or branch of the financial institution to which the request is made.

Information obtained by a district attorney pursuant to this subdivision shall be used only for purposes that are directly connected within the administration of the duties of the district attorney pursuant to Section 11475.1 of the Welfare and Institutions Code.

SEC. 2. Section 830.13 is added to the Penal Code, to read:

830.13. (a) The following persons are not peace officers but may exercise the power to serve warrants as specified in Sections 1523 and 1530 during the course and within the scope of their employment, if they receive a course in the exercise of that power pursuant to

Section 832. The authority and power of the persons designated under this section shall extend to any place in the state:

Persons employed as investigators of an auditor-controller or director of finance of any county or persons employed by a city and county who conduct investigations under the supervision of the controller of the city and county, who are regularly employed and paid in that capacity, provided that the primary duty of these persons shall be to engage in investigations related to the theft of funds or the misappropriation of funds or resources, or investigations related to the duties of the auditor-controller or finance director as set forth in Chapter 3.5 (commencing with Section 26880), Chapter 4 (commencing with Section 26900), Chapter 4.5 (commencing with Section 26970), and Chapter 4.6 (commencing with Section 26980) of Part 3 of Division 2 of Title 3 of the Government Code.

(b) Notwithstanding any other provision of law, persons designated pursuant to this section shall not carry firearms.

(c) Persons designated pursuant to this section shall be included as "peace officers of the state" under paragraph (2) of subdivision (c) of Section 11105 for the purpose of receiving state summary criminal history information and shall be furnished that information on the same basis as peace officers of the state designated in paragraph (2) of subdivision (c) of Section 11105.

(d) Unless otherwise specifically provided, this section confers to persons designated in this section the same authority and power to serve warrants as conferred by Section 830.11.

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 171

An act to add Section 20306 to the Public Contract Code, relating to local agency contracts.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 20306 is added to the Public Contract Code, to read:

20306. (a) The Legislature finds and declares that the award of purchase contracts by the district under competitive bid procedures may not be feasible for products and materials that are undergoing rapid technological changes or for the introduction of new technologies into district operations, and that in these circumstances it is in the public interest to consider the broadest possible range of competing products and materials available, fitness of purpose, manufacturer's warranty, vendor financing, performance reliability, standardization, life-cycle costs, delivery timetables, support logistics, and other similar factors in addition to price in the award of these contracts.

(b) Notwithstanding any other provision of law, the board may direct the purchase of (1) computers, telecommunications equipment, fare collection equipment, radio and microwave equipment, and other related electronic equipment and apparatus; and (2) specialized rail transit equipment, including, but not limited to, rail cars, by competitive negotiation upon a finding by two-thirds vote of all members of the board that the purchase of those products or materials in compliance with provisions of this code generally applicable to the purchase does not constitute a method of procurement adequate for the district's needs. This section does not apply to contracts for construction or for the procurement of any product available in substantial quantities to the general public.

(c) Competitive negotiation, for the purposes of this section includes, but is not limited to, all of the following requirements:

(1) A request for proposals shall be prepared and submitted to an adequate number of qualified sources, as determined by the district in its discretion, to permit reasonable competition consistent with the nature and requirements of the procurement. In addition, a notice of the request for proposals shall be published at least once in a newspaper of general circulation, which shall be made at least 10 days before the date for receipt of the proposals. The district shall make reasonable efforts to generate the maximum feasible number of proposals from qualified sources, and shall make a finding to that effect before proceeding to negotiate if only a single response to the request for proposal is received.

(2) The request for proposals shall identify all significant evaluation factors, including price, and their relative importance.

(3) The district shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for contract award.

(4) Prior to making an award, the district shall prepare a price analysis and shall find that the final negotiated price is fair and

reasonable based upon comparable procurements in the marketplace.

(5) Award shall be made to the qualified proposer whose proposal will be most advantageous to the district with price and other factors considered. If award is not made to the proposer whose proposal contains the lowest price, the district shall make a finding setting forth the basis for the award.

(d) The district may reject any and all proposals and issue a new request for proposals at its discretion.

(e) Upon making an award to a qualified proposer, the district, upon request, shall make available to all other proposers and to the public, an analysis of the award that provides the basis for the selection of that particular qualified proposal.

(f) A person who submits, or who plans to submit, a proposal may protest any acquisition conducted in accordance with this section pursuant to protest procedures established by the board as follows:

(1) Protests based on the content of the request for proposals shall be filed with the district within 10 calendar days after the request for proposals is first advertised in accordance with subdivision (c). The district shall issue a written decision on the protest prior to opening of proposals. A protest may be renewed by refiling the protest with the district within 15 calendar days after the staff recommendation for award has been made available to the public as required by subdivision (e) of Section 20216.

(2) Any bidder may protest the recommended award on any ground not based upon the content of the request for proposals by filing a protest with the district within 15 calendar days after the staff recommendation for award has been made available to the public as required by subdivision (e) of Section 20216.

(3) Any protest shall contain a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest. Protesters shall have an opportunity to appear and be heard before the district prior to the opening of proposals in the case of protests based on the content of the request for proposals, or prior to final award in the case of protests based on other grounds or the renewal of protests based on the content of the request for proposals.

(g) Provisions in any contract concerning women and minority business enterprises, which are in accordance with the request for proposals, shall not be subject to negotiation with the successful bidder.

CHAPTER 172

An act to amend Section 8804 of the Education Code, relating to Healthy Start Support Services.

[Approved by Governor August 2, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 8804 of the Education Code is amended to read:

8804. The superintendent shall award grants to a local educational agency or consortium to pay the costs of planning and operating, on behalf of one or more qualifying schools within the local educational agency or consortium, programs that provide support services to pupils and their families at or near the school, as follows:

(a) Grants shall be awarded by the superintendent based upon the recommendations of the council and pursuant to this section.

(b) Two types of grants may be awarded to applicant local educational agencies or consortia, depending upon the level of readiness of that applicant to implement a program pursuant to this chapter. The superintendent shall issue requests for applications for awarding the grants, which shall specify maximum dollar amounts for which each type of grant may be awarded. The requests for applications also shall specify other criteria, as required by this article. The superintendent shall award those grants as follows:

(1) Planning grants may be awarded to local educational agencies or consortia that have demonstrated a need to implement a program, but that are not ready to begin the operation of the program, or that are in need of additional planning to expand existing support services programs. Planning grants shall be no more than fifty thousand dollars ($50,000) and shall be awarded for a period not to exceed two years. Upon completion of the planning phase, the local educational agency or consortium shall be eligible to apply for and may receive an operational grant.

(2) Operational grants may be awarded to local educational agencies or consortia that have demonstrated readiness to begin operation of a program or to expand existing support services programs. Operational grants shall supplement, not supplant, existing services and funds, and shall be awarded for a period not to exceed five years.

(A) Operational grants shall be awarded for no more than three hundred thousand dollars ($300,000). No more than 50 percent of each grant shall be available for expenditure on direct services, as long as the grant application contains a three-year plan to significantly reduce or to eliminate agency reliance on funding provided under this article for direct services. Direct services do not include salaries for staff who are developing or implementing the program.

(B) Recipients of operational grants may also receive one-time startup grants, which may be used, among other things, for purchasing equipment, hiring staff, designing a program evaluation,

or hiring a consultant. Startup grants shall be awarded for not more than one hundred thousand dollars ($100,000).

(3) If a local educational agency or consortium submits an application for an operational grant on behalf of a school that does not meet the criteria specified in subdivision (g), (h), (i), or (j), the superintendent may offer the applicant a planning grant, provided that the local educational agency or consortium has not received previously a planning grant on behalf of that school.

(c) All grants awarded under this article shall be matched by the participating local educational agency or consortium and its cooperating agencies with one dollar ($1) for each four dollars ($4) awarded. The match shall be contributed in cash or as services or resources of comparable value. It is the intent of the Legislature that participants seek and utilize private funds or resources for this purpose. The superintendent may waive the match requirement upon verifying that the local educational agency or consortium made a substantial effort to secure a match but was unable to secure the required match.

(d) The superintendent shall award grants pursuant to this article to local educational agencies or consortia in northern, central, and southern California, in urban, suburban, and rural areas. To the extent possible, the grants shall be awarded for programs representative of the ethnic and linguistic diversity of schoolage pupils and their families. Further, to the extent possible, 50 percent of the grants shall be awarded to schools serving elementary school pupils and 50 percent to schools serving junior and senior high school pupils.

(e) Of the schools that receive grants each year, not more than 10 percent may be selected based on the criteria identified in paragraph (3) of subdivision (g) of Section 8802.

(f) A local educational agency or consortium is eligible for a grant under this article, on behalf of one or more schools operated by the agency or consortium, if it demonstrates in its program plan that it:

(1) Will give priority for services provided under this chapter to pupils from low-income families.

(2) Will assist families in responding to support services needs of pupils.

(3) Has established the local agency collaboration process described in Article 4 (commencing with Section 8806), including a mechanism for sharing governance with cooperating agencies and entities, and for integrating or redirecting existing resources and other school support services.

(4) Has submitted or is submitting an application to the State Department of Education and the State Department of Health Services for certification as a Medi-Cal provider, pursuant to Section 14000, and following, of the Welfare and Institutions Code.

(5) Involves parents or guardians and teachers in the process of identifying pupils' service needs and in the planning for and provision of support services.

(g) For purposes of this chapter, support services shall include case-managed health, mental health, social, and academic support services benefiting children and their families, and may include, but are not limited to:

(1) Health care, including:

(A) Immunizations.

(B) Vision and hearing testing and services.

(C) Dental services.

(D) Physical examinations, diagnostic, and referral services.

(E) Prenatal care.

(2) Mental health services, including primary prevention, crisis intervention, assessments, and referrals, and training for teachers in the detection of mental health problems.

(3) Substance abuse prevention and treatment services.

(4) Family support and parenting education, including child abuse prevention and schoolage parenting programs.

(5) Academic support services, including tutoring, mentoring, employment, and community service internships, and inservice training for teachers and administrators. However, grants for these purposes shall supplement, not supplant, existing resources in these areas.

(6) Counseling, including family counseling and suicide prevention.

(7) Services and counseling for children who experience violence in their communities.

(8) Nutrition services.

(9) Youth development services, including tutoring, mentoring, recreation, career development, and job placement.

(10) Case management services.

(11) Provision of onsite Medi-Cal eligibility workers.

(h) A local educational agency or consortium may contract with other entities, including county agencies and private nonprofit organizations or private partners, to provide services to pupils and their families.

(i) Each local educational agency or consortium seeking a grant under this article shall submit an application to the superintendent at a time and manner, and with any appropriate information, as the superintendent may reasonably require.

Each grant application submitted shall include all of the following:

(1) A description of the proposed programs, including four or more support services expected to be provided at the schoolsite or at a site near, or adjacent to, the school.

(2) Documentation of need for participation in the Healthy Start Support Services for Children Grant Program.

(3) Documentation of need for planning assistance, program operation support, or both.

(4) As to any operational grant application, a description of the objectives of the program, the amount and sources of required funding, the existing resources to be used or redirected, the priorities for development and timing of the program, the agencies responsible for the implementation of the program, and the procedures for the evaluation of the program.

The program plan submitted with an operational grant application shall include all of the following:

(A) Provisions for data collection and recordkeeping, including records of the population served, the components of the service, the results of the service, and costs, including startup, direct, and indirect costs, including those to other agencies, and cost savings.

(B) A service evaluation component, including input, process, and outcome indicators, quality assessment, and the process by which these measures will be taken. In addition, the plan shall include specific targets and outcome measures.

(C) A specific governing mechanism by which the plan will be implemented, including local decisionmaking responsibilities, organizational needs, anticipated problems and procedures to solve them, and incentives for collaboration and participation incentives to personnel.

(D) A specific system for the provision of case management services, including procedures for implementation, identification of the target population, anticipated outcomes, and a list of existing services, resources, and programs that will be used as components of the program.

(5) In the case of a consortium, a list of its members.

(6) The grant application also shall document any procedures that have been, or will be, taken to designate the local educational agency as a Medi-Cal provider pursuant to Section 14000, and following, of the Welfare and Institutions Code.

(7) A description of technical assistance, professional growth, and development needs, if any.

(8) A description of the proposed plan for family involvement in the program.

(9) A description of the population anticipated to be served.

(10) As to any planning grant application, a plan describing how the proposed program will be implemented after the grant has expired.

(j) Grants awarded pursuant to this article may be used for salaries of staff responsible for developing or implementing the program plan and administrative support staff, equipment and supplies, training, and insurance, pursuant to subdivision (b).

(k) No more than 10 percent of the amount appropriated in a fiscal year for the purposes of this chapter may be used by the superintendent for state-level administration of this chapter,

including evaluation and technical assistance. Technical assistance includes, but is not limited to, establishing interagency collaboration, providing information dissemination and referrals, including information about appropriate program models, conducting site visits, and convening workshops to assist in the implementation of a program developed pursuant to this chapter.

(1) Of the amount provided in the annual Budget Act for state-level administration, up to 75 percent may be used for the purpose of outreach and technical assistance to local educational agencies. The remainder shall be used for state-level program administration.

(2) The superintendent shall ensure that adequate resources are available to conduct an evaluation pursuant to subdivision (b) of Section 8805.

(*l*) Commencing in the 1992 calendar year, and each subsequent year for which funding is available, grants shall be awarded according to the following schedule:

(1) The superintendent shall issue requests for applications on or before November 1.

(2) Grant applications shall be submitted to the superintendent on or before March 1.

(3) The superintendent shall award grants on or before May 15.

CHAPTER 173

An act to amend Sections 131010 and 131051 of the Public Utilities Code, relating to transportation.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 131010 of the Public Utilities Code is amended to read:

131010. "Sponsoring agency" means a governmental agency that has transportation responsibilities in the county in which a retail transactions and use tax ordinance has been approved pursuant to this division.

SEC. 2. Section 131051 of the Public Utilities Code is amended to read:

131051. The county transportation expenditure plan shall consist of all of the following:

(a) (1) A list of essential traffic and transportation projects in the order of priority within the county, and their respective sponsoring agencies, which current estimates of federal, state, and local funds indicate are insufficient to provide for their completion. The types

of projects may include, but are not limited to, capital, maintenance, repair, or operation projects. However, no project shall be included that does not have a sponsoring agency. Estimates of federal and state funding shall be based on estimates provided by the staff of the commission. The sponsoring agency shall provide cost estimates for its projects. An agency which administers a retail transactions and use tax ordinance adopted pursuant to this division shall not be a public transit operator. In addition, any state highway project is subject to approval by the department. Any project estimated to have adequate funding shall not be included on the list.

(2) Notwithstanding paragraph (1), funds generated from this division may be used to advance construction to an earlier date for projects contained in the state transportation improvement plan with the concurrence of the county transportation authority, the commission, the California Transportation Commission, and the department.

(b) An estimate of the costs of each of the projects listed in subdivision (a).

(c) An estimate of the current sources of funds available to assist in the completion of each of the projects listed in subdivision (a).

(d) An estimate of the additional amounts of funds to make up the difference between figures in subdivisions (b) and (c) for each of the projects listed in subdivision (a).

(e) A recommendation on whether the adoption of a retail transactions and use tax ordinance would be necessary to fund the projects listed in subdivision (a). If a recommendation is made for the adoption of that ordinance, it shall include a recommendation as to whether the tax shall be permanent or for a specific term. The recommendation shall also address the issue of whether a bonding authority should be sought and on the limitations of that authority.

(f) A recommendation on whether the board of supervisors should request the voters to authorize the creation of a county transportation authority pursuant to this division to impose and administer the proceeds of the tax ordinance recommended in subdivision (e), or whether the board of supervisors should request the commission to impose and administer the proceeds of the tax. The ordinance shall be subject to the approval of a majority of the electors voting on the measure to approve the imposition of the tax.

(g) If the recommendation is for the board of supervisors to ask the voters to request the commission to impose the tax, a recommendation shall be made for the establishment and membership of an advisory committee to advise the commission on the administration of the recommended county transportation expenditure plan.

(h) If the recommendation is for the creation of a county transportation authority, the recommendation shall also include the membership of the authority, specifying the number to represent local governments and the number to represent the county.

(i) A recommendation as to whether to seek the support of adjacent counties for projects that have intercounty impact by requesting the board of supervisors and the city selection committee of each of the adjacent counties to develop a county transportation expenditure plan for their respective county. Adjacent counties shall endeavor to work cooperatively together to develop mutual traffic and transportation projects identified in their respective county transportation expenditure plan.

CHAPTER 174

An act to add Article 14 (commencing with Section 49590) to Chapter 9 of Part 27 of the Education Code, relating to education.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Article 14 (commencing with Section 49590) is added to Chapter 9 of Part 27 of the Education Code, to read:

Article 14. School Nutrition Report

49590. The State Department of Education shall ensure that the nutrition levels of meals served to schoolage children pursuant to the National School Lunch Act be of the highest quality and greatest nutritional value possible.

49590.5. On or before November 15, 1998, the State Department of Education shall submit to the Legislature a written report in response to all of the following issues:

(a) The effects and impact of the federal "Personal Responsibility and Work Opportunity Reconciliation Act" (Public Law 104-193) on the delivery and availability of meals served to schoolage children.

(b) Under existing law, county departments of social services provide schools with a list of all children who receive Aid to Families with Dependent Children. This list provides the schools with direct certification, thereby avoiding the need for a lengthy certification process. Because of the recently enacted federal "Personal Responsibility and Work Opportunity Reconciliation Act," (Public Law 104-193) numerous schoolage children will no longer be entitled to AFDC benefits. The State Department of Education shall respond regarding whether direct certification should be retained and how such a system would work. Without direct certification, many schoolage children will lose their eligibility for meals due to the lengthy and involved process of providing certification.

(c) The effects and impact of changes to the federal food stamp program on the summer food program and the child care food program.

(d) The delivery, availability, and quality of meals served to children, including low-income pupils, at charter schools in California.

(e) The effects and impact of the change of administration authority for summer food programs from the United States Department of Agriculture to the State Department of Education.

(f) The availability and delivery of meals to kindergarten students.

CHAPTER 175

An act to amend Section 56133 of the Government Code, and to amend Section 12819 of the Public Utilities Code, relating to municipal utility districts.

[Approved by Governor August 2, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 56133 of the Government Code is amended to read:

56133. A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county. The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization. This section does not apply to contracts or agreements solely involving two or more public agencies. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section shall not apply to an extended service that a city or district was providing on January 1, 1994. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services, which do not involve the acquisition, construction, or installation of electric

distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

SEC. 2. Section 12819 of the Public Utilities Code is amended to read:

12819. (a) Every district furnishing light, heat, or power shall expend no funds for advertising when the advertising encourages increased consumption of the services or commodities.

(b) Nothing in this section shall prohibit a district furnishing light, heat, or power from expending funds for advertising which encourages the more efficient operation of the facilities, works, or utilities of the district, or for advertising which encourages the more efficient use of light, heat, or power, the conservation of energy or natural resources, or presents accurate information on the economical purchase, maintenance, or use of any appliance or device using light, heat, or power.

(c) Nothing in this section shall prohibit a district furnishing light, heat, or power from expending funds for advertising for the purposes of economic development that benefits ratepayers, retaining customers, marketing competitive services and commodities, or promoting electrotechnologies that enhance productivity or provide environmental benefits, within or without the district.

CHAPTER 176

An act to add Section 10144.3 to the Insurance Code, relating to insurance.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 10144.3 is added to the Insurance Code, to read:

10144.3. (a) No admitted insurer licensed to issue life insurance shall refuse to accept an application for insurance, refuse to issue or renew a policy, cancel a policy, or deny coverage under a policy because the applicant for insurance or any person who is or would be insured is, or has been, a victim of domestic violence.

(b) Nothing in this section shall prevent a life insurer from taking any of the actions set forth in subdivision (a) on the basis of criteria not otherwise made invalid by this section or any other act, regulation, or rule of law. If discrimination by a life insurer is not in violation of this section but is based on any other criteria that are allowable by law, the fact that the applicant or insured is, has been, or may be the subject of domestic violence shall be irrelevant.

(c) Nothing in this section shall require a life insurer to pay for any loss if that payment is prohibited by Section 533.

(d) As used in this section, “domestic violence” means domestic violence as defined in Section 6211 of the Family Code.

CHAPTER 177

An act to amend Section 25174.6 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 25174.6 of the Health and Safety Code is amended to read:

25174.6. (a) The fee provided pursuant to Section 25174.1 shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.2, or as otherwise provided by this section. The procedure for determining these fees is as follows:

(1) The following fees shall be paid for each ton, or fraction thereof for up to the first 5,000 tons of the following hazardous wastes disposed of, or submitted for disposal, in the state at each specific offsite facility by each producer, or at each specific onsite facility, per month, if the hazardous wastes are not otherwise subject to the fee specified in paragraph (3) or (4) and are not otherwise exempt from the fees imposed pursuant to this article:

(A) For non-RCRA hazardous waste, excluding asbestos, generated in a remedial action, a removal action, or a corrective action taken pursuant to this chapter, Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), or Chapter 6.8 (commencing with Section 25300), or generated in any other required or voluntary cleanup, removal, or remediation of a hazardous substance or non-RCRA hazardous waste, a fee of seven dollars and fifty cents ($7.50) per ton.

(B) For all other non-RCRA hazardous waste, a fee of 16.31 percent of the base rate for each ton.

(2) Thirteen percent of the base rate for each ton, or fraction thereof, shall be paid for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state, at each specific offsite facility by each producer, or at each specific onsite facility, per month, which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4).

(3) Two hundred percent of the base rate shall be paid for each ton, or fraction thereof, of extremely hazardous waste disposed of, or submitted for disposal, in the state.

(4) Two hundred percent of the base rate shall be paid for each ton, or fraction thereof, of restricted hazardous wastes listed in subdivision (b) of Section 25122.7 disposed of, or submitted for disposal, in the state.

(5) Forty and four-tenths percent of the base rate shall be paid for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), or (6).

(6) Five percent of the base rate shall be paid for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, that is a solid hazardous waste residue resulting from incineration or dechlorination. No fees shall be imposed pursuant to this paragraph on a solid hazardous waste residue resulting from incineration or dechlorination which is disposed of, or submitted for disposal, outside of the state.

(7) Fifty percent of the fee that would otherwise be paid for each ton, or fraction thereof, of hazardous waste disposed of in the state, that is a solid hazardous waste residue resulting from treatment of a treatable waste by means of a designated treatment technology, as defined in Section 25179.2. No fees shall be imposed pursuant to this paragraph on a solid hazardous waste residue resulting from treatment of a treatable waste by means of a designated treatment technology that is not a hazardous waste or which is disposed of, or submitted for disposal, outside of the state.

(b) The amount of fees payable to the State Board of Equalization pursuant to this section shall be calculated using the total wet weight, measured in tons or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using a land disposal method, as defined in Section 66260.10 of Title 22 of the California Code of Regulations, if all of the following apply:

(1) The weight of any nonhazardous reagents or treatment additives added to the waste, after it has been submitted for disposal, for purposes of rendering the waste less hazardous, shall not be included in those calculations.

(2) Except as provided by paragraph (7) of subdivision (a), any RCRA hazardous waste received, treated, and disposed at the disposal facility shall be subject to a disposal fee pursuant to this section as if it were a non-RCRA hazardous waste, if the waste, due to treatment, is no longer a RCRA hazardous waste at the time of disposal.

(c) All fees imposed by this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

CHAPTER 178

An act relating to highways.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. It is the intent of the Legislature that any federal funds that are received and available for the purpose of constructing nonmotorized grade crossings shall be allocated, transferred, or disbursed for that purpose.

CHAPTER 179

An act to add Section 91000.5 to the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 91000.5 is added to the Government Code, to read:

91000.5. No administrative action brought pursuant to Chapter 3 (commencing with Section 83100) alleging a violation of any of the provisions of this title shall be commenced more than five years after the date on which the violation occurred.

(a) The service of the probable cause hearing notice, as required by Section 83115.5, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.

(b) If the person alleged to have violated this title engages in the fraudulent concealment of his or her acts or identity, the five-year period shall be tolled for the period of the concealment. For purposes of this subdivision, "fraudulent concealment" means the person knows of material facts related to his or her duties under this title and knowingly conceals them in performing or omitting to perform those duties, for the purpose of defrauding the public of information to which it is entitled under this title.

(c) If, upon being ordered by a superior court to produce any documents sought by a subpoena in any administrative proceeding under Chapter 3 (commencing with Section 83100), the person alleged to have violated this title fails to produce documents in response to the order by the date ordered to comply therewith, the five-year period shall be tolled for the period of the delay from the date of filing of the motion to compel until the date the documents are produced.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 180

An act to amend Section 19619 of, and to add Section 19619.2 to, the Business and Professions Code, relating to horseracing.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 19619 of the Business and Professions Code is amended to read:

19619. (a) Since the purpose of this chapter is to encourage agriculture and the breeding of horses in this state, a California Standardbred Sires Stakes Program is hereby established for standardbred horses bred in the State of California.

(b) Horses eligible to race in the California Standardbred Sires Stakes Program shall be the offspring of any registered California standardbred stallion standing in California during an entire breeding season.

(c) Responsibility for the California Standardbred Sires Stakes Program is with the board. Administration of the California Standardbred Sires Stakes Program is the responsibility of the California Standardbred Sires Stakes Committee. The committee shall consist of five members and one alternate selected from and by the California Harness Horse Owners and Breeders Association.

Administrative expenses of the committee in any given year shall not exceed 4 percent of that year's income to the California Standardbred Sires Stakes Program, and all expenses shall be approved by the board.

(d) The board may do all that is necessary to ensure that the California Standardbred Sires Stakes Program is appropriately administered and shall prepare, issue, and adopt rules and regulations providing for all of the following:

(1) Classes and divisions of races, eligibility of horses and owners therefor, and prizes and awards to be awarded.

(2) Nominating, sustaining, and entry fees for horses and races.

(3) Registration and certification of California stallions, mares bred to those stallions, and foals produced thereby.

(4) Any other matter that is considered to be necessary and appropriate for the proper administration and implementation of the California Standardbred Sires Stakes Program.

(e) The funds for the California Standardbred Sires Stakes Program made available pursuant to Section 19491.7 and the nominating, sustaining, and entry fees provided for in this section shall be deposited with the California Standardbred Sires Stakes Committee. The committee shall distribute the funds deposited with it in accordance with this section for the purposes of the program in the manner approved by the board.

(f) Pursuant to Section 19491.7, the breakage used to fund the California Standardbred Sires Stakes Program and to increase purses shall be divided in accordance with the following criteria:

	California Standardbred Sires Stakes Program	Purses
1977	10%	90%
1978	20%	80%
1979	25%	75%
1980	50%	50%
January 1 to June 30, 1981	75%	25%
July 1, 1981, and thereafter	100%	0%

(g) An amount equal to 10 percent of the total purses raced for in the California sires stakes races shall be awarded to the standardbred breeders of the horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse.

(h) An amount equal to 2 percent of the total purses raced for in the California sires stakes races shall be awarded to the owners of the registered California standardbred stallions that sired horses that earned purse money in the California standardbred sires stakes races in proportion to the amount of purse money earned by each horse so sired.

(i) Notwithstanding subdivision (b), the board may establish a series of races for two-year-old and three-year-old fillies that are wholly owned by a California resident on the first day of January of the year that they become two years old and are wholly owned by a California resident on the day of the race.

(j) The balance of the remaining funds, including nominating, sustaining, and entry fees, and after the expenditures described in subdivisions (e), (g), (h), and (i) have been made, shall be allocated

to purses for races comprising the California Standardbred Sires Stakes Program.

(k) The schedule of races that shall comprise the California Standardbred Sires Stakes Program during each year shall be set by the board in accordance with the following criteria:

(1) California standardbred sires stakes races shall be scheduled for two-year-old and three-year-old trotters and two-year-old and three-year-old pacers at the discretion of the California Standardbred Sires Stakes Committee, except that no two-year-old races shall be held prior to the first day of June of any year. Races for four-year-old or aged trotters and four-year-old or aged pacers may also be scheduled.

(2) Two- and three-year-old races shall be divided into colt and filly divisions.

(3) Base purses for each set of races conducted during any given year at any race meeting shall be determined by the committee but, with the exception of championship races that may be scheduled and excluding purses derived from nomination, sustaining, and entry fees, shall be equal for all two-year-old and three-year-old races regardless of sex and gait, except that, if divisions are raced, the base purse for each division shall be no less than 75 percent of the original base purse and, if elimination heats are raced, the base purse shall be determined by the committee. As used in this section, a set of races means one final race for each eligible age, sex, and gait, as scheduled by the committee.

(4) In each division of each race in the California standardbred sires stakes races, the purse shall be divided in the following manner:

(i) Five or more starters	
1st	50%
2nd	25%
3rd	12%
4th	8%
5th	5%
(ii) Four starters	
1st	55%
2nd	25%
3rd	12%
4th	8%
(iii) Three starters	
1st	55%

2nd 30%
3rd 15%
(iv) Two starters
1st 65%
2nd 35%
(v) One starter
1st 100%

SEC. 2. Section 19619.2 is added to the Business and Professions Code, to read:
19619.2. Notwithstanding any other provision of this chapter, funds may be made available to supplement the purses distributed by the California Standardbred Sires Stakes Program from purse funds generated pursuant to Sections 19612, 19612.2, 19612.3, and 19612.6 upon agreement by the recognized harness horsemen's organization and the harness racing association conducting the live racing meeting.

CHAPTER 181

An act to add Section 1363.6 to the Civil Code, relating to common interest developments.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 1363.6 is added to the Civil Code, to read:
1363.6. (a) In order to facilitate the collection of regular assessments, special assessments, transfer fees, and similar charges, the board of directors of any association is authorized to record a statement or amended statement identifying relevant information for the association. This statement may include any or all of the following information:
(1) The name of the association as shown in the conditions, covenants, and restrictions or the current name of the association, if different.
(2) The name and address of a managing agent or treasurer of the association or other individual or entity authorized to receive assessments and fees imposed by the association.
(3) A daytime telephone number of the authorized party identified in paragraph (2) if a telephone number is available.

(4) A list of separate interests subject to assessment by the association, showing the assessor's parcel number or legal description, or both, of the separate interests.

(5) The recording information identifying the declaration or declarations of covenants, conditions, and restrictions governing the association.

(6) If an amended statement is being recorded, the recording information identifying the prior statement or statements which the amendment is superseding.

(b) The county recorder is authorized to charge a fee for recording the document described in subdivision (a), which fee shall be based upon the number of pages in the document and the recorder's per-page recording fee.

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 182

An act to add and repeal Section 80.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 80.1 is added to the Revenue and Taxation Code, to read:

80.1. (a) On and after January 1, 1998, no person shall prepare an opinion of value on real property, intended for submission in an assessment appeal involving residential property with an assessed value of one million dollars ($1,000,000) or less, for an owner of real property for compensation or in expectation of compensation, unless that opinion of value is designated either as (1) an appraisal report prepared in accordance with the standards specified in Section 11319 of the Business and Professions Code or (2) an opinion of value, and bears the following notation: "The value expressed in this opinion should not be construed as an appraisal report, which must be

prepared in accordance with Uniform Standards of Professional Appraisal Practice.''

(b) Nothing in this section shall be construed to permit an appraiser licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code to prepare an opinion of value that is not in accordance with the standards adopted pursuant to that part or specified in Section 11319 of the Business and Professions Code.

(c) Nothing in this section shall be construed to prevent an owner of real property from preparing and submitting information on that property. For purposes of this section, ''owner of real property'' includes employees of the owner.

(d) Nothing in this section shall preclude property managers from providing relevant information on operational aspects of properties under their management.

(e) This section shall not apply to agents or instrumentalities of local, state, or federal government.

(f) This section shall remain in effect only until January 1, 2001, and as of that date is repealed.

CHAPTER 183

An act to amend Section 273 of the Code of Civil Procedure, relating to courts.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 273 of the Code of Civil Procedure is amended to read:

273. (a) The report of the official reporter, or official reporter pro tempore, of any court, duly appointed and sworn, when transcribed and certified as being a correct transcript of the testimony and proceedings in the case, is prima facie evidence of that testimony and proceedings.

(b) The report of the official reporter, or official reporter pro tempore, of any court, duly appointed and sworn, when prepared as a rough draft transcript, shall not be certified and cannot be used, cited, or transcribed as the official certified transcript of the proceedings. A rough draft transcript shall not be cited or used in any way or at any time to rebut or contradict the official certified transcript of the proceedings as provided by the official reporter or

official reporter pro tempore. The production of a rough draft transcript shall not be required.

CHAPTER 184

An act to amend Section 6018 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 6018 of the Revenue and Taxation Code is amended to read:

6018. A licensed optometrist, physician and surgeon, pharmacist, or registered dispensing optician is a consumer of and shall not be considered a retailer within the provisions of this part as follows:

(a) In the case of a licensed optometrist or physician and surgeon with respect to the ophthalmic materials used or furnished by him or her, in the performance of his or her professional services in the diagnosis, treatment or correction of conditions of the human eye, including the adaptation of lenses or frames for the aid thereof.

(b) In the case of a licensed pharmacist only with respect to replacement contact lenses dispensed pursuant to Section 4124 of the Business and Professions Code.

(c) In the case of a registered dispensing optician with respect to the dispensing of ophthalmic materials.

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 California 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 60 days after the effective date of this act.

CHAPTER 185

An act to amend Section 273 of the Penal Code, relating to adoption.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 273 of the Penal Code is amended to read:

273. (a) It is a misdemeanor for any person or agency to pay, offer to pay, or to receive money or anything of value for the placement for adoption or for the consent to an adoption of a child. This subdivision shall not apply to any fee paid for adoption services provided by the State Department of Social Services, a licensed adoption agency, adoption services providers, as defined in Section 8502 of the Family Code, or an attorney providing adoption legal services.

(b) This section shall not make it unlawful to pay or receive the maternity-connected medical or hospital and necessary living expenses of the mother preceding and during confinement as an act of charity, as long as the payment is not contingent upon placement of the child for adoption, consent to the adoption, or cooperation in the completion of the adoption.

(c) It is a misdemeanor punishable by imprisonment in a county jail not exceeding one year or by a fine not exceeding two thousand five hundred dollars ($2,500) for any parent to obtain the financial benefits set forth in subdivision (b) with the intent to receive those financial benefits where there is an intent to do either of the following:

(1) Not complete the adoption.

(2) Not consent to the adoption.

(d) It is a misdemeanor punishable by imprisonment in a county jail not exceeding one year or by a fine not exceeding two thousand five hundred dollars ($2,500) for any parent to obtain the financial benefits set forth in subdivision (b) from two or more prospective adopting families or persons, if either parent does both of the following:

(1) Knowingly fails to disclose to those families or persons that there are other prospective adopting families or persons interested in adopting the child, with knowledge that there is an obligation to disclose that information.

(2) Knowingly accepts the financial benefits set forth in subdivision (b) if the aggregate amount exceeds the reasonable maternity-connected medical or hospital and necessary living expenses of the mother preceding and during the pregnancy.

(e) Any person who has been convicted previously of an offense described in subdivision (c) or (d), who is separately tried and convicted of a subsequent violation of subdivision (c) or (d), is guilty of a public offense punishable by imprisonment in a county jail or in the state prison.

(f) Nothing in this section shall be construed to prohibit the prosecution of any person for a misdemeanor or felony pursuant to Section 487 or any other provision of law in lieu of prosecution pursuant to this section.

SEC. 2. The Legislature finds and declares that the addition of subdivision (f) to Section 273 of the Penal Code, as made by Section 1 of this act, does not constitute a change in, but is declaratory of, existing law.

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 186

An act to amend Sections 5517, 8183, 8280.1, and 9001.6 of, to add Section 8280.7 to, to repeal, add, and repeal Section 8279.1 of, and to repeal Section 8599.6 of, the Fish and Game Code, relating to fish.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 5517 of the Fish and Game Code is amended to read:

5517. It is unlawful to take any white shark (Carcharodon carcharias), except under permits issued pursuant to Section 1002 for scientific or educational purposes.

SEC. 2. Section 8183 of the Fish and Game Code is amended to read:

8183. No anchovies may be taken for any purpose in Humboldt Bay, except under the following conditions:

(a) Anchovies may be taken for live bait between May 1 and December 1 and may be taken for dead bait between May 1 and August 31. The operator of a vessel may take anchovies only for use in his or her own fishing operation, except that the operator may make incidental sales of anchovies so taken to local sport fishermen for their use as bait.

This subdivision does not prevent the cooperative effort of two or more vessel operators or their crews working together with one net if each operator has complied with the notification requirement in subdivision (b).

(b) An observer who is an employee of the department shall inspect any bait operation and may halt that operation if the operation cannot be conducted without adversely affecting the game species of the bay. Notification of all bait operations shall be dispatched so as to be received by the department at least 12 hours prior to the commencement of the operation.

(c) Anchovies may be taken in Districts 8 and 9 only north of a line extending through channel markers 8 and 9 in Humboldt Bay.

(d) Not more than 15 tons of anchovies may be taken between May 1 and August 31 of each year and not more than 15 tons may be taken between September 1 and December 1 of each year.

(e) Only bait nets, as defined in Section 8780, shall be used to take anchovy.

(f) Any game fish caught incidentally in bait nets shall be released by use of a hand scoop net or by dipping the cork line.

An accurate record of all fishing operations shall be kept and is subject to inspection by the department.

The commission shall adopt any other regulation it determines is necessary to protect the Humboldt Bay anchovy resource.

SEC. 3. Section 8279.1 of the Fish and Game Code is repealed.

SEC. 4. Section 8279.1 is added to the Fish and Game Code, to read:

8279.1. (a) No person shall take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters in District 6, 7, 8, or 9 for 30 days after the opening of the Dungeness crab fishing season in California, if both of the following events have occurred:

(1) The opening of the season has been delayed pursuant to state law in California.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes, from ocean waters outside of District 6, 7, 8, or 9, prior to the opening of the season in those districts.

(b) No person shall take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters south of the border between Oregon and California for 30 days after the opening of the Dungeness crab fishing season in California, if both of the following events have occurred:

(1) The opening of the season has been delayed pursuant to state law in California.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in Oregon or Washington prior to the opening of the season in California.

(c) No person shall take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters north of the border between Oregon and California for 30 days after the opening of the Dungeness crab fishing season in Oregon or Washington, if both of the following events have occurred:

(1) The opening of the season has been delayed in Oregon or Washington.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in California prior to the opening of the season in ocean waters off Oregon or Washington.

(d) No person shall take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters off Washington, Oregon, or California for 30 days after the opening of the Dungeness crab fishing season in California, Oregon, or Washington, if both of the following events have occurred:

(1) The opening of the season has been delayed in Washington, Oregon, or California.

(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in either of the two other states prior to the delayed opening in the ocean waters off any one of the three states.

(e) A violation of this section shall not constitute a misdemeanor. Pursuant to Section 7857, the commission shall revoke the Dungeness crab vessel permit held by any person who violates this section.

(f) This section shall become inoperative on April 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2002, deletes or extends that date.

SEC. 5. Section 8280.1 of the Fish and Game Code is amended to read:

8280.1. (a) No person shall use a vessel to take, possess, or land Dungeness crab for commercial purposes using Dungeness crab traps authorized pursuant to Section 9011, unless the owner of that vessel has a Dungeness crab vessel permit for that vessel that has not been suspended or revoked. This section does not apply to a commercially registered fishing vessel when it is being used solely to assist a permitted vessel transport or set traps.

(b) A Dungeness crab vessel permit may be issued only to the following persons for use on qualifying vessels:

(1) A person, who has a commercial fishing license issued pursuant to Section 7852 or Article 7 (commencing with Section 8030) that has not been suspended or revoked, who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in each of three Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel. This paragraph includes any person purchasing a vessel qualifying pursuant to this paragraph.

(2) A person who has a commercial fishing license issued pursuant to Section 7852 or Article 7 (commencing with Section 8030) that has not been suspended or revoked, who is the owner of a commercial fishing vessel that has been registered with the department pursuant

to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in one of the Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel in this state as documented by landing receipts delivered to the department pursuant to Section 8046, who the department finds to have been unable, due to illness or injury or any other hardship, to make a minimum of four landings in each of two of the previous three Dungeness crab seasons, and who, in good faith, intended to participate in the Dungeness crab fishery in those seasons.

(3) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who meets the requirements of Section 8101, and who, notwithstanding Section 8101, is, at the time of application, the owner of a fishing vessel that is not equipped for trawling with a net and that has been registered pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years. Not more than one Dungeness crab vessel permit shall be issued to any person qualifying under Section 8101 and all permits issued under Section 8101 shall, notwithstanding paragraph (1) of subdivision (a) of Section 8280.3, be nontransferable. A person qualifying for a permit under this paragraph shall have participated in the Dungeness crab fishery on or before March 31, 1994, as documented by landing receipts that were prepared in that person's name for not less than four landings of Dungeness crab taken in a crab trap in a Dungeness crab season and were delivered to the department pursuant to Section 8046. No person shall be issued a permit under this paragraph if that person has been issued a permit under any other provision of this section for another vessel. For purposes of Section 8101, "participated in the fishery" means made not less than four landings of Dungeness crab taken by traps in that person's name in one Dungeness crab season. The department shall separately identify permits issued pursuant to this paragraph and those permits shall become immediately null and void upon the death of the permittee. The department shall not issue or renew any permit under this paragraph to a person if the person failed to meet the participation requirements of four landings in one season prior to April 1, 1994, or has been issued a Dungeness crab permit for a vessel under any other paragraph of this subdivision.

(4) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who meets one of the following conditions:

(A) The person held a Dungeness crab permit issued pursuant to Section 8280 as it read on April 1, 1994, and participated in the Dungeness crab fishery between November 1, 1984, and April 1, 1994, and is the owner of a vessel that has been registered with the department in each of the 1991–92, 1992–93, and 1993–94 permit years but did not make landings or the department records do not indicate a minimum of four landings per season for three Dungeness crab

seasons from that vessel or in that person's name because of a partnership or other working arrangement where the person was working aboard another vessel engaged in the Dungeness crab fishery in California.

(B) The person held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, and is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and from which a minimum of four landings utilizing traps were made in at least one Dungeness crab season in the period between November 1, 1984, and April 1, 1994, and from which either four landings were made utilizing traps or landings in excess of 10,000 pounds were made utilizing traps in each of two other Dungeness crab seasons in that same period, as documented by landing receipts.

(C) The person held a Dungeness crab vessel permit issued under Section 8280 as it read on April 1, 1994, or was an officer in a California corporation that was licensed pursuant to Article 7 (commencing with Section 8030) as of April 1, 1994, and began construction or reconstruction of a vessel on or before January 1, 1992, for the purpose of engaging in the Dungeness crab fishery, including the purchase of equipment and gear to engage in that fishery in California. A person may be issued a permit under this condition only if the person intended in good faith to participate in the California Dungeness crab fishery, a denial of a permit would create a financial hardship on that person, and, for purposes of determining financial hardship, the applicant is a nonresident and cannot participate with his or her vessel or vessels in the Dungeness crab fishery of another state because of that state's limited entry or moratorium on the issuance of permits for the taking of Dungeness crab.

(5) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, who made a minimum of four landings of Dungeness crab taken by traps in each of three Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, in his or her name in this state from a vessel owned by that person, as documented by landing receipts, who, between April 1, 1991, and January 1, 1995, purchased, contracted to purchase, or constructed a vessel, not otherwise qualifying pursuant to paragraph (1), (2), or (4), who has continuously owned that vessel since its purchase or construction, and who either (A) has used that vessel for the take of Dungeness crab in this state on or before March 31, 1995, as documented by one or more landing receipts delivered to the department pursuant to Section 8046, or (B) intended in good faith, based on evidence that the department and the review panel may require, including investment in crab gear, to enter that vessel in this state's Dungeness

crab fishery not later than December 1, 1995. Not more than one permit may be issued to any one person under this paragraph.

(6) A person who held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, who made a minimum of four landings utilizing traps in this state in each of three Dungeness crab seasons in the period between November 1, 1984, and April 1, 1994, in his or her name from a vessel operated by that person as documented by landing receipts, who currently does not own a vessel in his or her name, and who has not sold or transferred a vessel otherwise qualifying for a permit under this section. A permit may be issued under this paragraph for a vessel not greater in size than the vessel from which the previous landings were made, and, in no event, for a vessel of more than 60 feet overall length, to be placed on a vessel that the person purchases or contracts for construction on or before April 1, 1996. A permit issued under this paragraph shall be nontransferable and shall not be used for a vessel not owned by that person, and shall be revoked if the person (A) fails to renew the permit or annually renew his or her commercial fishing license issued pursuant to Section 7852 or (B) is or becomes the owner of another vessel permitted to operate in the Dungeness crab fishery pursuant to this section.

(c) The department may require affidavits offered under penalty of perjury from persons applying for permits under subdivision (b) or from witnesses corroborating the statements of a person applying for a Dungeness crab vessel permit. Affidavits offered under penalty of perjury shall be required of an applicant if the department cannot locate records required to qualify under subdivision (b).

(d) No person shall be issued a Dungeness crab vessel permit under this section for any vessel unless that person has a valid commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked.

(e) Notwithstanding Section 7852.2 or subdivision (e) of Section 8280.2, the department may issue a Dungeness crab vessel permit that has not been applied for by the application deadline if the department finds that the failure to apply was a result of a mistake or hardship, as established by evidence the department may require, the late application is made not later than October 15, 1995, and payment is made by the applicant of a late fee of two hundred fifty dollars ($250) in addition to all other fees for the permit.

(f) The department may waive the requirement that a person own a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years for one of those required years under this section only if the vessel was registered and used in the California Dungeness crab fishery during the registration year immediately prior to the year for which the waiver is sought and was registered and used in the California Dungeness crab fishery after the year for which the waiver is sought and if the reason for the failure to register

in the year for which the waiver is sought was due to a death, illness, or injury, or other hardship, as determined by the review panel, that prevented the vessel from being registered and operated in the fishery for that registration year.

(g) If any person submits false information for the purposes of obtaining a Dungeness crab vessel permit under this section, the department shall revoke that permit, if issued, revoke the person's commercial fishing license that was issued pursuant to Section 7850 for a period of not less than five years, and revoke the commercial boat registration for a period of not less than five years of any vessel registered to that person pursuant to Section 7881 of which that person is the owner.

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

SEC. 6. Section 8280.7 is added to the Fish and Game Code, to read:

8280.7. Notwithstanding Section 8280.1, the owner of a vessel, who has a Dungeness crab vessel permit for that vessel that has not been suspended or revoked, may contract for the use of a vessel that is registered pursuant to Section 7881 and for which a Dungeness crab vessel permit has not been issued for the purpose of assisting the crew of the permitted vessel in the deployment of Dungeness crab traps. An unpermitted vessel used for the purpose of assisting in the deployment of Dungeness crab traps pursuant to this section shall not have on board any equipment for the retrieval of Dungeness crab traps and shall not have on board at any time any Dungeness crab.

SEC. 7. Section 8599.6 of the Fish and Game Code is repealed.

SEC. 8. Section 9001.6 of the Fish and Game Code is amended to read:

9001.6. (a) A finfish trap permit issued pursuant to Section 9001.5 authorizes finfish to be taken with finfish traps only subject to the following limitations:

(1) No lobster shall be possessed aboard or landed from any vessel for commercial purposes on which finfish are also present unless at least one person on board has a valid finfish trap permit issued to that person pursuant to Section 9001.5 that has not been suspended or revoked and every person on board has a valid lobster permit issued pursuant to Section 8254 that has not been suspended or revoked and is in compliance with this article and Article 5 (commencing with Section 8250) of Chapter 2 and the regulations adopted pursuant to these articles. Lobster shall not be used as bait in finfish traps, and any lobster found in finfish traps that may not be possessed pursuant to this article or Article 5 (commencing with Section 8250) of Chapter 2 shall be returned to the water immediately.

(2) During the period from one hour after sunset to one hour before sunrise finfish traps that are left in the water shall be unbaited

with the door secured open. However, if, for reasons beyond the control of the permittee, all trap doors cannot be secured open prior to one hour after sunset, the permittee shall immediately notify the department.

(3) Timed buoy release mechanisms commonly termed “popups” shall not be used on buoy lines attached to finfish traps.

(4) Trap destruction devices used on finfish traps shall conform to the current requirements for those devices adopted by the commission.

(5) No finfish traps shall be within 750 feet of any pier, breakwall, or jetty in District 19, 19A, 19B, 20, 20A, 20B, or 21.

(6) Not more than 50 finfish traps may be used in state waters along the mainland shore.

(7) The mesh of any finfish trap shall measure two inches by two inches.

(b) The fee for the finfish trap permit issued pursuant to Section 9001.5 is one hundred ten dollars ($110).

(c) Notwithstanding paragraphs (2), (4), (5), (6), and (7) of subdivision (a), under a finfish trap permit issued pursuant to Section 9001.5 and a hagfish permit issued pursuant to Sections 8397 and 8397.1, Korean traps, defined as molded plastic cylinders not exceeding 6 inches in diameter and 24 inches in length, or “bucket traps” constructed of plastic buckets of five gallons or less in capacity, may be used to take only hagfish. When Korean traps or bucket traps are being used or possessed aboard a boat, no species of finfish other than hagfish shall be taken, possessed aboard a boat, or sold for commercial purposes.

(d) This section shall become inoperative on April 1, 2002, and as of January 1, 2003, is repealed, unless a later enacted statute, which is enacted before January 1, 2003, deletes or extends that date.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs 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 187

An act to amend Sections 110, 1109, 2114, 2115, 2117, 6910, 8910, 12680, 25102, and 25113 of, and to repeal Sections 2108 and 2109 of, the Corporations Code, and to amend Section 15204 of the Financial Code, relating to corporations.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 110 of the Corporations Code is amended to read:

110. (a) Upon receipt of any instrument by the Secretary of State for filing pursuant to this division, 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 1502, 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 the fee does not exceed the limits established by the policy of the Secretary of State for extending credit in these 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 the 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 Sections 201, 2101, and 2106), upon that written opinion in determining whether the instrument conforms to law. The date of filing in that 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, the certificate revoking the earlier filing need only be executed on behalf of one of the constituent corporations. If no revocation certificate is filed, the instrument becomes effective on the date specified.

SEC. 2. Section 1109 of the Corporations Code is amended to read:

1109. Whenever a domestic or foreign corporation or domestic or foreign other business entity having any real property in this state merges or consolidates with another corporation or with an other business entity pursuant to the laws of this state or of the state or place in which any constituent corporation or constituent other business entity was incorporated or organized, and the laws of the state or place of incorporation or organization (including this state) of any disappearing corporation or disappearing other business entity provide substantially that the making and filing of the agreement of merger or consolidation or certificate of ownership or certificate of merger vests in the surviving or consolidated corporation or surviving other business entity all the real property of any disappearing corporation or disappearing other business entity, the filing for record in the office of the county recorder of any county in this state in which any of the real property of that disappearing corporation or disappearing other business entity is located of a copy of the agreement of merger or consolidation or certificate of ownership or certificate of merger, certified by the Secretary of State or an authorized public official of the state or place pursuant to the laws of which the merger or consolidation is effected, shall evidence record ownership in the surviving or consolidated corporation or surviving other business entity, of all interest of the disappearing corporation or disappearing other business entity in and to the real property located in that county.

SEC. 3. Section 2108 of the Corporations Code is repealed.

SEC. 4. Section 2109 of the Corporations Code is repealed.

SEC. 5. Section 2114 of the Corporations Code is amended to read:

2114. (a) A foreign corporation that has transacted intrastate business and has thereafter withdrawn from business in this state may be served with process in the manner provided in this chapter in any action brought in this state arising out of that business, whether or not it has ever complied with the requirements of this chapter.

(b) A foreign corporation that has surrendered its right to transact intrastate business pursuant to Section 2112 or 2113 may be served with process in any action upon a liability or obligation incurred within this state prior to that surrender by delivery of the process to the Secretary of State, or an assistant or a deputy to the Secretary of

State pursuant to this chapter and no court order authorizing this service shall be required. The process shall be mailed in the manner prescribed in this chapter except that it shall be sent to the address to which process is authorized to be sent in the certificate of surrender or to the address of the surviving domestic corporation in the case of a surrender under Section 2113.

(c) If a foreign corporation that is qualified to transact intrastate business has its right to transact such business forfeited by the Franchise Tax Board pursuant to the Bank and Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), service of process on that corporation may be effected in the manner set forth in Sections 2110 and 2111, as if the right to transact intrastate business had not been forfeited.

(d) The fact that a corporation ceases to transact intrastate business without filing a certificate of surrender does not revoke the appointment of any agent for the service of process.

SEC. 6. Section 2115 of the Corporations Code is amended to read:

2115. (a) A foreign corporation (other than a foreign association or foreign nonprofit corporation but including a foreign parent corporation even though it does not itself transact intrastate business) is subject to the requirements of subdivision (b) if the average of the property factor, the payroll factor, and the sales factor (as defined in Sections 25129, 25132, and 25134 of the Revenue and Taxation Code) with respect to it is more than 50 percent during its latest full income year and if more than one-half of its outstanding voting securities are held of record by persons having addresses in this state. The property factor, payroll factor, and sales factor shall be those used in computing the portion of its income allocable to this state in its franchise tax return or, with respect to corporations the allocation of whose income is governed by special formulas or that are not required to file separate or any tax returns, which would have been so used if they were governed by this three-factor formula. The determination of these factors with respect to any parent corporation shall be made on a consolidated basis, including in a unitary computation (after elimination of intercompany transactions) the property, payroll, and sales of the parent and all of its subsidiaries in which it owns directly or indirectly more than 50 percent of the outstanding shares entitled to vote for the election of directors, but deducting a percentage of the property, payroll, and sales of any subsidiary equal to the percentage minority ownership, if any, in the subsidiary. For the purpose of this subdivision, any securities held to the knowledge of the issuer in the names of broker-dealers, nominees for broker-dealers (including clearing corporations), or banks, associations, or other entities holding securities in a nominee name or otherwise on behalf of a beneficial owner (collectively "Nominee Holders"), shall not be considered outstanding. However, if the foreign corporation requests all Nominee Holders to certify, with

respect to all beneficial owners for whom securities are held, the number of shares held for those beneficial owners having addresses (as shown on the records of the Nominee Holder) in this state and outside of this state, then all shares so certified shall be considered outstanding and held of record by persons having addresses either in this state or outside of this state as so certified, provided that the certification so provided shall be retained with the record of shareholders and made available for inspection and copying in the same manner as is provided in Section 1600 with respect to that record. A current list of beneficial owners of a foreign corporation's securities provided to the corporation by one or more Nominee Holders or their agent pursuant to the requirements of Rule 14b-1(b)(3) or 14b-2(b)(3) as adopted on January 6, 1992, promulgated under the Securities Exchange Act of 1934, shall constitute an acceptable certification with respect to beneficial owners for the purposes of this subdivision.

(b) Except as provided in subdivision (c), the following chapters and sections of this division shall apply to a foreign corporation as defined in subdivision (a) (to the exclusion of the law of the jurisdiction in which it is incorporated):

Chapter 1 (general provisions and definitions), to the extent applicable to the following provisions;

Section 301 (annual election of directors);

Section 303 (removal of directors without cause);

Section 304 (removal of directors by court proceedings);

Section 305, subdivision (c) (filing of director vacancies where less than a majority in office elected by shareholders);

Section 309 (directors' standard of care);

Section 316 (excluding paragraph (3) of subdivision (a) and paragraph (3) of subdivision (f)) (liability of directors for unlawful distributions);

Section 317 (indemnification of directors, officers, and others);

Sections 500 to 505, inclusive (limitations on corporate distributions in cash or property);

Section 506 (liability of shareholder who receives unlawful distribution);

Section 600, subdivisions (b) and (c) (requirement for annual shareholders' meeting and remedy if same not timely held);

Section 708, subdivisions (a), (b), and (c) (shareholder's right to cumulate votes at any election of directors);

Section 710 (supermajority vote requirement);

Section 1001, subdivision (d) (limitations on sale of assets);

Section 1101 (provisions following subdivision (e)) (limitations on mergers);

Chapter 12 (commencing with Section 1200) (reorganizations);

Chapter 13 (commencing with Section 1300) (dissenters' rights);

Sections 1500 and 1501 (records and reports);

Section 1508 (action by Attorney General);

Chapter 16 (commencing with Section 1600) (rights of inspection).

(c) This section does not apply to any corporation (1) with outstanding securities listed on the New York Stock Exchange or the American Stock Exchange, or (2) with outstanding securities designated as qualified for trading as a national market security on the National Association of Securities Dealers Automatic Quotation System (or any successor national market system) if the corporation has at least 800 holders of its equity securities as of the record date of its most recent annual meeting of shareholders, or (3) if all of its voting shares (other than directors' qualifying shares) are owned directly or indirectly by a corporation or corporations not subject to this section. For purposes of determining the number of holders of a corporation's equity securities under clause (2) of this subdivision, there shall be included, in addition to the number of recordholders reflected on the corporation's stock records, the number of holders of the equity securities held in the name of any Nominee Holder that furnishes the corporation with a certification pursuant to subdivision (a) provided that the corporation retains the certification with the record of shareholders and makes it available for inspection and copying in the same manner as is provided in Section 1600 with respect to that record.

(d) For purposes of subdivision (a), the requirements of subdivision (b) shall become applicable to a foreign corporation only upon the first day of the first income year of the corporation commencing on or after the 135th day of the latest income year during which the tests referred to in subdivision (a) have been met or during which a final order has been entered by a court of competent jurisdiction declaring that those tests have been met.

(e) For purposes of subdivision (a), the requirements of subdivision (b) shall cease to be applicable to a foreign corporation at the end of any income year of the corporation during which at least one of the tests referred to in subdivision (a) is not met or during which a final order has been entered by a court of competent jurisdiction declaring that one of those tests is not met, provided that a contrary order has not been entered before the end of the income year.

SEC. 7. Section 2117 of the Corporations Code is amended to read:

2117. (a) Every foreign corporation (other than a foreign association) qualified to transact intrastate business shall file, annually during the applicable filing period in each year, on a form prescribed by the Secretary of State, a statement containing: (1) the names and complete business or residence addresses of its chief executive officer, secretary, and chief financial officer; (2) the street address of its principal executive office; (3) the street address of its principal business office in this state, if any; and (4) a statement of the general type of business that constitutes the principal business

activity of the corporation (for example, manufacturer of aircraft; wholesale liquor distributor; retail department store). If the officers of the corporation use other titles, the statement shall include the officers performing comparable duties under other titles. If the corporation has no officers, or has no officers who are natural persons, the statement shall include the names of natural persons performing comparable duties for the corporation pursuant to a management contract or other arrangement.

(b) The statement required by subdivision (a) shall also designate, as the agent of the corporation for the purpose of service of process, a natural person residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as the agent has not terminated. If a natural person is designated, the statement shall set forth the person's complete business or residence address. If a corporate agent is designated, no address for it shall be set forth.

(c) Whenever any of the information required by subdivision (a) is changed, the corporation may file a current statement containing all the information required by subdivisions (a) and (b). In order to change its agent for service of process or the address of the agent, the corporation shall file a current statement containing all the information required by subdivisions (a) and (b). Whenever any statement is filed pursuant to this section, it supersedes any previously filed statement and the statement in the filing pursuant to Section 2105.

(d) Subdivisions (c), (d), (f), and (g) of Section 1502 apply to statements filed pursuant to this section except that "articles" shall mean the filing pursuant to Section 2105.

SEC. 8. Section 6910 of the Corporations Code is amended to read:

6910. Foreign corporations transacting intrastate business shall comply with Chapter 21 (commencing with Section 2100) of Division 1, except as to matters specifically otherwise provided for in this part and except that Section 2115 shall not be applicable.

SEC. 9. Section 8910 of the Corporations Code is amended to read:

8910. Foreign corporations transacting intrastate business shall comply with Chapter 21 (commencing with Section 2100) of Division 1, except as to matters specifically otherwise provided for in this part and except that Section 2115 shall not be applicable.

SEC. 10. Section 12680 of the Corporations Code is amended to read:

12680. Foreign corporations transacting intrastate business shall comply with Chapter 21 (commencing with Section 2100) of Division 1, except as to matters specifically otherwise provided for in this part and except that Section 2115 shall not be applicable.

SEC. 11. Section 25102 of the Corporations Code is amended to read:

25102. The following transactions are exempted from the provisions of Section 25110:

(a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of securities pursuant to the offer if (1) the agreement contains substantially the following provision: "The sale of the securities that are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of the securities or the payment or receipt of any part of the consideration therefor prior to the qualification is unlawful, unless the sale of securities is exempt from the qualification by Section 25100, 25102, or 25105 of the California Corporations Code. The rights of all parties to this agreement are expressly conditioned upon the qualification being obtained, unless the sale is so exempt"; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of the securities is qualified under this law unless the sale of securities is exempt from the qualification by this section, Section 25100, or 25105.

(b) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, or for which an offering statement under Regulation A has been filed but has not yet been qualified, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of the act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

(c) Any offer (but not a sale) and the execution and delivery of any agreement for the sale of securities pursuant to the offer as may be permitted by the commissioner upon application. Any negotiating permit under this subdivision shall be conditioned to the effect that none of the securities may be issued and none of the consideration therefor may be received or accepted until the sale of the securities is qualified under this law.

(d) Any transaction or agreement between the issuer and an underwriter or among underwriters if the sale of the securities is qualified, or exempt from qualification, at the time of distribution thereof in this state, if any.

(e) Any offer or sale of any evidence of indebtedness, whether secured or unsecured, and any guarantee thereof, in a transaction not involving any public offering.

(f) Any offer or sale of any security in a transaction (other than an offer or sale to a pension or profit-sharing trust of the issuer) that meets each of the following criteria:

(1) Sales of the security are not made to more than 35 persons, including persons not in this state.

(2) All purchasers either have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons, or managers (as appointed or elected by the

members) if the offeror is a limited liability company, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or a trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement. The number of purchasers referred to above is exclusive of any described in subdivision (i), any officer, director or affiliate of the issuer, or manager (as appointed or elected by the members) if the issuer is a limited liability company, and any other purchaser who the commissioner designates by rule. For purposes of this section, a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation or other organization that was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person. The commissioner may by rule require the issuer to file a notice of transactions under this subdivision. However, the failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice as provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110.

(g) Any offer or sale of conditional sale agreements, equipment trust certificates, or certificates of interest or participation therein or partial assignments thereof, covering the purchase of railroad rolling stock or equipment or the purchase of motor vehicles, aircraft, or parts thereof, in a transaction not involving any public offering.

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and issuance, there will be only one class of stock of the corporation outstanding that is owned beneficially by no more than 35 persons, provided all of the following requirements have been met:

(1) The offer and sale of the stock is not accompanied by the publication of any advertisement, and no selling expenses have been given, paid, or incurred in connection therewith.

(2) The consideration to be received by the issuer for the stock to be issued shall consist of (i) only assets (which may include cash) of an existing business enterprise transferred to the issuer upon its initial organization, of which all of the persons who are to receive the

stock to be issued pursuant to this exemption were owners during, and the enterprise was operated for, a period of not less than one year immediately preceding the proposed issuance, and the ownership of the enterprise immediately prior to the proposed issuance was in the same proportions as the shares of stock are to be issued, or (ii) only cash or cancellation of indebtedness for money borrowed or both upon the initial organization of the issuer, provided all of the stock is issued for the same price per share, or (iii) only cash, provided the sale is approved in writing by each of the existing shareholders and the purchaser or purchasers are existing shareholders, or (iv), in a case where after the proposed issuance there will be only one owner of the stock of the issuer, any legal consideration.

(3) No promotional consideration has been given, paid, or incurred in connection with the issuance. Promotional consideration means any consideration paid directly or indirectly to a person who, acting alone or in conjunction with one or more other persons, takes the initiative in founding and organizing the business or enterprise of an issuer, for services rendered in connection with the founding or organizing.

(4) A notice in a form prescribed by rule of the commissioner, signed by an active member of the State Bar of California, shall be filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the issuer, which notice shall contain an opinion of the member of the State Bar of California that the exemption provided by this subdivision is available for the offer and sale of the securities. However, the failure to file the notice as required by this subdivision and the rules of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice within the time specified by this subdivision shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110. The notice, except when filed on behalf of a California corporation, shall be accompanied by an irrevocable consent, in the form that the commissioner by rule prescribes, appointing the commissioner or his or her successor in office to be the issuer's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against it or its successor that arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the issuer. An issuer on whose behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or notice under this law states that the consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him

or her, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at its last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within the further time as the court allows.

(5) Each purchaser represents that the purchaser is purchasing for the purchaser's own account, or a trust account if the purchaser is a trustee, and not with a view to or for sale in connection with any distribution of the stock.

For the purposes of this subdivision, all securities held by a husband and wife, whether or not jointly, shall be considered to be owned by one person, and all securities held by a corporation that has issued stock pursuant to this exemption shall be considered to be held by the shareholders to whom it has issued the stock.

All stock issued by a corporation pursuant to this subdivision as it existed prior to the effective date of the amendments to this section made during the 1996 portion of the 1995–96 Regular Session that required the issuer to have stamped or printed prominently on the face of the stock certificate a legend in a form prescribed by rule of the commissioner restricting transfer of the stock in a manner provided for by that rule shall not be subject to the transfer restriction legend requirement and, by operation of law, the corporation is authorized to remove that transfer restriction legend from the certificates of those shares of stock issued by the corporation pursuant to this subdivision as it existed prior to the effective date of the amendments to this section made during the 1996 portion of the 1995–96 Regular Session.

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or other institutional investor or governmental agency or instrumentality that the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of such a corporation that after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer; provided the purchaser represents that it is purchasing for its own account (or for the trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if (1) all of the purchasers: (i) are and have been during the preceding two years engaged primarily in the

business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged), or (ii) are persons described in clause (1) of subdivision (i) of this section, or (iii) have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing, or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded), or (2) the security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by the bank; provided each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law that has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to the right, if the transaction, had it involved an offer or sale of the security subject to the right by the person, would not have violated Section 25110 or 25130.

(m) Any offer or sale of a stock to a pension, profit-sharing, stock bonus or employee stock ownership plan provided that (1) the plan meets the requirements for qualification under Section 401 of the Internal Revenue Code, and (2) the employees are not required or permitted individually to make any contributions to the plan. The exemption provided by this subdivision shall not be affected by whether the stock is contributed to the plan, purchased from the issuer with contributions by the issuer or an affiliate of the issuer, or purchased from the issuer with funds borrowed from the issuer, an affiliate of the issuer or any other lender.

(n) Any offer or sale of any security in a transaction, other than an offer or sale of a security in a rollup transaction, that meets all of the following criteria:

(1) The issuer is (A) a California corporation or foreign corporation that, at the time of the filing of the notice required under this subdivision, is subject to Section 2115, or (B) any other form of business entity, including without limitation a partnership or trust organized under the laws of this state. The exemption provided by this subdivision is not available to a "blind pool" issuer, as that term is defined by the commissioner, or to an investment company subject to the Investment Company Act of 1940.

(2) Sales of securities are made only to qualified purchasers or other persons the issuer reasonably believes, after reasonable inquiry, to be qualified purchasers. A corporation, partnership, or other organization specifically formed for the purpose of acquiring the securities offered by the issuer in reliance upon this exemption may be a qualified purchaser if each of the equity owners of the

corporation, partnership, or other organization is a qualified purchaser. Qualified purchasers include the following:

(A) A person designated in Section 260.102.13 of Title 10 of the California Code of Regulations.

(B) A person designated in subdivision (i) or any rule of the commissioner adopted thereunder.

(C) A pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or an individual retirement account, if the investment decisions made on behalf of the trust, plan, or account are made solely by persons who are qualified purchasers.

(D) An organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, each with total assets in excess of five million dollars ($5,000,000) according to its most recent audited financial statements.

(E) With respect to the offer and sale of one class of voting common stock of an issuer or of preferred stock of an issuer entitling the holder thereof to at least the same voting rights as the issuer's one class of voting common stock, provided that the issuer has only one-class voting common stock outstanding upon consummation of the offer and sale, a natural person who, either individually or jointly with the person's spouse, (i) has a minimum net worth of two hundred fifty thousand dollars ($250,000) and had, during the immediately preceding tax year, gross income in excess of one hundred thousand dollars ($100,000) and reasonably expects gross income in excess of one hundred thousand dollars ($100,000) during the current tax year or (ii) has a minimum net worth of five hundred thousand dollars ($500,000). "Net worth" shall be determined exclusive of home, home furnishings, and automobiles. Other assets included in the computation of net worth may be valued at fair market value.

Each natural person specified above, by reason of his or her business or financial experience, or the business or financial experience of his or her professional advisor, who is unaffiliated with and who is not compensated, directly or indirectly, by the issuer or any affiliate or selling agent of the issuer, can be reasonably assumed to have the capacity to protect his or her interests in connection with the transaction. The amount of the investment of each natural person shall not exceed 10 percent of the net worth, as determined by this subparagraph, of that natural person.

(F) Any other purchaser designated as qualified by rule of the commissioner.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or trust account, if the purchaser is a trustee) and not with a view to or for sale in connection with a distribution of the security.

(4) Each natural person purchaser, including a corporation, partnership, or other organization specifically formed by natural

persons for the purpose of acquiring the securities offered by the issuer, receives, at least five business days before securities are sold to, or a commitment to purchase is accepted from, the purchaser, a written offering disclosure statement that shall meet the disclosure requirements of Regulation D (17 C.F.R. 230.501 et seq.), and any other information as may be prescribed by rule of the commissioner; provided that the issuer shall not be obligated pursuant to this paragraph to provide this disclosure statement to a natural person qualified under Section 260.102.13 of Title 10 of the California Code of Regulations. The offer or sale of securities pursuant to a disclosure statement required by this paragraph in violation of Section 25401, or that fails to meet the disclosure requirements of Regulation D (17 C.F.R. 230.501 et seq.), shall not render unavailable to the issuer the claim of an exemption from Section 25110 afforded by this subdivision. This paragraph does not impose, directly or indirectly, any additional disclosure obligation with respect to any other exemption from qualification available under any other provision of this section.

(5) (A) A general announcement of proposed offering may be published by written document only, provided that the general announcement of proposed offering sets forth the following required information:

(i) The name of the issuer of the securities.

(ii) The full title of the security to be issued.

(iii) The anticipated suitability standards for prospective purchasers.

(iv) A statement that (I) no money or other consideration is being solicited or will be accepted, (II) an indication of interest made by a prospective purchaser involves no obligation or commitment of any kind, and, if the issuer is required by paragraph (4) to deliver a disclosure statement to prospective purchasers, (III) no sales will be made or commitment to purchase accepted until five business days after delivery of a disclosure statement and subscription information to the prospective purchaser in accordance with the requirements of this subdivision.

(v) Any other information required by rule of the commissioner.

(vi) The following legend: "For more complete information about (Name of Issuer) and (Full Title of Security), send for additional information from (Name and Address) by sending this coupon or calling (Telephone Number)."

(B) The general announcement of proposed offering referred to in subparagraph (A) may also set forth the following information:

(i) A brief description of the business of the issuer.

(ii) The geographic location of the issuer and its business.

(iii) The price of the security to be issued, or, if the price is not known, the method of its determination or the probable price range as specified by the issuer, and the aggregate offering price.

(C) The general announcement of proposed offering shall contain only the information that is set forth in this paragraph.

(D) Dissemination of the general announcement of proposed offering to persons who are not qualified purchasers, without more, shall not disqualify the issuer from claiming the exemption under this subdivision.

(6) No telephone solicitation shall be permitted until the issuer has determined that the prospective purchaser to be solicited is a qualified purchaser.

(7) The issuer files a notice of transaction under this subdivision both (A) concurrent with the publication of a general announcement of proposed offering or at the time of the initial offer of the securities, whichever occurs first, accompanied by a filing fee, and (B) within 10 business days following the close or abandonment of the offering, but in no case more than 210 days from the date of filing the first notice. The first notice of transaction under subparagraph (A) shall contain an undertaking, in a form acceptable to the commissioner, to deliver any disclosure statement required by paragraph (4) to be delivered to prospective purchasers, and any supplement thereto, to the commissioner within 10 days of the commissioner's request for the information. The exemption from qualification afforded by this subdivision is unavailable if an issuer fails to file the first notice required under subparagraph (A) or to pay the filing fee. The commissioner has the authority to assess an administrative penalty of up to one thousand dollars ($1,000) against an issuer that fails to deliver the disclosure statement required to be delivered to the commissioner upon the commissioner's request within the time period set forth above. Neither the filing of the disclosure statement nor the failure by the commissioner to comment thereon precludes the commissioner from taking any action deemed necessary or appropriate under this division with respect to the offer and sale of the securities.

(o) An offer or sale of any security issued pursuant to a stock purchase plan or agreement, or issued pursuant to a stock option plan or agreement, where the security is exempt from registration under the Securities Act of 1933, as amended, pursuant to Rule 701 adopted pursuant to that act (17 C.F.R. 230.701), the provisions of which are hereby incorporated by reference into this section; provided that (1) the terms of any stock purchase plan or agreement shall comply with Sections 260.140.42, 260.140.45, and 260.140.46 of Title 10 of the California Code of Regulations, (2) the terms of any stock option plan or agreement shall comply with Sections 260.140.41, 260.140.45, and 260.140.46 of Title 10 of the California Code of Regulations, and (3) the issuer files a notice of transaction in accordance with rules adopted by the commissioner within 30 days after the initial issuance of any security under that plan, accompanied by a filing fee as prescribed by subdivision (y) of Section 25608.

SEC. 12. Section 25113 of the Corporations Code is amended to read:

25113. (a) All securities, whether or not eligible for qualification by coordination under Section 25111 or qualification by notification under Section 25112, may be qualified by permit under this section.

(b) (1) An application for a permit under this section shall contain any information and be accompanied by any documents as shall be required by rule of the commissioner, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165. For this purpose, the commissioner may classify issuers and types of securities.

(2) An applicant may file a small company application for permit under this section if it meets all of the following conditions:

(A) The applicant is: (i) a California corporation or a foreign corporation, which at the time of filing an application under this subdivision is subject to Section 2115, and neither corporation is a "blind pool" company, as that term is defined by the commissioner; (ii) not engaged in oil and gas exploration or production, or mining or other extractive industries; (iii) not an investment company subject to the Investment Company Act of 1940; and (iv) not subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934.

(B) The total offering of voting common stock and preferred stock by the applicant to be sold in a 12-month period, within or outside this state, is limited to one million dollars ($1,000,000), less the aggregate offering price for all securities sold (within the 12 months before the start, and during the offering, of the voting common stock or preferred stock) under Rule 504 of the Securities and Exchange Commission, in reliance on any exemption under subdivision (b) of Section 3 of the Securities Act of 1933, or in violation of subdivision (a) of Section 5 of that act, and immediately after the proposed sale and issuance there will be only one class of voting common stock.

(C) The minimum offering price of the voting common stock and preferred stock (and the conversion price if the preferred stock is convertible into the voting common stock) to be sold is two dollars ($2) per share and the applicant files an undertaking with the commissioner that there will be no stock splits, stock dividends, spinoffs, or mergers for a period of two years from the close of the offering. The undertaking notwithstanding, the commissioner may approve a spinoff or merger pursuant to an application for qualification filed by an applicant.

(D) The net proceeds from the offering are to be expended in the operations of the business.

(E) The offering is made pursuant to a Small Corporate Offering Registration disclosure document based on the Form U-7 as adopted by the North American Securities Administrators Association and any additional requirements as the commissioner shall prescribe, that

may include, but not be limited to, investor suitability and due diligence investigation requirements.

(F) The application and disclosure document is reviewed and signed by a majority of the members of the board of directors of the applicant.

(G) The application shall contain that information and be accompanied by those documents required by rule of the commissioner, in addition to the information specified in Section 25610 and the consent to service of process required by Section 25165.

(c) Qualification of securities under this section becomes effective upon the commissioner issuing a permit authorizing the issuance of those securities.

SEC. 13. Section 15204 of the Financial Code is amended to read:

15204. (a) Upon any merger effectuated as provided in this article, all property, property rights, and interests of the merged credit union shall vest in the surviving credit union, without deed, endorsement or other instruments of transfer, and all debts, obligations and liabilities of the merged credit union are assumed by the surviving credit union under whose charter the merger has been effected. Thereafter the charter of the merged credit union is void, and the existence of the merged credit union as a legal entity separate from the surviving credit union terminates.

(b) Whenever a credit union having any real property in this state merges with another credit union and vests that real property in the surviving credit union, the filing for record in the office of the county recorder of any county in this state in which any of the real property of the disappearing credit union is located of the certificates of merger and requisite attachments, as required by Section 15202, shall evidence record ownership in the surviving credit union of all interest of the disappearing credit union in and to the real property located in that county.

CHAPTER 188

An act to amend Section 14087.325 of the Welfare and Institutions Code, relating to human services.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 14087.325 of the Welfare and Institutions Code is amended to read:

14087.325. (a) The department shall require, as a condition of obtaining a contract with the department, that any local initiative, as defined in subdivision (v) of Section 53810 of Title 22 of the California

Code of Regulations, offer a subcontract to any entity defined in Section 1396d (1)(2)(B) of Title 42 of the United States Code providing services as defined in Section 1396d(a)(2)(C) of Title 42 of the United States Code and operating in the service area covered by the local initiative's contract with the department. These entities are also known as federally qualified health centers.

(b) Except as provided, the subcontracts offered pursuant to subdivision (a) by a local initiative shall be on the same terms and conditions offered to other subcontractors providing a similar scope of service.

(c) The department shall provide incentives in the competitive application process described in paragraph (1) of subdivision (b) of Section 53800 of Title 22 of the California Code of Regulations, to encourage potential commercial plans as defined in subdivision (h) of Section 53810 of Title 22 of the California Code of Regulations to offer subcontracts to these entities.

(d) Pursuant to Section 1396b(m)(A)(ix) of Title 42 of the United States Code, reimbursement for services provide pursuant to a subcontract with a local initiative or a commercial plan shall be on the basis of the federally qualified health centers reasonable cost or, at the election of the center, reimbursement shall be based on terms negotiated between the center and the individual local initiative or commercial plan. If the center elects to be reimbursed on the basis of its reasonable cost as a term of the subcontract, the subcontract between the center and a local initiative or the center and a commercial plan shall provide that the center shall be reimbursed at the interim per visit rate established for the center by the department or at a capitated or fee-for-service rate that is the equivalent of the interim rate. The subcontracts entered into pursuant to these requirements shall be for the provision of all ambulatory services provided by the federally qualified health center and covered by the local initiative or commercial plan's contract with the department. Each subcontract shall provide that the center keep a record of the number of visits by plan members separate from visits of Medi-Cal beneficiaries who are not members of that plan.

(e) (1) (A) On an annual basis, the department shall perform a reconciliation to determine the federally qualified health center's reasonable cost and shall pay to or recover from the center the difference between the reimbursement paid by a local initiative or a commercial plan pursuant to any subcontracts with the entity and the entity's reasonable cost in relation to the number of visits to the entity by plan members.

(B) In addition, to the extent practicable, within six months of the end of the fiscal year, the department shall perform another reconciliation and make payments to, or obtain a recovery from, the federally qualified health center, as provided for in subparagraph (A).

(2) In calculating the capitation rates to be paid to local initiatives and the commercial plans, the department shall include the dollar amount of the interim rate payments made to these entities in the Medi-Cal fee-for-service program.

(f) Effective July 1, 1996, the department shall update the rates for local initiatives to reflect more recent federally qualified health center costs and utilization data. Each local initiative contract shall limit risk associated with subcontracting with federally qualified health centers. The contract shall require the department to reimburse each local initiative's aggregate total payments to subcontracting federally qualified health centers in excess of 110 percent of the dollar value of interim rate payments for these centers paid by the department in the capitation rates paid to the local initiative. Each local initiative shall reimburse the department for the aggregate total payments to subcontracting federally qualified health centers below 90 percent of the dollar value of interim rate payments for these centers made by the department in the capitation rates paid to the local initiative. Provided that the local initiative plan submits, within four months after the first six months of operation, and annually thereafter within four months after the last day of each fiscal year, required expenditure data to the department in the form and manner specified by the department the department shall perform reconciliations to determine the variance between the funds that have been paid to the local initiative in its capitation rates to reflect the dollar value of federally qualified health center interim rate payments made to these entities in the Medi-Cal fee-for-service program, and the amount that the plan has paid to subcontracting federally qualified health centers. For each reconciliation, if, pursuant to subcontracts with federally qualified health centers that have been reviewed and approved by the department, the local initiative has paid subcontracting federally qualified health centers in the aggregate an amount greater than 110 percent of the amounts included in the local initiative's capitation rates for this purpose, the department shall pay the local initiative the amount in excess of 110 percent. For each reconciliation, if the local initiative has paid subcontracting federally qualified health centers in the aggregate an amount less than 90 percent of the dollar value of federally qualified health center interim rate payments included in the local initiative's capitation rates, the local initiative shall refund the amount below 90 percent to the department. All reconciliations shall be subject to an annual reconciliation audit, at which time payments to or recoupments from the local initiative shall be finalized.

(g) The reconciliations between the department and the local initiatives as described in this section shall not be made in contract periods beginning on or after October 1, 2000.

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CHAPTER 189

An act to amend Section 12657 of, and to add Section 12661.5 to, the Water Code, relating to water.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 12657 of the Water Code is amended to read:

12657. (a) Except as otherwise provided in Chapter 1 (commencing with Section 12570) and this chapter, the Reclamation Board shall give assurances satisfactory to the Secretary of the Army that the local cooperation, required by Section 3 of the act of Congress approved December 22, 1944 (Public Law 534, 78th Congress, Second Session), Section 2 of the act of Congress approved August 18, 1941 (Public Law 228, 78th Congress, First Session), and Section 103 of the act of Congress approved November 17, 1986 (Public Law 99-662, 99th Congress, Second Session) will be furnished by the state in connection with the flood control projects authorized and adopted in Sections 12648, 12648.1, 12648.2, 12648.3, 12648.4, 12648.5, 12648.6, 12648.7, 12649.1, 12650, 12651, 12652, 12654, 12656.5, 12661.5, 12666, 12667, and 12670.2, and on any flood control projects on any stream flowing into or in the Sacramento Valley or the San Joaquin Valley heretofore or hereafter approved and authorized by Congress.

(b) Assurances provided pursuant to subdivision (a) shall not be made until the local agency has, by binding agreement with the Reclamation Board, agreed to assume all obligations under Sections 12585 to 12585.5, inclusive.

SEC. 2. Section 12661.5 is added to the Water Code, to read:

12661.5. (a) The project for flood control on the Kaweah River, Terminus Dam, is adopted and authorized substantially in accordance with the recommendations of the Chief of Engineers, in the report "Kaweah River Basin Investigation Feasibility Study, California," dated December 23, 1996, and as adopted and authorized by the Water Resources Development Act of 1996 as approved by Congress on October 12, 1996 (Public Law 104-303), at an estimated cost to the state of the sum that may be appropriated by the Legislature for state participation, upon the recommendation and advice of the Reclamation Board. The Reclamation Board may pay 50 percent of the nonfederal capital costs of the recreation and fish and wildlife enhancement features of the project.

(b) The Kaweah Delta Water Conservation District may, in lieu of the Reclamation Board, give assurances satisfactory to the Secretary of the Army that the local cooperation required by federal

law, including the Water Resources Development Act of 1996, will be furnished in connection with the project.

(c) The Kaweah Delta Water Conservation District, in conjunction with the Department of the Army, may, in lieu of the Reclamation Board, carry out the plans and project and may make modifications and amendments of the plans as necessary to carry out the plans for the purposes of Chapter 1 (commencing with Section 12570) and this chapter.

(d) Authorization of the project shall be contingent upon the recommendation, advice, and approval of the Reclamation Board and upon the expenditure of two hundred thousand dollars ($200,000) by the department for local assistance for the project.

CHAPTER 190

An act to amend Sections 18145, 18165, and 18166 of, and to add Sections 18145.1 and 18165.1 to, the Financial Code, relating to industrial loan companies.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 18145 of the Financial Code is amended to read:

18145. Subject to Section 18145.1, when authorized by the commissioner as provided in this division, an industrial loan company, pursuant to a resolution of its board of directors, may establish and maintain one or more branch offices within the state.

SEC. 2. Section 18145.1 is added to the Financial Code, to read:

18145.1. (a) The commissioner may, by order or regulation, exempt from the requirement of authorization by the commissioner set forth in Section 18145 any establishment of an office or place of business that the commissioner finds not necessary or appropriate to regulate under that section.

(b) In granting an exemption under this section, the commissioner may impose any conditions that the commissioner finds necessary or appropriate.

SEC. 3. Section 18165 of the Financial Code is amended to read:

18165. (a) Except as otherwise provided for in this division, an industrial loan company shall not transact business or make any loan provided for by this division at any other place of business than that designated in its certificate of authorization issued pursuant to Section 18101 or 18149, without having obtained the prior written approval of the commissioner.

(b) An industrial loan company may solicit and make loans and acquire obligations at a place of business other than designated in its certificate of authorization upon written request to and written approval of the commissioner, except as set forth in Section 18165.1, without obtaining a certificate of authorization to conduct business at a branch office pursuant to Article 4 (commencing with Section 18145), subject to the provisions of subdivision (d). The written request for approval to conduct business shall be accompanied by a processing fee of two hundred dollars ($200) for each place of business and shall include the following:

(1) The proposed location of the place of business.

(2) A description of the industrial loan company's proposed plan of business, including a description of the manner and extent to which the industrial loan company proposes to direct and supervise the place of business.

(3) The character, business qualifications, and other experience of the proposed officers and managers directing the line of business for which authorization is requested.

(4) If the place of business is to be located outside of this state, a description of the regulation of the place of business by the state of the United States where the place of business is proposed to be located, including:

(A) A summary of the laws, administrative policies, and rules or regulations of the state relating to the proposed establishment and operation of the place of business.

(B) The name, address, and telephone number of the state agency having jurisdiction over the proposed establishment and operation of the place of business.

(C) A description of the extent and manner in which the establishment and operation of the place of business will be regulated by the state agency.

(D) Whether or not any law, administrative policy, or rule or regulation of the state of the United States where the place of business is proposed to be located would prohibit the commissioner from, or restrict the commissioner in, examining or regulating the place of business, and, if so, a citation to and summary of the law, administrative policy, rule, or regulation.

(5) Any other information bearing on the proposal that, in the opinion of the commissioner, may be relevant.

(c) The commissioner shall approve the request made pursuant to subdivision (b) within 30 days after filing unless the commissioner has ascertained that the company has failed to show any of the following:

(1) Compliance with all applicable requirements of subdivision (b).

(2) That the proposed plan of business would not violate any of the laws or the regulations of the state in which the office is proposed to conduct its business.

(3) That the company has adequate internal controls to manage the conduct of the business proposed to be conducted.

(4) That the company has a person with the necessary business qualifications, experience, or ability to direct and manage the operations of the proposed plan of business.

(d) An industrial loan company that has given notice or has been approved by the commissioner pursuant to subdivision (b) to solicit and make loans and acquire obligations at a place of business other than designated in its certificate of authorization shall comply with the following:

(1) No investment certificates shall be solicited, offered, or sold at the place of business.

(2) Loan files for loans originating at the place of business shall be retained at the main or licensed branch location of the industrial loan company, and all loans originating at the place of business shall be coded in a manner so as to easily identify that place of business.

(3) The place of business shall not be identified in any manner as a branch location or as a licensed location of the industrial loan company.

(4) If the place of business is outside of this state, the industrial loan company shall, not less than five business days before commencing business at that place of business, file with the commissioner a report stating that the industrial loan company has complied with all laws of that state applicable to the establishment and operation of the place of business, and which contains a copy of any document issued by the state agency having jurisdiction over the proposed establishment and operation of the place of business authorizing the industrial loan company to establish the place of business.

(5) All books, accounts, papers, records, and files of the place of business shall, upon request, be made available to the commissioner or the commissioner's representatives in this state within the time specified in the request.

(6) Any other conditions and limitations the commissioner may require.

(e) An industrial loan company that opens a place of business for which approval is required under subdivision (b) without first obtaining the commissioner's written approval shall be liable for a civil penalty of one hundred dollars ($100) for every day during which the place of business is maintained without approval.

(f) The commissioner may by rule, order, or regulation permit loans to be made or entered into and loans and obligations solicited and acquired at places other than designated by an industrial loan company in its certificate of authorization if those loans can be so made consistent with the purposes of the Industrial Loan Law.

SEC. 4. Section 18165.1 is added to the Financial Code, to read:

18165.1. (a) The commissioner may, by order or regulation, exempt from the requirement of authorization by the commissioner set forth in Section 18165 any establishment of an office or place of

business that the commissioner finds not necessary or appropriate to regulate under that section.

(b) In granting an exemption under this section, the commissioner may impose any conditions that the commissioner finds necessary or appropriate.

SEC. 5. Section 18166 of the Financial Code is amended to read:

18166. (a) If an industrial loan company desires to change its place of business to a street address other than that designated in its authorization, it shall give written notice to the commissioner who shall issue his or her written authorization of the change, provided the commissioner finds the change would not justify a negative finding with respect to any matters set forth in Section 18117 or 18147.

(b) The commissioner may, by order or regulation, exempt from the requirement of authorization by the commissioner set forth in subdivision (a) any change of location of a place of business that the commissioner finds not necessary or appropriate to regulate under that section.

CHAPTER 191

An act to amend Sections 1 and 2 of Chapter 213 of the Statutes of 1907, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 1 of Chapter 213 of the Statutes of 1907 is amended to read:

Section 1. Reclamation District No. 800 is hereby created. The boundaries of the district are as follows:

Beginning at the intersection of the centerline of Dillard Road and the centerline of Wilton Road, said intersection also being within the southwest quarter of Section 6, Township 6 North, Range 7 East, M.D.B. & M.;

Thence southwesterly along the centerline of Dillard Road to its intersection with the centerline of Cosumnes Road;

Thence northerly along the centerline of Cosumnes Road to its intersection with the centerline of Freeman Road;

Thence westerly along the centerline of Freeman Road and the extension thereof to the centerline of the Cosumnes River as shown on Parcel Map of a Portion of Tract 94 of Rancho San Jon De Los Moquelumnes dated August 1977 and recorded in Book 34 of Parcel Maps, at Page 21, County of Sacramento;

Thence southerly and westerly along the centerline of the Cosumnes River to the most southerly corner of the 157.64 acre parcel of A. Woodard as shown on Plat of Survey of Woodard Property Located in Lots 7 and 8 of the Lower Daylor Estates, dated April 1940 and recorded in Book 3 of the Official Surveys at page 147, County of Sacramento;

Thence northwesterly along the boundary line of said 157.64 acre Woodard parcel to the centerline of Grant Line Road, said boundary line also being a division line between the lands of Wayne and Jacqueline A. Bartholomew et al and Daniel R. Lang;

Thence northeasterly along the centerline of Grant Line Road to its intersection with the centerline of Sloughhouse Road;

Thence southeasterly and northeasterly along the centerline of Sloughhouse Road to its intersection with centerline of State Route 16;

Thence easterly along the centerline of State Route 16 to its intersection with the centerline of Deer Creek;

Thence along the centerline of Deer Creek northerly and easterly to its intersection with the centerline of Kiefer Boulevard;

Thence southeasterly along the centerline of Kiefer Boulevard to its intersection with the centerline of State Route 16;

Thence easterly along the centerline of said State Route 16 to its intersection with the north-south centerline of Section 3, Township 7 North, Range 8 East, M.D.B. & M.;

Thence south along said north-south centerline of said Section 3 to the quarter section corner common to Section 3 and Section 10, Township 7 North, Range 8 East, M.D.B. & M.;

Thence continuing south along the north-south centerline of said Section 10 to the south quarter section corner of said Section 10;

Thence west along the south line of said Section 10 and continuing west along the south line of Sections 9, 8, and 7, Township 7 North, Range 8 East, M.D.B. & M., and the south line of Section 12, Township 7 North, Range 7 East, M.D.B. & M., to its intersection with the centerline of Meiss Road;

Thence northwesterly along the centerline of Meiss Road to its intersection with the centerline of Dillard Road;

Thence southwesterly along the centerline of Dillard Road to its intersection with the centerline of Wilton Road, said intersection also being the point of beginning ;

Excepting therefrom Parcels 10, 11, and 14 as shown on Parcel Map of Rancho Murieta dated May 1973, recorded in Book 12 of Parcel Maps at Page 47, County of Sacramento.

SEC. 2. Section 2 of Chapter 213 of the Statutes of 1907 is amended to read:

Sec. 2. The management and control of the reclamation district is subject to Division 15 (commencing with Section 50000) of the Water Code and other laws relating to reclamation districts created in accordance with that division.

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.

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 for the restoration and maintenance of certain levees along the Cosumnes River, and eligibility for federal assistance for those levees, for the protection of life and property at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 192

An act to add Section 11440.60 to the Government Code, relating to administrative law.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 11440.60 is added to the Government Code, to read:

11440.60. (a) For purposes of this section, the following terms have the following meaning:

(1) "Quasi-judicial proceeding" means any of the following:

(A) A proceeding to determine the rights or duties of a person under existing laws, regulations, or policies.

(B) A proceeding involving the issuance, amendment, or revocation of a permit or license.

(C) A proceeding to enforce compliance with existing law or to impose sanctions for violations of existing law.

(D) A proceeding at which action is taken involving the purchase or sale of property, goods, or services by an agency.

(E) A proceeding at which an action is taken awarding a grant or a contract.

(2) "Written communication" means any report, study, survey, analysis, letter, or any other written document.

(b) Any person submitting a written communication, which is specifically generated for the purpose of being presented at the agency hearing to which it is being communicated, to a state agency in a quasi-judicial proceeding that is directly paid for by anyone other than the person who submitted the written communication shall clearly indicate any person who paid to produce the written communication.

(c) A state agency may refuse or ignore a written communication submitted by an attorney or any other authorized representative on behalf of a client in a quasi-judicial proceeding, unless the written communication clearly indicates the client on whose behalf the communication is submitted to the state agency.

CHAPTER 193

An act to amend Section 4856 of the Labor Code, relating to workers' compensation.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 4856 of the Labor Code is amended to read:

4856. (a) Whenever any local employee who is a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, is killed in the performance of his or her duty or dies as a result of an accident or injury caused by external violence or physical force incurred in the performance of his or her duty, the employer shall continue providing health benefits to the deceased employee's spouse under the same terms and conditions provided prior to the death, or prior to the accident or injury that caused the death, of the employee unless the surviving spouse elects to receive a lump-sum survivors benefit in lieu of monthly benefits. Minor dependents shall continue to receive benefits under the coverage provided the surviving spouse or, if there is no surviving spouse, until the age of 21 years. However, pursuant to Section 22811.5 of the Government Code, the surviving spouse may not add the new spouse or stepchildren as family members under the continued health benefits coverage of the surviving spouse.

(b) Subdivision (a) also applies to the employer of any local employee who is a firefighter, or peace officer as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, who was killed in the performance of his or her duty or who died as a result of an accident or injury caused by external

violence or physical force incurred in the performance of his or her duty prior to September 30, 1996.

CHAPTER 194

An act to add Chapter 6 (commencing with Section 4900) to, and to repeal Chapter 6 (commencing with Section 4800) of, Part 5 of Division 9 of the Family Code, relating to family law.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Chapter 6 (commencing with Section 4800) of Part 5 of Division 9 of the Family Code is repealed.

SEC. 2. Chapter 6 (commencing with Section 4900) is added to Part 5 of Division 9 of the Family Code, to read:

CHAPTER 6. UNIFORM INTERSTATE FAMILY SUPPORT ACT

Article 1. General Provisions

4900. This chapter shall be known and may be cited as the Uniform Interstate Family Support Act.

4901. As used in this chapter, the following definitions shall apply:

(1) "Child" means an individual, whether over or under the age of majority, who is, or is alleged to be, owed a duty of support by the individual's parent or who is, or is alleged to be, the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the laws of this state.

(6) “Income-withholding order” means an earnings assignment order for support, as defined in Section 5208, or any other order or other legal process directed to an obligor’s employer, or other debtor, to withhold support from the income of the obligor.

(7) “Initiating state” means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(8) “Initiating tribunal” means the authorized tribunal in an initiating state.

(9) “Issuing state” means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) “Issuing tribunal” means the tribunal that issues a support order or renders a judgment determining parentage.

(11) “Law” includes decisional and statutory law and rules and regulations having the force of law.

(12) “Obligee” means any of the following:

(i) An individual to whom a duty of support is, or is alleged to be, owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered.

(ii) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee.

(iii) An individual seeking a judgment determining parentage of the individual’s child.

(13) “Obligor” means an individual, or the estate of a decedent:

(i) Who owes or is alleged to owe a duty of support;

(ii) Who is alleged but has not been adjudicated to be a parent of a child; or

(iii) Who is liable under a support order.

(14) “Register” means to file a support order or judgment determining parentage in the superior court in any county in which enforcement of the order is sought.

(15) “Registering tribunal” means a tribunal in which a support order is registered.

(16) “Responding state” means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(17) “Responding tribunal” means the authorized tribunal in a responding state.

(18) “Spousal support order” means a support order for a spouse or former spouse of the obligor.

(19) "State" means a state of the United States, the District of Columbia, the Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" also includes both of the following:

(i) An Indian tribe.

(ii) A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(20) "Support enforcement agency" means a public official or agency authorized to seek any of the following:

(i) Enforcement of support orders or laws relating to the duty of support.

(ii) Establishment or modification of child support.

(iii) Determination of parentage.

(iv) To locate obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

4902. The superior court is the tribunal of this state.

4903. Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law.

Article 2. Jurisdiction

4905. In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if any of the following apply:

(1) The individual is personally served with notice within this state.

(2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.

(3) The individual resided with the child in this state.

(4) The individual resided in this state and provided prenatal expenses or support for the child.

(5) The child resides in this state as a result of the acts or directives of the individual.

(6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse.

(7) The individual has filed a declaration of paternity pursuant to Chapter 3 (commencing with Section 7570) of Part 2 of Division 12.

(8) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

4906. A tribunal of this state exercising personal jurisdiction over a nonresident under Section 4905 may apply Section 4930 to receive evidence from another state, and Section 4932 to obtain discovery through a tribunal of another state. In all other respects, Articles 3 (commencing with Section 4915) through 7 (commencing with Section 4965), inclusive, do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this chapter.

4907. Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

4908. (a) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state only if all of the following circumstances exist:

(1) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state.

(2) The contesting party timely challenges the exercise of jurisdiction in the other state.

(3) If relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if all of the following circumstances exist:

(1) The petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state.

(2) The contesting party timely challenges the exercise of jurisdiction in this state.

(3) If relevant, the other state is the home state of the child.

4909. (a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(1) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) Until all of the parties who are individuals have filed written consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(1) Enforce the order that was modified as to amounts accruing before the modification;

(2) Enforce nonmodifiable aspects of that order; and

(3) Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to this chapter or a law substantially similar to this chapter.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

4910. (a) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply Section 4930 to receive evidence from another state and Section 4932 to obtain discovery through a tribunal of another state.

(c) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

4911. (a) If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and shall be so recognized.

(b) If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of

this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and shall be so recognized.

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls and shall be so recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and shall be so recognized.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state having jurisdiction over the parties shall issue a child support order, which controls and shall be so recognized.

(c) If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and shall be so recognized under subdivision (b). The request shall be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(d) The tribunal that issued the controlling order under subdivision (a), (b), or (c) is the tribunal that has continuing, exclusive jurisdiction under Section 4909.

(e) A tribunal of this state which determines by order the identity of the controlling order under paragraphs (1) or (2) of subdivision (b) or which issues a new controlling order under paragraph (3) of subdivision (b) shall state in that order the basis upon which the tribunal made its determination.

(f) Within 30 days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

4912. In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

4913. Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state shall

be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.

Article 3. Civil Provisions of General Application

4915. (a) Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

(b) This chapter provides for the following proceedings:

(1) Establishment of an order for spousal support or child support pursuant to Article 4 (commencing with Section 4935).

(2) Enforcement of a support order and income-withholding order of another state without registration pursuant to Article 5 (commencing with Section 4940).

(3) Registration of an order for spousal support or child support of another state for enforcement pursuant to Article 6 (commencing with Section 4950).

(4) Modification of an order for child support or spousal support issued by a tribunal of this state pursuant to Article 2 (commencing with Section 4905).

(5) Registration of an order for child support of another state for modification pursuant to Article 6 (commencing with Section 4950).

(6) Determination of parentage pursuant to Article 7 (commencing with Section 4965).

(7) Assertion of jurisdiction over nonresidents pursuant to Article 2 (commencing with Section 4905).

(c) An individual or a support enforcement agency may commence a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

4916. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

4917. Except as otherwise provided by this chapter, a responding tribunal of this state:

(a) Shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(b) Shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

4918. (a) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(1) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(b) If a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to the Uniform Interstate Family Support Act, a tribunal of this state may issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

4919. (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to subdivision (c) of Section 4915, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage.

(2) Order an obligor to comply with a support order, specifying the amount and the manner of compliance.

(3) Order income withholding.

(4) Determine the amount of any arrearages, and specify a method of payment.

(5) Enforce orders by civil or criminal contempt, or both.

(6) Set aside property for satisfaction of the support order.

(7) Place liens and order execution on the obligor's property.

(8) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment.

(9) Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants.

(10) Order the obligor to seek appropriate employment by specified methods.

(11) Award reasonable attorney's fees and other fees and costs.

(12) Grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

4920. If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner where and when the pleading was sent.

4921. (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall do all of the following:

(1) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent.

(2) Request an appropriate tribunal to set a date, time, and place for a hearing.

(3) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties.

(4) Within 14 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner.

(5) Within 14 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the petitioner.

(6) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

4922. If the Attorney General determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the Attorney General may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

4923. An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

4924. (a) The Attorney General's office is the state information agency under this chapter.

(b) The state information agency shall do all of the following:

(1) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state.

(2) Maintain a register of tribunals and support enforcement agencies received from other states.

(3) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state.

(4) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

4925. (a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter shall verify the petition. Unless otherwise ordered under Section 4926, the petition or accompanying documents shall provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition shall be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition shall specify the relief sought. The petition and accompanying documents shall conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

4926. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

4927. (a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Article 6 (commencing with Section 4950), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

4928. (a) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this state to participate in the proceeding.

4929. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter.

4930. (a) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this chapter, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of

this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

4931. A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

4932. A tribunal of this state may do both of the following:

(1) Request a tribunal of another state to assist in obtaining discovery.

(2) Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

4933. A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

Article 4. Establishment of Support Order

4935. (a) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if either of the following conditions apply:

(1) The individual seeking the order resides in another state.

(2) The support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if any of the following conditions apply:

(1) The respondent has signed a verified statement acknowledging parentage.

(2) The respondent has been determined by or pursuant to law to be the parent.

(3) There is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 4919.

Article 5. Enforcement of Order of Another State Without Registration

4940. An income-withholding order issued in another state may be sent to the person or entity defined as the obligor's employer pursuant to Section 5210 without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

4941. (a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(b) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.

(c) Except as otherwise provided in subdivision (d) and Section 4942, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify any of the following:

(1) The duration and the amount of periodic payments of current child support, stated as a sum certain.

(2) The person or agency designated to receive payments and the address to which the payments are to be forwarded.

(3) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment.

(4) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain.

(5) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to any of the following:

(1) The employer's fee for processing an income-withholding order.

(2) The maximum amount permitted to be withheld from the obligor's income.

(3) The times within which the employer must implement the withholding order and forward the child support payment.

4942. If an obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

4943. An employer who complies with an income-withholding order issued in another state in accordance with this article is not

subject to civil liability to any individual or agency with regard to the employer's withholding of child support from the obligor's income.

4944. An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

4945. (a) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. Section 4953 applies to the contest.

(b) The obligor shall give notice of the contest to:

(1) A support enforcement agency providing services to the obligee;

(2) Each employer that has directly received an income-withholding order; and

(3) The person or agency designated to receive payments in the income-withholding order or, if no person or agency is designated, to the obligee.

4946. (a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

Article 6. Enforcement and Modification of Support Order After Registration

4950. A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

4951. (a) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the appropriate tribunal in this state:

(1) A letter of transmittal to the tribunal requesting registration and enforcement.

(2) Two copies, including one certified copy, of all orders to be registered, including any modification of an order.

(3) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage.

(4) The name of the obligor and, if known:

(i) The obligor's address and social security number;

(ii) The name and address of the obligor's employer and any other source of income of the obligor; and

(iii) A description and the location of property of the obligor in this state not exempt from execution.

(5) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.

4952. (a) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in this article, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

4953. (a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

4954. (a) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice shall be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice shall inform the nonregistering party:

(1) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) That a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after notice;

(3) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and

precludes further contest of that order with respect to any matter that could have been asserted; and

(4) Of the amount of any alleged arrearages.

(c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to Chapter 8 (commencing with Section 5200).

4955. (a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within 20 days after notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to Section 4956.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

4956. (a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) The issuing tribunal lacked personal jurisdiction over the contesting party.

(2) The order was obtained by fraud.

(3) The order has been vacated, suspended, or modified by a later order.

(4) The issuing tribunal has stayed the order pending appeal.

(5) There is a defense under the law of this state to the remedy sought.

(6) Full or partial payment has been made.

(7) The statute of limitation under Section 4953 precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial defense under subdivision (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under subdivision (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

4957. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

4958. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in this article if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading shall specify the grounds for modification.

4959. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of Section 4960 have been met.

4960. (a) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if Section 4962 does not apply and after notice and hearing it finds that:

(1) The following requirements are met:

(i) The child, the individual obligee, and the obligor do not reside in the issuing state.

(ii) A petitioner who is a nonresident of this state seeks modification.

(iii) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) The child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed written consents in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedure substantially similar to the procedures under this chapter, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and shall be so recognized under Section 4911 establishes the aspects of the support order which are nonmodifiable.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.

4961. A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which

assumed jurisdiction pursuant to this chapter or a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

(1) Enforce the order that was modified only as to amounts accruing before the modification;

(2) Enforce only nonmodifiable aspects of that order;

(3) Provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

4962. (a) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of Articles 1 (commencing with Section 4900) and 2 (commencing with Section 4905), this article, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Articles 3 (commencing with Section 4915) through 5 (commencing with Section 4940), inclusive, and Articles 7 (commencing with Section 4965) nd 8 (commencing with Section 4970) do not apply.

4963. Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Article 7. Determination of Parentage

4965. (a) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12), procedural and substantive law of this state, and the rules of this state on choice of law.

Article 8. Interstate Rendition

4970. (a) For purposes of this article, “Governor” includes an individual performing the functions of Governor or the executive authority of a state covered by this chapter.

(b) The Governor of this state may:

(1) Demand that the Governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) On the demand by the Governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

4971. (a) Before making a demand that the Governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the Governor of this state may require a prosecutor of this state to demonstrate that at least 60 days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

(b) If, under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the Governor of another state makes a demand that the Governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the Governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the Governor may decline to honor the demand if the individual is complying with the support order.

Article 9. Miscellaneous Provisions

4975. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

4976. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

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 195

An act to amend Section 303 of the Public Utilities Code, relating to the Public Utilities Commission, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 2, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 303 of the Public Utilities Code is amended to read:

303. (a) A public utilities commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission. If any commissioner acquires a financial interest in a corporation or person subject to regulation by the commission other than voluntarily, his or her office shall become vacant unless within a reasonable time he or she divests himself or herself of the interest.

(b) The commission shall adopt an updated Conflict of Interest Code and Statement of Incompatible Activities, by February 28, 1998, in a manner consistent with applicable law.

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 avoid confusion as to the status of appointees to and employees of the Public Utilities Commission in regards to whether

they are “pecuniarily interested” in corporations or persons subject to regulation by the commission, it is necessary that this act take effect immediately.

CHAPTER 196

An act to amend Sections 4980.43, 4980.54, and 4996.22 of the Business and Professions Code, relating to healing arts.

[Approved by Governor August 2, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 4980.43 of the Business and Professions Code is amended to read:

4980.43. (a) For all applicants, a minimum of two calendar years of supervised experience is required, which experience shall consist of 3,000 hours obtained over a period of not less than 104 weeks. Not less than 1,500 hours of experience shall be gained subsequent to the granting of the qualifying master’s or doctor’s degree. For those applicants who enroll in a qualifying degree program on or after January 1, 1995, not more than 750 hours of counseling and direct supervisor contact may be obtained prior to the granting of the qualifying master’s or doctor’s degree. However, this limitation shall not be interpreted to include professional enrichment activities. Except for personal psychotherapy hours gained after enrollment and commencement of classes in a qualifying degree program, no hours of experience may be gained prior to becoming a trainee. All experience shall be gained within the six years immediately preceding the date the application for licensure was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (b) of Section 4980.40 shall be exempt from this six-year requirement.

(b) All experience shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage, family, and child counseling. Experience shall be gained by interns and trainees either as an employee or as a volunteer in any allowable work setting specified in this chapter. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

(c) Supervision shall include at least one hour of direct supervisor contact for each week of experience claimed. A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting in which experience is gained. An intern shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting in which experience is gained. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons. The contact may be counted toward the experience requirement for licensure, up to the maximum permitted by subdivision (d). All experience gained by a trainee shall be monitored by the supervisor as specified in regulation. The 5-to-1 and 10-to-1 ratios specified in this subdivision shall be applicable to all hours gained on or after January 1, 1995.

(d) (1) The experience required by Section 4980.40 shall include supervised marriage, family, and child counseling, and up to one-third of the hours may include direct supervisor contact and other professional enrichment activities.

(2) "Professional enrichment activities," for the purposes of this section, may include group, marital or conjoint, family, or individual psychotherapy received by an applicant. This psychotherapy may include up to 100 hours taken subsequent to enrolling and commencing classes in a qualifying degree program, or as an intern, and each of those hours shall be triple counted toward the professional experience requirement. This psychotherapy shall be performed by a licensed marriage, family, and child counselor, licensed clinical social worker, licensed psychologist, licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology, or a licensed physician who has completed a residency in psychiatry.

(e) The experience required by Section 4980.40 may be gained as a trainee in the following settings: a governmental entity, a school, college or university, a nonprofit and charitable corporation, a licensed health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code, a social rehabilitation facility or a community treatment facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, a pediatric day health and respite care facility, as defined in Section 1760.2 of the Health and Safety Code, or a licensed alcoholism or drug abuse recovery or treatment facility, as defined in Section 11834.02 of the Health and Safety Code, if the experience is gained by the trainee solely as part of the position for which he or she is employed.

(f) The experience required by Section 4980.40 may be gained as an intern as specified in subdivision (e), or when employed in a private practice owned by a licensed marriage, family, and child counselor, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any

of those licensed professions. Employment in a private practice setting shall not commence until the applicant has been registered as an intern. When an intern is employed in a private practice setting by any licensee enumerated in this section, or by a professional corporation of any of those licensees, the intern shall be under the direct supervision of a licensee enumerated in subdivision (f) of Section 4980.40 who shall be employed by and practice at the same site as the intern's employer. An intern employed in a private practice setting shall not pay his or her employer for supervision. While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration.

(g) All interns shall register with the board in order to be credited for postdegree hours of experience gained toward licensure, regardless of the setting where those hours are to be gained. Except as provided in subdivision (h), all postdegree hours shall be gained as a registered intern.

(h) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctor's degree and is thereafter granted the intern registration by the board.

(i) Trainees and interns shall not receive any remuneration from patients or clients, and shall only be paid by their employer.

(j) Trainees and interns shall only perform services at the place where their employer regularly conducts business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in the employer's business.

(k) An intern or trainee who provides volunteered services or other services, and who receives no more than a total, from all work settings, of five hundred dollars ($500) per month as reimbursement for expenses actually incurred by that intern or trainee for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive reimbursement for expenses, and the applicant shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(*l*) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the

applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

SEC. 2. Section 4980.54 of the Business and Professions Code is amended to read:

4980.54. (a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to assure that an applicant is prepared and qualified to take the licensure examinations and, if he or she passes those examinations, to begin practice.

(b) In order to continuously improve the competence of licensed marriage, family, and child counselors and as a model for all psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

(c) (1) Except as provided in subdivision (e), on and after January 1, 2000, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage, family, and child counseling in the preceding two years, as determined by the board.

(2) For those persons renewing during 1999, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 18 hours of approved continuing education in or relevant to the field of marriage, family, and child counseling, as determined by the board. The coursework of continuing education described in this paragraph may be taken on or after the effective date of the continuing education regulations adopted by the board pursuant to the other provisions of this section.

(d) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(e) The board may establish exceptions from the continuing education requirements of this section for good cause as defined by the board.

(f) The continuing education shall be obtained from one of the following sources:

(1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.40. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional marriage, family, and child counseling

association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, or a mental health professional association, approved by the board.

(3) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(g) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding, or the practice, of marriage, family, and child counseling.

(2) Aspects of the discipline of marriage, family, and child counseling in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding, or the practice, of marriage, family, and child counseling.

(h) A system of continuing education for licensed marriage, family, and child counselors shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(i) The board shall submit a report to the Legislature no later than January 1, 2001, evaluating the progress of continuing education required by this section, and making recommendations therefor.

(j) On and after January 1, 1997, the board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Science Examiners Fund. The fees related to the administration of this section shall be sufficient to meet but shall not exceed the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.

(k) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

SEC. 3. Section 4996.22 of the Business and Professions Code is amended to read:

4996.22. (a) (1) Except as provided in subdivision (c), on and after January 1, 2000, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field

of social work in the preceding two years, as determined by the board.

(2) For those persons renewing during 1999, the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 18 hours of approved continuing education in or relevant to the field of social work, as determined by the board. The coursework of continuing education described in this paragraph may be taken on or after the effective date of the continuing education regulations adopted by the board pursuant to the other provisions of this section.

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

(c) The board may establish exceptions from the continuing education requirement of this section for good cause as defined by the board.

(d) The continuing education shall be obtained from one of the following sources:

(1) An accredited school of social work, as defined in Section 4990.4, or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional social work association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, and a mental health professional association, approved by the board.

(3) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2), shall adhere to the procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(e) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work.

(2) Aspects of the social work discipline in which significant recent developments have occurred.

(3) Aspects of other related disciplines that enhance the understanding, or the practice, of social work.

(f) A system of continuing education for licensed clinical social workers shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(g) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

(h) The board may adopt regulations as necessary to implement this section.

(i) The board shall submit a report to the Legislature no later than January 1, 2001, evaluating the progress of continuing education required by this section, and making recommendations therefor.

(j) On and after January 1, 1997, the board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Science Examiners Fund. The fees related to the administration of this section shall be sufficient to meet but shall not exceed the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d), shall be deemed to be an approved provider.

CHAPTER 197

An act to amend Sections 987.87 and 988.2 of the Military and Veterans Code, relating to veterans.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 987.87 of the Military and Veterans Code is amended to read:

987.87. (a) The department shall establish the actual interest rate to be paid. To this end, the department, within 60 days of receipt of the survey of the financial condition of the Division of Farm and Home Purchases required at the close of each fiscal year conducted by an independent public accounting firm of recognized standing as provided under various veterans bond acts, shall report to the California Veterans Board and the Veterans' Finance Committee of 1943, regarding the recommended uniform rate of interest payable upon the amount remaining unpaid under any veteran's purchase contract executed on or after September 26, 1974. The department shall make its finding as to the rate of interest to be charged,

determined by a floating rate based upon the actual cost of general obligation bond and revenue bond sales, plus a certain percent for administrative costs, taking into consideration the current value of money, the solvency of the Veterans' Farm and Home Building Fund of 1943, and the interest paid on any participation contracts to which the interest of the department may be subject. Upon approval by the board and the committee, the department may raise or lower the effective rate of interest payable under these contracts annually as it deems to be for the best interests of the department, as well as the contractholders, if in so doing this action is made applicable alike to any and all of these contracts. The interest rate shall not be raised so that the effective date of a higher rate of interest occurs more than once in any calendar year, unless the board and committee, by a two-thirds vote of the members of each, make a finding that an additional increase in the interest rate is necessary to enable the department to maintain the financial solvency of the fund or to meet its obligations to bondholders or purchasers. At least 90 days' advance written notice to the contractholders shall be given before any increase in the interest rate becomes effective.

(b) The total amount of any installment payment shall be raised or lowered to reflect any change in the effective rate of interest. The department may, however, adjust or postpone any installment payment for good cause pursuant to Section 987.71 and, for these purposes, good cause shall include a consideration of whether an increased installment payment would be excessively burdensome in light of a purchaser's financial circumstances. The department shall include notice of this provision in the 90 days' advance notice required under subdivision (a).

SEC. 2. Section 988.2 of the Military and Veterans Code is amended to read:

988.2. (a) Out of any money available in the Veterans' Farm and Home Building Fund of 1943, the department may advance to any purchaser upon his or her application, and under the policies as the department may, from time to time, prescribe, sums for the purpose of paying taxes and assessments, or making permanent improvements, including permanent improvements for the purpose of increasing farm productivity, or keeping in good order or repair, or for painting, redecorating or remodeling, all buildings, fences or other permanent improvements on, or the insuring against fire or other hazards, any building, fence or other permanent improvements or crops on the property being purchased from the department, or the department may advance to the purchaser moneys actually expended in so doing.

(b) Any of the money advanced to a purchaser by the department may be added to the deferred principal of the purchaser's account and shall bear interest at the same rate and shall be repaid by the purchaser to the department under the conditions as it may prescribe.

(c) The moneys advanced may, in the discretion of the department, be in addition to the maximum purchase price of a farm or home as provided by the Veterans' Farm and Home Purchase Act of 1974 and acts supplementary thereto.

(d) Any money required by the department to be paid for the purpose of taxes, insurance premiums, and other charges when they become due may be maintained by the department using the escrow accounting method in accordance with lending industry standards and the laws governing escrow accounts of this type.

(e) The department shall be the sole judge of the need and desirability of making advances or requiring payments by the purchaser under this section.

CHAPTER 198

An act to add Section 1213 to the Probate Code, relating to probate.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 1213 is added to the Probate Code, to read:

1213. (a) The following persons shall mail a notice, as described in Section 1211, to a surety who has filed a court bond in a proceeding:

(1) A person who files a petition to surcharge.

(2) A person who files an objection to an account.

(3) A person who files a petition to suspend or remove a guardian, conservator, or personal representative.

(4) An attorney who files a motion to withdraw from representation of a guardian, conservator, or personal representative.

(b) Within five days after entry of an order to suspend or remove a guardian, conservator, or personal representative, the person who filed a petition to suspend or remove a guardian or, if the order to suspend or remove a guardian, conservator, or personal representative was issued upon a motion by the court, the court, shall notify the surety who has filed a court bond of the order by first-class mail, postage prepaid.

(c) The notice required by this section shall be mailed to the address listed on the surety bond.

(d) Notwithstanding subdivisions (a) and (b), notice is not required to a surety pursuant to this section if the surety bond is for a guardian, conservator, or personal representative who is not the subject of the petition, motion, or order described in this section.

CHAPTER 199

An act to amend Section 2290.5 of the Business and Professions Code, relating to medicine.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 2290.5 of the Business and Professions Code is amended to read:

2290.5. (a) For the purposes of this section, "telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Neither a telephone conversation nor an electronic mail message between a health care practitioner and patient constitutes "telemedicine" for purposes of this section.

(b) For the purposes of this section, "health care practitioner" has the same meaning as "licentiate" as defined in paragraph (2) of subdivision (a) of Section 805.

(c) Prior to the delivery of health care via telemedicine, the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient or the patient's legal representative. The informed consent procedure shall ensure that at least all of the following information is given to the patient or the patient's legal representative verbally and in writing:

(1) The patient or the patient's legal representative retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefits to which the patient or the patient's legal representative would otherwise be entitled.

(2) A description of the potential risks, consequences, and benefits of telemedicine.

(3) All existing confidentiality protections apply.

(4) All existing laws regarding patient access to medical information and copies of medical records apply.

(5) Dissemination of any patient identifiable images or information from the telemedicine interaction to researchers or other entities shall not occur without the consent of the patient.

(d) A patient or the patient's legal representative shall sign a written statement prior to the delivery of health care via telemedicine, indicating that the patient or the patient's legal representative understands the written information provided pursuant to subdivision (a), and that this information has been discussed with the health care practitioner, or his or her designee.

(e) The written consent statement signed by the patient or the patient's legal representative shall become part of the patient's medical record.

(f) The failure of a health care practitioner to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(g) All existing laws regarding surrogate decisionmaking shall apply. For purposes of this section, "surrogate decisionmaking" means any decision made in the practice of medicine by a parent or legal representative for a minor or an incapacitated or incompetent individual.

(h) Except as provided in paragraph (3) of subdivision (c), this section shall not apply when the patient is not directly involved in the telemedicine interaction, for example when one health care practitioner consults with another health care practitioner.

(i) This section shall not apply in an emergency situation in which a patient is unable to give informed consent and the representative of that patient is not available in a timely manner.

(j) This section shall not apply to a patient under the jurisdiction of the Department of Corrections or any other correctional facility.

CHAPTER 200

An act to add Section 2220.5 to the Business and Professions Code, relating to medicine.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 2220.5 is added to the Business and Professions Code, to read:

2220.5. (a) The Medical Board of California is the only licensing board that is authorized to investigate or commence disciplinary actions relating to physicians and surgeons who have been issued a certificate pursuant to Section 2050.

(b) For purposes of this section, "investigate or commence disciplinary actions" shall mean written, oral, or telephonic communication with a physician or surgeon concerning his or her violation of the Medical Practice Act.

(c) Written complaints that are subject to Section 43.96 of the Civil Code, relating to the professional conduct or professional competence of physicians and surgeons, shall be processed in accordance with that section.

CHAPTER 201

An act to amend Sections 18205.5, 18206, and 18455 of, to repeal Sections 18267 and 18273 of, and to repeal Article 7 (commencing with Section 18310) of, Chapter 3 of Division 7 of, the Financial Code, relating to industrial loan companies.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 18205.5 of the Financial Code is amended to read:

18205.5. Notwithstanding any other provision of this division, an industrial loan company may make a loan or acquire an obligation that is repayable in unequal periodic payments during its term and that is secured by either real property or personal property. In order to ensure the safety and soundness of industrial loan companies and to avoid an unreasonable concentration of loans and obligations that could result in balloon payments, all these loans and obligations with a term in excess of 10 years shall be repaid in substantially equal weekly, semimonthly, monthly, or quarterly installments during the term. For purposes of this section, "real property" means real property other than home loans and other residential real property loans subject to Title VIII (Alternative Mortgage Transaction Parity Act of 1982) of the Garn-St. Germain Depository Institutions Act of 1982, as those terms are defined in Part 541 of Title 12 of the Code of Federal Regulations, as amended. For purposes of this section, the term of a nonconsumer loan or a nonconsumer obligation secured solely or primarily by personal property shall not exceed 15 years and 30 days from the date the loan is made or obligation is acquired by the industrial loan company. For purposes of this section, the term of a nonconsumer loan or a nonconsumer obligation secured primarily by real property shall be as set forth in subdivision (a) of Section 18210.

SEC. 2. Section 18206 of the Financial Code is amended to read:

18206. Consumer loans made and obligations acquired that are secured by a motor vehicle and repayable other than in equal periodic payments during its term shall not exceed 50 percent of all consumer loans and obligations that are secured by motor vehicles or 20 percent of assets, whichever is less. This section shall not apply to a loan made to a graduate student while attending an accredited college or university and for the purpose of actively pursuing a study program leading to a postbaccalaureate degree.

SEC. 3. Section 18267 of the Financial Code is repealed.

SEC. 4. Section 18273 of the Financial Code is repealed.

SEC. 5. Article 7 (commencing with Section 18310) of Chapter 3 of Division 7 of the Financial Code is repealed.

SEC. 6. 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, any of the following:

(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 affiliated 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.

(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 affiliated 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.

(h) The prohibition contained in this section shall not apply to the following transactions:

(1) A transaction between an industrial loan company and a subsidiary corporation or other entity in which the industrial loan company is the owner of 50 percent or more of the common stock or equity interest, or directly controls the management of the corporation or other entity.

(2) The purchase of loans or other obligations by an industrial loan company from an affiliated company pursuant to a sale and repurchase agreement.

CHAPTER 202

An act to add Section 14074.8 to the Government Code, relating to transportation.

[Approved by Governor August 2, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 14074.8 is added to the Government Code, to read:

14074.8. The Steering Committee of the Caltrans Rail Task Force may confer with the secretary to coordinate intercity passenger rail service for the San Joaquin Corridor, including assisting in the development of an appropriate management structure for the San Joaquin Corridor as an element of a coordinated statewide intercity rail system.

CHAPTER 203

An act to amend Sections 1, 2, 3, 5, 6, 8, and 9 of, to add Section 13.6 to, and to repeal Section 10 of, Chapter 1143 of the Statutes of 1991, relating to San Francisco filled tidelands, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 2, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 1 of Chapter 1143 of the Statutes of 1991 is amended to read:

Section 1. As used in this act:

(a) "Boundary of the Port of San Francisco" means that line defining the boundary of Parcel "A" in the description of the lands transferred in trust to the City and County of San Francisco pursuant to Chapter 1333 of the Statutes of 1968, recorded on May 14, 1976, in Book C169, pages 573 through 664, in the City and County of San Francisco Recorder's Office.

(b) "Burton Act trust" means the statutory trust imposed by the Burton Act (Chapter 1333 of the Statutes of 1968, as amended), pursuant to which the state conveyed to the City and County of San Francisco, in trust, by transfer agreement, and subject to certain terms, conditions, and reservations, the state's interest in certain tide and submerged lands, including lands within the Mission Bay Development Area and the Western Pacific Property.

(c) "City" means the City and County of San Francisco, a municipal corporation of the State of California, and where necessary to effectuate the land exchanges contemplated in this act, the city acting by and through the San Francisco Port Commission.

(d) "Granted tidelands" means tidelands or submerged lands, or any interest therein, located within the Mission Bay Development Area or the Western Pacific Property and heretofore conveyed or conveyed pursuant to this act by the state to the city.

(e) (1) "Mission Bay Development Area" means those lands within the city which are located in the city above the present line of mean high tide and enclosed by a line BEGINNING at the intersection of the northerly line of Mariposa Street (66.00 feet wide) with the easterly line of Pennsylvania Street (90.00 feet wide) running thence from that point of intersection easterly along the northerly line of Mariposa Street north 86°49′04″ east 940.17 feet; thence leaving that northerly line of Mariposa Street north 3°10′56″ west 433.04 feet; thence easterly and parallel with that northerly line of Mariposa Street north 86°49′04″ east 280.00 feet; thence north 3°10′56″ west 433.04 feet to the southerly line of Sixteenth Street (90.00 feet wide); thence easterly along that southerly line of Sixteenth Street north 86°49′04″ east 100.00 feet to the westerly line of Third Street (100.00 feet wide); thence southerly along the westerly line of Third Street south 3°10′56″ east 866.08 feet to that northerly line of Mariposa Street; thence easterly crossing Third Street and running along that northerly line of Mariposa Street north 86°49′04″ east 360.00 feet to the easterly line of Illinois Street (80.00 feet wide); thence southerly along that easterly line of Illinois Street south 3°10′56″ east 129.85 feet; thence north 35°06′05″ east 616.30 feet; thence northeasterly along an arc of a curve to the left tangent to the preceding course with a radius of 440.00 feet through a central angle of 12°49′53″ an arc distance of 98.54 feet; thence tangent to the preceding curve north 22°16′12″ east 700.07 feet; thence northerly along an arc of a curve to the left tangent to the preceding course with a radius of 340.00 feet through a central angle of 12°28′00″ an arc distance of 73.98 feet; thence tangent to the preceding curve north

9°48′12″ east 86.42 feet; thence northerly along the arc of a curve to the left tangent to the preceding course with a radius of 340.00 feet, through a central angle of 11°58′09″, an arc distance of 71.03 feet; thence tangent to the preceding curve north 2°09′57″ west 121.44 feet; thence north 3°10′56″ west 198.86 feet; thence north 2°19′47″ west 292.70 feet; thence northwesterly along an arc of a curve to the left tangent to the preceding course with a radius of 481.57 feet through a central angle of 24°30′49″, an arc distance of 206.04 feet; thence tangent to the preceding curve north 26°50′36″ west 402.03 feet; thence northwesterly along an arc of a curve to the right tangent to the preceding course with a radius of 236.29 feet, through a central angle of 9°00′04″ an arc distance of 37.12 feet; thence tangent to the preceding curve north 17°50′32″ west 679.08 feet; thence south 86°49′04″ west 282.38 feet; thence south 17°34′00″ east 2.58 feet; thence south 86°49′04″ west 397.43 feet to the easterly line of Third Street (88.50 feet wide); thence along that easterly line north 3°10′56″ west 1,265.04 feet; thence south 64° 21′26″ west 95.76 feet to the point of intersection of the westerly line of Third Street (80.00 feet wide) with the southeasterly line of Channel Street (165.00 feet wide); running thence along that southeasterly line of Channel Street south 46°18′07″ west 772.99 feet to the northeasterly line of Fourth Street (82.50 feet wide); thence along that northeasterly line of Fourth Street north 43°41′53″ west 440.00 feet to the southeasterly line of Berry Street (82.50 feet wide); thence along that southeasterly line of Berry Street north 46°18′07″ east 825.95 feet to the southwesterly line of Third Street; thence northwesterly along that southwesterly line of Third Street north 43°41′53″ west 667.50 feet to the southeasterly line of Townsend Street (82.50 feet wide); thence along that southeasterly line of Townsend Street south 46°18′07″ west 3,549.21 feet to the northeasterly line of Seventh Street (82.50 feet wide); thence along that northeasterly line of Seventh Street south 43°41′53″ east 3,166.69 feet to a point on the easterly line of Pennsylvania Street (90.00 feet wide); thence southerly along that easterly line of Pennsylvania Street south 3°10′56″ east 556.59 feet to THE POINT OF BEGINNING; and contains 307.09 acres, more or less.

Excepting therefrom the following described lands:

Beginning at the intersection of the southerly line of Sixteenth Street (90.00 feet wide) with the easterly line of Third Street (100.00 feet wide) and continuing easterly along that southerly line of Sixteenth Street north 86°49’04” east 260.00 feet to a point on the easterly line of Illinois Street (80.00 feet wide), that point being the northwesterly corner of parcel one as described in the deed to Esprit de Corps, a California corporation, recorded on July 12, 1988, on Reel E634 at Image 1334, Document No. E203992, in the Office of the Recorder of the City and County of San Francisco, that point also being the true point of beginning of this description; thence along the northerly line of that parcel one north 86°49’04” east 335.00 feet; thence along the easterly line of that parcel one south 14°29’32” east

107.08 feet, thence south 3°10’56” east 232.00 feet; thence south 26°50’57” west 72.77 feet to the most easterly corner of parcel two as described in that deed; thence along the easterly line of that parcel two south 26°50’57” west 92.41 feet; thence along the southerly line of that parcel two south 86°49’04” west 273.33 feet to the easterly line of Illinois Street; thence along the westerly line of that parcel two north 3°10’56” west 80.00 feet to the southwesterly corner of that parcel one; thence along the westerly line of that parcel one north 3°10’56” west 400.00 feet to the true point of beginning; and containing 3.762 acres of land, more or less.

(2) All streets and street lines described in paragraph (1) are in accordance with that certain map entitled “Record of Survey Map of Mission Bay,” recorded July 28, 1992, Book Y of Records of Survey, at pages 62 to 82, inclusive (Reel 5679, Image 620), in the Office of the Recorder of the City and County of San Francisco, State of California. The bearings are based upon the bearing north 43°41′53″ west on the northeasterly line of Seventh Street, as shown on Caltrans right-of-way map no. R-174.14 and as shown on that same Record of Survey Map of Mission Bay.

(f) “Public trust” means the public trust for commerce, navigation, and fisheries.

(g) “Substantially in the configuration shown on the diagram contained in Section 13.6” means a configuration of lands or interests in land subject to the public trust or the Burton Act trust, or both trusts, within the Mission Bay Development Area, which the State Lands Commission has found does not differ significantly from the configuration shown in Section 13.6 and is equal or greater in value to the value of the area of that configuration and does not result in any significant impairment of the public trust uses and values provided for in that configuration.

(h) “University” means the University of California.

(i) “Western Pacific Property” means those lands within the city described as follows:

All of that real property situated in the City and County of San Francisco, State of California, described as follows:

Beginning at the point of intersection of the northerly line of Army Street with the easterly line of Illinois street; running thence easterly along said northerly line of Army Street and its easterly extension 240 feet to the centerline of Michigan Street; thence at a right angle northerly along said centerline of Michigan Street 161 feet; thence at a right angle easterly parallel with said northerly line of Army Street 840 feet to the centerline of Maryland Street; thence at a right angle northerly along said centerline of Maryland Street 39 feet; thence at a right angle easterly parallel with the former northerly line of Army Street, as said Army Street existed prior to any vacation thereof, a distance of 570 feet to the former centerline of Massachusetts Street, now vacated; thence at a right angle northerly along said former centerline of Massachusetts Street and along the present centerline

of Massachusetts Street 233.138 feet to the centerline of Twenty-sixth Street, extended easterly; thence at a right angle along the centerline of Twenty-sixth Street easterly 250 feet to the direct extension southerly of the eastern line of Potrero Nuevo Block No. 509; thence at a right angle along said extension, and along the eastern lines of said Block No. 509, and Potrero Nuevo Block No. 508, northerly 899.116 feet to the northern line of said Block No. 508; thence along the last named line westerly 200 feet to the western line of said Block No. 508; thence along the last named line southerly 77.774 feet; thence at a right angle westerly 620 feet to the centerline of Maryland Street; thence along the last named line southerly 355.203 feet to the centerline of Twenty-fifth Street, formerly Yolo Street; thence along the last named line westerly 1080 feet to the direct extension northerly of the easterly line of Illinois Street; thence along said extension, and thence along the easterly line of Illinois Street 899.277 feet to the point of beginning.

Being entire Block Nos. 433, 434, 440, 467, 474, 493, and 500; and portions of Block Nos. 439, 468, 473, 494, and 499; and also portions of Michigan Street, Georgia Street, Louisiana Street, Maryland Street, Delaware Street, Massachusetts Street, Twenty-fifth Street, and Twenty-sixth Street, as certain of said blocks and streets are delineated on that certain map entitled "Map of Golden City Homestead Association," recorded on December 12, 1865, in Map Book "C" and "D," at pages 20 and 21, in the Office of the Recorder of the City and County of San Francisco; all of said blocks and streets also being delineated on that certain map entitled "Map of the Salt Marsh and Tide Lands and Lands Lying Under Water South of Second Street, and Situated in the City and County of San Francisco," recorded in Map Book "W," at pages 46 and 47, in the Office of the Recorder of the City and County of San Francisco.

Also being Block Nos. 508 and 509, and portions of Block Nos. 492 and 501, of the Potrero Nuevo.

Excepting therefrom that portion of the above described land conveyed to the State of California by that certain instrument recorded on August 20, 1964, in Book A805, of Official Records, at page 815, in the Office of the Recorder of the City and County of San Francisco.

Also excepting therefrom that portion of the above described land conveyed to the State of California by that certain instrument recorded on May 24, 1966, in Book B52, of Official Records, at page 596, in the Office of the Recorder of the City and County of San Francisco.

Excepting therefrom all minerals and mineral rights, but without the right of surface entry, as set forth and reserved in deed from the Union Pacific Railroad Company, rerecorded June 19, 1987, as Instrument EOO9928, in Reel E367, Image 758, Official Records.

SEC. 2. Section 2 of Chapter 1143 of the Statutes of 1991 is amended to read:

Sec. 2. The Legislature hereby finds and declares as follows:

(a) Certain of the lands within the Mission Bay Development Area and the Western Pacific Property are tide or submerged lands that have been filled and reclaimed.

(b) The filled and reclaimed tide and submerged lands within the Mission Bay Development Area and the Western Pacific Property have been filled and reclaimed for, and in connection with, a highly beneficial plan of improvement for harbor development.

(c) Certain of the tide and submerged lands within the Mission Bay Development Area and the Western Pacific Property have been authorized to be, and have been, laid off and sold to private parties pursuant to various acts, including Chapter 41 of the Statutes of 1851, Chapter 160 of the Statutes of 1853, Chapter 407 of the Statutes of 1863–64; Chapter 543 of the Statutes of 1867–68; Chapter 490 of the Statutes of 1871–72; Chapter 265 of the Statutes of 1903, Chapter 434 of the Statutes of 1947, and Chapter 1252 of the Statutes of 1953.

(d) Certain of the streets originally laid out within the Mission Bay Development Area and the Western Pacific Property are filled and not used, suitable, or necessary for navigation purposes and certain portions of those streets are not necessary for street purposes.

(e) Section 3 of Article X of the California Constitution allows the sale to any city, city and county, municipal corporation, private person, partnership, or corporation of tidelands reserved to the state solely for street purposes, which tidelands the Legislature finds and declares are not used and not necessary for navigation purposes, subject to such conditions as the Legislature may impose to protect the public interest.

(f) There is a dispute between the city and the state with respect to the extent to which certain street areas within the Mission Bay Development Area may be subject to the public trust or other encumbrances that may have arisen because the lands were once sovereign lands of the state. The state contends that a total of approximately 40 disputed acres within the Mission Bay Development Area was (1) reserved to the state for street purposes, and (2) is held by the city subject to the public trust. The city contends that it holds those disputed street areas in fee simple free of the public trust or any other such encumbrances. It is in the public interest that this dispute be resolved in a manner that furthers public trust purposes.

(g) There is also a dispute between and among the city, the state, and the current private owner of the Western Pacific Property with respect to the extent to which certain portions of the Western Pacific Property may be subject to the public trust or other encumbrances that may have arisen because the Western Pacific Property was once sovereign land of the state. It is in the public interest that this dispute also be resolved in a manner that furthers public trust purposes.

(h) The existing fragmented pattern of public and private ownership within the Mission Bay Development Area and the

Western Pacific Property, especially the industrial area street system and parcelization imposed on those areas largely as the result of subdivisions and sales in the latter half of the 19th century, limit both the potential development of those areas and the expansion of desirable public uses in those areas, including, but not limited to, the expansion of the San Francisco campus of the university and uses consistent with the public trust and the Burton Act trust, such as open space and parks along the waterfront and elsewhere within those areas, and public access to and along the shoreline of the Mission Bay Development Area and the Western Pacific Property. Consolidation of public and private ownerships, together with addressing the environmental condition as required by applicable law of all real property to be subjected to the public trust or the Burton Act trust, or both trusts, or to be made available for the San Francisco campus of the university, will permit the development of improved open space, public access, waterfront parks, and other public facilities consistent with the public trust and the Burton Act trust and the expansion of the San Francisco campus of the university. This development would otherwise not be feasible because of existing ownership patterns and lack of city and state funds. The consolidation of public and private ownerships referred to in this section will also be facilitated by the resolution of the dispute with the state over the extent to which the street areas within the Mission Bay Development Area and the Western Pacific Property are subject to the public trust. It is intended that the resolution of that dispute and the consolidation of public and private ownerships will be accomplished by and through sales and exchanges of lands. The proposed sales will be consistent with Section 3 of Article X of the California Constitution, and the proposed exchanges will not interfere with, and will, in fact, be consistent with and further the purposes of the public trust and the Burton Act trust, provided that all of the following conditions are met:

(1) The consideration for the sale of lands or interests in lands pursuant to Section 3 of Article X of the California Constitution shall be the conveyance to the university of lands or interests in lands for expansion of its San Francisco campus, the value of which equals or exceeds the value of the lands or interests in lands that are to be sold pursuant to Section 3 of Article X of the California Constitution.

(2) The value of the lands or interests in lands to be conveyed, in exchange, to the city and subjected to the public trust or the Burton Act trust, or both trusts, the value of the public trust easement to be conveyed, in exchange, to the city over certain other lands, and the value of the public trust interest created by the agreement of the city that certain of the street areas in dispute with the state and other areas shall be subjected to the public trust by easement or otherwise within the Mission Bay Development Area and along the shoreline of the Western Pacific Property are equal to, or greater than, the value of the lands to be conveyed, in exchange, by the city and the

value of the public trust or Burton Act trust interest to be terminated pursuant to those exchanges.

(3) The lands or interests in lands to be exchanged or sold by the city and over which the public trust or the Burton Act trust, or both trusts, will be terminated within the Mission Bay Development Area and the Western Pacific Property have been filled and reclaimed, those parcels consisting entirely of dry land lying above the present line of mean high tide and being no longer needed or required for the purposes of the public trust or the Burton Act trust.

(4) The lands or interests in lands to be exchanged or sold by the city and over which the public trust or the Burton Act trust, or both trusts, will be terminated within the Mission Bay Development Area are nonwaterfront, having been cut off from direct access to the waters of San Francisco Bay by past filling of intervening property or by a major roadway (Terry Francois Boulevard), which has provided, and will continue to provide, lateral public access to the water along the entirety of the Mission Bay Development Area.

(5) The lands or interests in lands to be exchanged by the city and over which the public trust or the Burton Act trust, or both trusts, will be terminated within the Western Pacific Property are nonwaterfront, having been cut off from direct access to the waters of San Francisco Bay by past filling of intervening property, and the lands that will be subject to the public trust and the Burton Act trust, or both trusts, at the conclusion of the exchanges contemplated by this act will provide lateral public access to the water along the entirety of the shoreline of the Western Pacific Property.

(6) The lands or interests in lands to be exchanged or sold by the city and over which the Burton Act trust or the public trust, or both trusts, will be terminated within the Mission Bay Development Area and the Western Pacific Property constitute a relatively small portion of the granted tidelands.

(7) Upon completion of the sales and exchanges contemplated by this section, the lands subject to the public trust or the Burton Act trust, or both trusts, within the Mission Bay Development Area and the Western Pacific Property shall meet all of the following criteria:

(A) Within the Mission Bay Development Area, those lands shall be substantially in the configuration shown on the diagram in Section 13.6.

(B) On the Western Pacific Property, those lands shall consist of all lands waterward of the present line of mean high tide, and a parcel of property landward of and contiguous to the present line of mean high tide, not less than 25 feet in width at any point, that, at a minimum, is equal in area to the area within the Western Pacific Property of the shoreline band jurisdiction of the San Francisco Bay Conservation and Development Commission, as that jurisdiction presently exists pursuant to subdivision (b) of Section 66610 of the Government Code, and, at a maximum, is equal in area to 1.5 times the area of that shoreline band jurisdiction.

(C) Within both the Mission Bay Development Area and the Western Pacific Property, no uses shall be allowed on those lands other than public parks, open space, public access to and along the shoreline, rail within existing public roadways, and utility facilities that do not significantly impair the use of those lands for those uses, provided that other uses may be made of those lands so long as the trust administrator has the right, at any time, to convert those lands to use for public parks, open space, public access to and along the shoreline, rail within existing public roadways, or utility facilities that do not significantly impair the use of those lands for those uses, and, in connection with that conversion, to discontinue such other uses without the obligation to pay for any existing improvements on those lands, and to have those lands delivered to it free of surface improvements, subject to any necessary governmental approvals for the removal of rail facilities, without cost to the trust administrator. The existing overhead freeway, roadways, and the passenger rail right-of-way that cross portions of those lands shall be considered uses that provide public access to the shoreline.

(i) Substantial portions of the approximately 40 acres of granted tidelands in dispute within the Mission Bay Development Area to be conveyed into private ownership were reserved to the state for street purposes and are not used or necessary for navigation purposes, and therefore under Section 3 of Article X of the California Constitution can and should be conveyed into private ownership for uses consistent with and in furtherance of this act.

(j) It is therefore the intent of the Legislature, on and subject to the terms and conditions set forth in this act, (1) to authorize, ratify, and confirm any agreement by the city to enter into an exchange or exchanges of granted tidelands and to terminate the public trust or the Burton Act trust, or both trusts, over granted tidelands consistent with the findings and declarations stated in this act, and (2) to authorize the city to dispose of any and all granted tidelands originally laid out and reserved to the state for street purposes for private use free from those trusts.

SEC. 3. Section 3 of Chapter 1143 of the Statutes of 1991 is amended to read:

Sec. 3. (a) For the purposes of effectuating the sales and exchanges of lands referred to in subdivision (h) of Section 2, including the conveyance of certain of those lands by the city free of the public trust and the Burton Act trust, the State Lands Commission is hereby authorized to do all of the following:

(1) Convey to the city by patent all of the right, title, and interest held by the state by virtue of its sovereign trust title to tide and submerged lands, including any public trust interest or Burton Act reservation or trust interest, and not heretofore conveyed, in and to all of the filled tidelands and submerged lands within the Mission Bay Development Area and the Western Pacific Property, subject to such

reservations as the State Lands Commission may determine to be appropriate.

(2) Receive and accept on behalf of the state in its sovereign capacity any lands or any interest in lands, conveyed to the state in its sovereign capacity by the city or by any private party pursuant to this act and pursuant to any exchange authorized, ratified, or confirmed by this act, including, but not limited to, any public trust easement conveyed to the state in its sovereign capacity by the city or by a private party in any such lands.

(3) Convey to the city by patent all of the right, title, and interest of the state in any lands conveyed to the state in its sovereign capacity by the city or by any private party pursuant to this act and pursuant to any exchange authorized, ratified, or confirmed by this act, including, but not limited to, any public trust easement, conveyed to the state in its sovereign capacity by the city or by a private party, in any such lands, subject to such terms, conditions, and reservations as the State Lands Commission may determine are necessary to meet the requirements of Section 8.

(b) In any case where the state, pursuant to this act, conveys filled tidelands and submerged lands transferred to the city pursuant to Chapter 1333 of the Statutes of 1968, as amended, the state shall reserve all minerals and all mineral rights in the lands of every kind and character now known to exist or hereafter discovered, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the state or to its successors and assignees, except that, notwithstanding Chapter 1333 of the Statutes of 1968, as amended, or Section 6401 of the Public Resources Code, any such reservation shall not include the right of the state or its successors or assignees in connection with any mineral exploration, removal, or disposal activity, to do either of the following:

(1) Enter upon, use, or damage the surface of the lands or interfere with the use of the surface by any grantee or by the grantee's successors or assignees.

(2) Conduct any mining activities of any nature whatsoever above a plane located 500 feet below the surface of the lands without the prior written permission of any grantee of the lands or the grantee's successors or assignees.

(c) No private owner is required to transfer, pursuant to this act, any mineral rights which it does not own or possess, and similarly, neither the city nor the state is required to transfer any mineral rights which either does not own or possess.

SEC. 4. Section 5 of Chapter 1143 of the Statutes of 1991 is amended to read:

Sec. 5. (a) In addition to the authorization contained in Section 4, the city is hereby authorized pursuant to Section 3 of Article X of the California Constitution to sell to any private person, partnership,

or corporation, with the approval of the State Lands Commission as specified in subdivision (b), any and all portions of the granted tidelands that were laid off and reserved to the state for street purposes, provided that the city shall first find that any such sale is consistent with the legislative findings and declarations set forth in Section 2.

(b) No such sale shall be effective unless and until the State Lands Commission, at a regular open meeting with the proposed sale as a properly scheduled agenda item, does or has done, both the following:

(1) Finds, or has found, that the consideration for the sale of lands or interests in lands pursuant to Section 3 of Article X of the California Constitution shall be the conveyance to the university of lands or interests in lands for the expansion of its San Francisco campus, the value of which equals or exceeds the value of the lands or interests in lands that are to be sold pursuant to Section 3 of Article X of the California Constitution.

(2) Adopts, or has adopted, a resolution approving the sale which finds and declares that the granted tidelands to be sold have been filled and reclaimed, are cut off from access to the waters of San Francisco Bay, and are no longer needed or required for the promotion of the public trust or the Burton Act trust; and, further, that no substantial interference with the public trust or Burton Act trust uses and purposes will ensue by virtue of the sale; and further that the sale is consistent with the findings and declarations in Section 2 and the sale is in the best interests of the state and city. Upon adoption of the resolution, or at such time as may otherwise be specified in the resolution, the granted tidelands to be sold shall thereupon be free from the public trust and the Burton Act trust.

SEC. 5. Section 6 of Chapter 1143 of the Statutes of 1991 is amended to read:

Sec. 6. (a) The city is hereby authorized to settle by agreement, exchange, or quitclaim, any dispute concerning whether or not particular land within the Mission Bay Development Area or the Western Pacific Property constitutes land in private or proprietary ownership by reason of title traceable to a state patent or other valid source, or rather constitutes granted tidelands, title to which is vested in the city.

(b) In the settlement of that dispute, the city may, by that agreement, exchange, or quitclaim, establish boundary or compromise boundary lines between granted tidelands and bordering private or proprietary lands. No settlement by agreement, exchange, or quitclaim pursuant to this section shall be effective unless and until the State Lands Commission, at a regular open meeting with that settlement as a properly scheduled agenda item, approves or has approved this settlement.

SEC. 6. Section 8 of Chapter 1143 of the Statutes of 1991 is amended to read:

Sec. 8. (a) Any lands, or interests in lands, received by the city pursuant to any exchange authorized by this act and located within the boundary of the Port of San Francisco and within the Mission Bay Development Area and those portions of the Western Pacific Property described in subparagraph (B) of paragraph (7) of subdivision (h) of Section 2 shall be held by the city subject to the public trust and the Burton Act trust and subject to those exceptions and reservations to the state, including, but not limited to, subsurface mineral deposits, contained in Chapter 1333 of the Statutes of 1968, as amended, as if those lands had been transferred to the city pursuant to Chapter 1333 of the Statutes of 1968, as amended, except that, notwithstanding this section or Chapter 1333 of the Statutes of 1968, as amended, any conveyance to the city of lands outside the Mission Bay Development Area shall not include minerals or mineral rights, including, but not limited to, oil and gas and rights thereto, if the owner of the lands has not held those minerals or mineral rights since January 1, 1990, and the owner of the minerals or mineral rights or that owner's successors or assignees, in connection with any mineral exploration, removal, or disposal activity, do not have the right to do either of the following:

(1) Enter upon, use, or damage the surface of the lands or interfere with the use of the surface by any grantee of those lands or by the grantee's successors or assignees.

(2) Conduct any mining activities of any nature whatsoever above a plane located 500 feet below the surface of the lands without the prior written permission of any grantee of the lands or the grantee's successors or assignees.

(b) Any lands, or interest in lands, received by the city outside the boundary of the Port of San Francisco, but within the Mission Bay Development Area, shall be held by the city subject to the public trust, except for those lands or interests in lands with respect to which the public trust or the Burton Act trust is terminated pursuant to the exchange.

SEC. 7. Section 9 of Chapter 1143 of the Statutes of 1991 is amended to read:

Sec. 9. The city is hereby authorized to make minor adjustments by agreement, exchange, or quitclaim in the location of the boundaries between lands that are subject to the public trust or the Burton Act trust, or both trusts, and lands that are not subject to those trusts, whether the lands are privately owned or owned or held by the city, as those boundaries may be established pursuant to any agreements approved by the State Lands Commission with respect to the granted tidelands or any other lands within the Mission Bay Development Area or the Western Pacific Property, provided that the following conditions are met:

(a) The city determines that any such adjustment does not result in any significant net reduction in either the area or value of lands subject to the public trust or the Burton Act trust, or both trusts,

within the Mission Bay Development Area or the Western Pacific Property or in any significant impairment of the public trust uses provided for in this act.

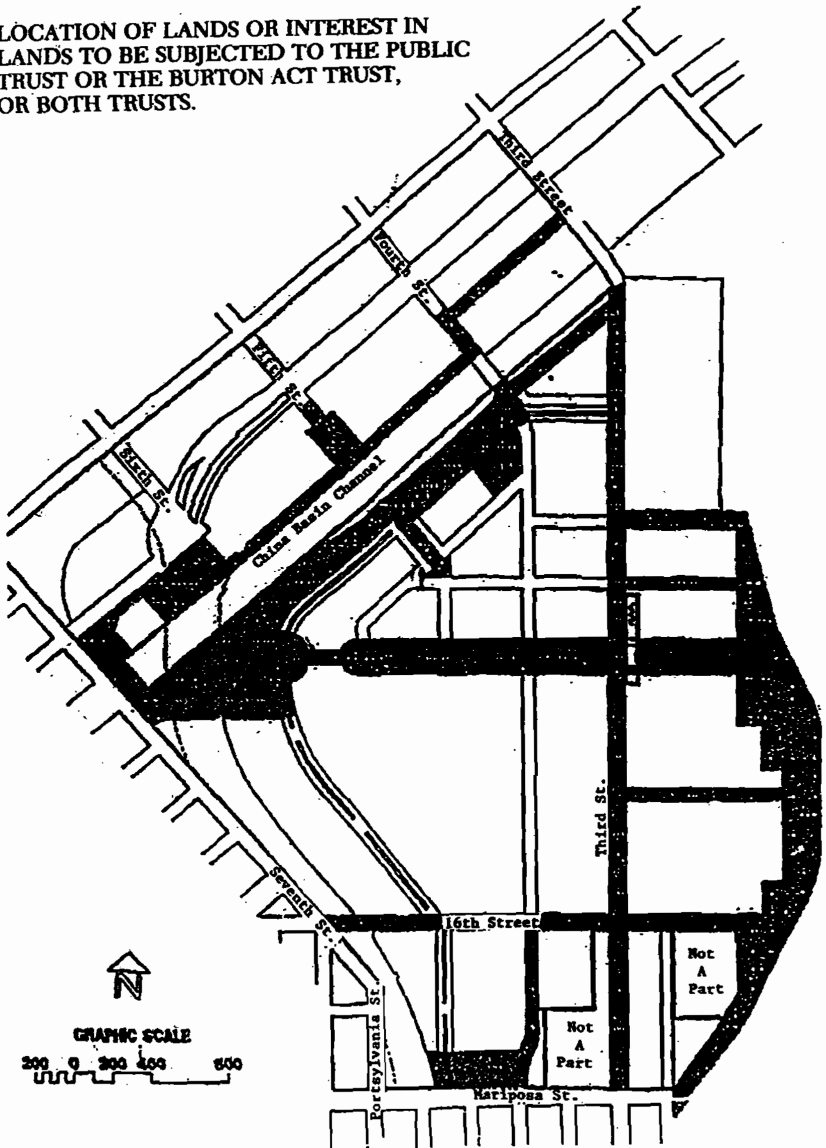
(b) (1) The city notifies the State Lands Commission in writing of any such proposed adjustment, and the State Lands Commission either consents or objects to the adjustment within 45 days from the date of notification, specifying in writing to the parties to any agreement establishing or affecting the boundaries proposed to be adjusted the basis for any objections to the proposed adjustment.

(2) The State Lands Commission schedules a public hearing on any such objections within 60 days of the mailing of the written objection to the parties and expeditiously attempts to resolve those objections with the parties. Any lands that may be determined or agreed to be free of the public trust or the Burton Act trust, or both trusts, by virtue of the adjustment shall thereupon be free of those trusts; and any lands that may be determined or agreed to be held subject to those trusts by virtue of the adjustment shall thereupon be held subject to those trusts in accordance with Section 8 of this act.

SEC. 8. Section 10 of Chapter 1143 of the Statutes of 1991 is repealed.

SEC. 9. Section 13.6 is added to Chapter 1143 of the Statutes of 1991, to read:

Sec. 13.6. The following diagram is hereby made a part of this act:


LOCATION OF LANDS OR INTEREST IN
LANDS TO BE SUBJECTED TO THE PUBLIC
TRUST OR THE BURTON ACT TRUST,
OR BOTH TRUSTS.
Third Street
Fourth St.
Fifth St.
Sixth St.
China Basin Channel
Third St.
Seventh St.
16th Street
Not
A
Part
Not
A
Part
Portsylvania St.
Mariposa St.
GRAPHIC SCALE

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:

Certain granted tidelands are proposed to be contributed to the University of California for the expansion of its San Francisco campus in connection with a development project that will also contribute additional lands to the university for that purpose. Certain other of the granted tidelands are proposed to be conveyed into private ownership under Section 3 of Article X of the California Constitution in connection with that development project and the expansion of the San Francisco campus. That development project will also maximize benefit to the trust purposes, in furtherance of which the remaining granted tidelands are held. In order to immediately authorize the terms and conditions under which those granted tidelands may be made available to the university and conveyed under Section 3 of Article X of the California Constitution, so that the university will be able to proceed with its plans for the expansion of the San Francisco campus, it is necessary that this act take effect immediately.

CHAPTER 204

An act to amend Sections 53356.03 and 53684 of the Government Code, relating to community facilities.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 53356.03 of the Government Code is amended to read:

53356.03. The proceeds of any bond, note, or other security issued pursuant to this chapter, or the proceeds of any bond, note, or other security issued pursuant to any other authority where revenue collected pursuant to this chapter is pledged or otherwise committed to pay or repay principal, interest, or both, shall be deposited or invested only in one or more of the instruments, securities, or obligations that are eligible legal investments of the local agency.

SEC. 2. Section 53684 of the Government Code is amended to read:

53684. (a) Unless otherwise provided by law, if the treasurer of any local agency, or other official responsible for the funds of the local agency, determines that the local agency has excess funds which are not required for immediate use, the treasurer or other official may,

upon the adoption of a resolution by the legislative or governing body of the local agency authorizing the investment of funds pursuant to this section and with the consent of the county treasurer, deposit the excess funds in the county treasury for the purpose of investment by the county treasurer pursuant to Section 53601 or 53635.

(b) The county treasurer shall, quarterly, apportion any interest or other increment derived from the investment of funds pursuant to this section in an amount proportionate to the average daily balance of the amounts deposited by the local agency and district.

Prior to distributing that interest or increment, the county treasurer may deduct the actual costs incurred by the county in administering this section in proportion to the average daily balance of the amounts deposited by the local agency.

(c) The treasurer or other official responsible for the funds of the local agency may withdraw the funds of the local agency pursuant to the procedure specified in Section 27136.

(d) Any moneys deposited in the county treasury for investment pursuant to this section are not subject to impoundment or seizure by any county official or agency while the funds are so deposited.

(e) This section is not operative in any county until the board of supervisors of the county, by majority vote, adopts a resolution making this section operative in the county.

(f) It is the intent of the Legislature in enacting this section to provide an alternative procedure to Section 51301 for local agencies to deposit money in the county treasury for investment purposes. Nothing in this section shall, therefore, be construed as a limitation on the authority of a county and a city to contract for the county treasurer to perform treasury functions for a city pursuant to Section 51301.

CHAPTER 205

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 August 2, 1997. Filed with Secretary of State August 4, 1997.]

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.

(k) Notwithstanding subdivisions (e) and (f), any project in Siskiyou County for which a construction contract would otherwise have been required to be let by June 30, 1997, may be let until, but not later than, June 30, 1999.

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 1996–97 prevented Siskiyou 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 the county was forced to assign employees, who had been working on the projects, to work on flood related matters, 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 206

An act to add Section 3205.5 to the Government Code, relating to public officials and candidates.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 3205.5 is added to the Government Code, to read:

3205.5. No one who holds, or who is seeking election or appointment to, any office shall, directly or indirectly, offer or arrange for any increase in compensation or salary for an employee of a state or local agency in exchange for, or a promise of, a contribution or loan to any committee controlled directly or indirectly by the person who holds, or who is seeking election or appointment to, an office. A violation of this section is punishable by imprisonment in a county jail for a period not exceeding one year, a fine not exceeding five thousand dollars ($5,000), or by both that imprisonment and fine.

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 207

An act to add Section 289.5 to the Penal Code, relating to sex offenders.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 289.5 is added to the Penal Code, to read:

289.5. (a) Every person who flees to this state with the intent to avoid prosecution for an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, and who has been charged with that offense under the laws of the jurisdiction from which the person fled, is guilty of a misdemeanor.

(b) Every person who flees to this state with the intent to avoid custody or confinement imposed for conviction of an offense under the laws of the jurisdiction from which the person fled, which offense, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A) of

paragraph (2) of subdivision (a) of Section 290, is guilty of a misdemeanor.

(c) No person shall be charged and prosecuted for an offense under this section unless the prosecutor has requested the other jurisdiction to extradite the person and the other jurisdiction has refused to do so.

(d) Any person who is convicted of any felony sex offense described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, that is committed after fleeing to this state under the circumstances described in subdivision (a) or (b) of this section, shall, in addition and consecutive to the punishment for that conviction, receive an additional term of two years' 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 208

An act to amend Section 52332 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor August 4, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 52332 of the Food and Agricultural Code is amended to read:

52332. The secretary, by regulation, may adopt all of the following:

(a) A list of the plants and crops that the secretary finds are or may be grown in this state from agricultural or vegetable seed.

(b) A list of the plants and crops that the secretary finds are detrimental to agriculture if they occur incidentally in other crops, and which, therefore, are classed as weed seed except if sold alone or as a specific constituent of a definite seed mixture.

(c) A list of noxious weed seed that the secretary finds are prohibited noxious weed seed, as defined in this chapter.

(d) A list of those noxious weed seed that are not classified as prohibited noxious weed seed, and which, therefore, are classed by this chapter as restricted noxious weed seed.

(e) A list of substances that are likely to be used for treating grain or other crop seed, which the secretary finds and determines are toxic to human beings or animals if so used, together with an appropriate warning or caution statement for each such substance.

(f) Establish methods and procedures, upon the recommendation of the board, for the conciliation, mediation, or arbitration of disputes between labelers and any persons concerning conformance with label statements , advertisements, or other disputes regarding the quality or performance of seed. The methods and procedures shall be a mandatory prerequisite to pursuing other dispute resolution mechanisms, including, but not limited to, litigation. However, if conciliation, mediation, or arbitration proceedings are commenced under this section to resolve a controversy, the statute of limitations that applies to a civil action concerning that controversy is tolled upon commencement of conciliation, mediation, or arbitration proceedings, and until 30 days after the completion of those proceedings. As used in this subdivision, “completion of those proceedings” means the filing of a statement of agreement or nonagreement by the conciliator or mediator, or the rendering of a decision by an arbitrator or arbitration committee.

Conciliation, mediation, or arbitration shall not affect any enforcement action by the secretary pursuant to this chapter. Regulations adopted by the secretary for the mandatory conciliation, mediation, or arbitration of disputes shall require that adequate notice be provided on the seed label notifying any buyer of the requirement to submit a dispute to mandatory conciliation, mediation, or arbitration as a prerequisite to other dispute resolution mechanisms, including litigation.

(g) Establish additional labeling requirements for coated, pelleted, encapsulated, mat, tape, or any other germination medium or device used on agricultural or vegetable seed in order that the purchaser or consumer will be informed as to the actual amount of seed purchased.

CHAPTER 209

An act to amend Section 289.6 of the Penal Code, relating to crimes.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 289.6 of the Penal Code is amended to read:

289.6. (a) An employee or officer of a public entity, or an employee, officer, or agent of a private person or entity that provides a detention facility or staff for a detention facility under contract with a public entity, who engages in sexual activity with a consenting adult who is confined in a detention facility is guilty of a public offense.

(b) As used in this section, the term "public entity" means the state, a city, a county, a city and county, a joint county jail district, or any entity created as a result of a joint powers agreement between two or more public entities.

(c) As used in this section, the term "detention facility" means:

(1) A prison, jail, camp, or other correctional facility used for the confinement of adults or both adults and minors.

(2) A building or facility used for the confinement of adults or adults and minors pursuant to a contract with a public entity.

(3) A room that is used for holding persons for interviews, interrogations, or investigations and that is separate from a jail or located in the administrative area of a law enforcement facility.

(4) A vehicle used to transport confined persons during their period of confinement.

(5) A court holding facility located within or adjacent to a court building that is used for the confinement of persons for the purpose of court appearances.

(6) A health facility, as defined in subdivisions (b), (e), (g), (h), (j), and subparagraph (C) of paragraph (2) of subdivision (i) of Section 1250 of the Health and Safety Code, in which the victim has been confined involuntarily.

(d) As used in this section, "sexual activity" means:

(1) Sexual intercourse.

(2) Sodomy, as defined in subdivision (a) of Section 286.

(3) Oral copulation, as defined in subdivision (a) of Section 288a.

(4) Penetration, however slight, of the genital or anal openings of another person by a foreign object, substance, instrument, or device, for the purpose of sexual arousal, gratification, or abuse.

(e) Consent by a confined person to sexual activity proscribed by this section is not a defense to a criminal prosecution for violation of this section.

(f) This section does not apply to sexual activity between consenting adults that occurs during an overnight conjugal visit that takes place pursuant to a court order or with the written approval of an authorized representative of the public entity that operates or contracts for the operation of the detention facility where the conjugal visit takes place.

(g) Any violation of this section is a misdemeanor.

(h) Any person previously convicted of a violation of this section shall, upon a subsequent violation, be guilty of a felony.

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 210

An act to amend Section 34501.12 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 34501.12 of the Vehicle Code is amended to read:

34501.12. (a) Notwithstanding Section 408, as used in this section and Sections 34505.5 and 34505.6, "motor carrier" means the registered owner of any vehicle described in subdivision (a), (b), (e), (f), or (g) of Section 34500, except in the following circumstances:

(1) The registered owner leases the vehicle to another person for a term of more than four months. If the lease is for more than four months, the lessee is the motor carrier.

(2) The registered owner operates the vehicle exclusively under the authority and direction of another person. If the operation is exclusively under the authority and direction of another person, that other person may assume the responsibilities as the motor carrier. If not so assumed, the registered owner is the motor carrier. A person who assumes the motor carrier responsibilities of another pursuant to subdivision (b) shall provide to that other person whose motor carrier responsibility is so assumed, a completed copy of a department form documenting that assumption, stating the period for which responsibility is assumed, and signed by an agent of the assuming person. A legible copy shall be carried in each vehicle or combination of vehicles operated on the highway during the period for which responsibility is assumed. That copy shall be presented upon request by any authorized employee of the department. The original completed departmental form documenting the assumption shall be provided to the department within 30 days of the assumption. If the assumption of responsibility is terminated, the person who had

assumed responsibility shall so notify the department in writing within 30 days of the termination.

(b) (1) A motor carrier may combine two or more terminals for purposes of the inspection required by subdivision (d) subject to all of the following conditions:

(A) The carrier identifies to the department, in writing, each terminal proposed to be included in the combination of terminals for purposes of this subdivision prior to an inspection of the designated terminal pursuant to subdivision (d).

(B) The carrier provides the department, prior to the inspection of the designated terminal pursuant to subdivision (d) a written listing of all its vehicles of a type subject to subdivision (a), (b), (e), (f), or (g) of Section 34500 which are based at each of the terminals combined for purposes of this subdivision. The listing shall specify the number of vehicles of each type at each terminal.

(C) The carrier provides to the department at the designated terminal during the inspection all maintenance records and driver records and a representative sample of vehicles based at each of the terminals included within the combination of terminals.

(2) If the carrier fails to provide the maintenance records, driver records, and representative sample of vehicles pursuant to subparagraph (C) of paragraph (1), the department shall assign the carrier an unsatisfactory terminal rating and require a reinspection to be conducted pursuant to subdivision (h).

(3) For purposes of this subdivision, the following terms have the meanings given:

(A) "Driver records" includes pull notice system records, driver proficiency records, and driver timekeeping records.

(B) "Maintenance records" includes all required maintenance, lubrication, and repair records and drivers' daily vehicle condition reports.

(C) "Representative sample" means the following, applied separately to the carrier's fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(c) Each motor carrier who, in this state, directs the operation of, or maintains, any vehicle of a type described in subdivision (a) shall designate one or more terminals, as defined in Section 34515, in this state where vehicles can be inspected by the department pursuant to paragraph (3) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection.

(d) The department shall inspect, at least every 25 months, every terminal, as defined in Section 34515, of any motor carrier who, at any time, operates any vehicle described in subdivision (a).

As used in this section and in Sections 34505.5 and 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,000 pounds, but does not include a pickup truck, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste hauler registration is required pursuant to Section 25163 of the Health and Safety Code. Historical vehicles, as described in Section 5004, vehicles which display special identification plates in accordance with Section 5011, implements of husbandry, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or operated by an agency of the federal government are not subject to this section or to Sections 34505.5 and 34505.6.

(e) (1) It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (d). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee. The fee, which is nonrefundable, is four hundred dollars ($400) per terminal, except in the case of an owner-operator, as defined in Section 3557 of the Public Utilities Code, or a nonregulated motor carrier who owns, leases, or otherwise operates not more than one heavy power unit and not more than three towed vehicles described in subdivision (a), (b), (e), (f), or (g) of Section 34500, for which the fee shall be one hundred dollars ($100). Federal, state, and local public entities are exempt from the fee requirements of this section.

(2) Except as provided in paragraph (4), the inspection term for each inspected terminal of a motor carrier shall expire 25 months from the date the terminal receives a satisfactory compliance rating, as specified in subdivision (h). Applications and fees for subsequent inspections shall be submitted not earlier than nine months and not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(3) All fees collected pursuant to this subdivision shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees collected shall be available for appropriation by the Legislature from the Motor Vehicle Account to the department for the purpose of conducting truck terminal inspections and for the additional roadside safety inspections required by Section 34514.

(4) To avoid the scheduling of a renewal terminal inspection pursuant to this section during a carrier's seasonal peak business periods, the current inspection term of a terminal that has paid all required fees and has been rated satisfactory in its last inspection may be reduced by not more than nine months if a written request is submitted by the carrier to the department at least four months prior to the desired inspection month, or at the time of payment of renewal inspection fees in compliance with paragraph (2), whichever date is earlier. A motor carrier may request this adjustment of the inspection term during any inspection cycle. A request made pursuant to this paragraph shall not result in a fee proration and does not relieve the carrier from the requirements of paragraph (2).

(f) It is unlawful for a motor carrier to operate any vehicle subject to this section without having submitted an inspection application and the required fees to the department as required by subdivision (e) or (h).

(g) On and after July 1, 1992, it is unlawful for any motor carrier to operate any vehicle subject to this section after submitting an inspection application to the department, without the inspection described in subdivision (d) having been performed and a safety compliance report having been issued to the motor carrier within the 25-month inspection period or within 60 days immediately preceding the inspection period.

(h) (1) Any inspected terminal that receives an unsatisfactory compliance rating shall be reinspected within 120 days after the issuance of the unsatisfactory compliance rating.

(2) A terminal's first required reinspection under this subdivision shall be without charge unless one or more of the following is established:

(A) The motor carrier's operation presented an imminent danger to public safety.

(B) The motor carrier was not in compliance with the requirement to enroll all drivers in the pull notice program pursuant to Section 1808.1.

(C) The motor carrier failed to provide all required records and vehicles for a consolidated inspection pursuant to subdivision (b).

(3) If the unsatisfactory rating was assigned for any of the reasons set forth in paragraph (2), the carrier shall submit the required fee as provided in paragraph (4).

(4) Applications for reinspection pursuant to paragraph (3) or for second and subsequent consecutive reinspections under this

subdivision shall be accompanied by the fee specified in paragraph (1) of subdivision (e) and shall be filed within 60 days of issuance of the unsatisfactory compliance rating. The reinspection fee is nonrefundable.

(5) When a motor carrier's Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall conduct no reinspection until requested to do so by the Public Utilities Commission.

(i) It is the intent of the Legislature that the department make its best efforts to inspect terminals within the resources provided. In the interest of the state, the Commissioner of the California Highway Patrol may extend for a period not to exceed six months the inspection terms beginning prior to July 1, 1990.

(j) To encourage truck terminal operators to attain continuous satisfactory compliance ratings, the department may establish and implement an incentive program consisting of the following:

(1) After the second consecutive satisfactory compliance rating assigned as a result of an inspection conducted pursuant to subdivision (d), and after each consecutive satisfactory compliance rating thereafter, an appropriate certificate, denoting the number of consecutive satisfactory ratings, shall be awarded to the terminal, unless the terminal has received an unsatisfactory compliance rating as a result of any inspection conducted in the interim between the consecutive inspections conducted under subdivision (d). The certificate authorized under this paragraph shall not be awarded for performance in the administrative review authorized under paragraph (2). However, the certificate shall include a reference to any administrative reviews conducted during the period of consecutive satisfactory ratings.

(2) Unless the department's evaluation of the motor carrier's safety record indicates a declining level of compliance, a terminal that has attained two consecutive satisfactory compliance ratings assigned following inspections conducted pursuant to subdivision (d) is eligible for an administrative review in lieu of the next required inspection, unless the terminal has received an unsatisfactory compliance rating as a result of any inspection conducted in the interim between the consecutive inspections conducted under subdivision (d). An administrative review shall consist of all of the following:

(A) A signed request by a terminal management representative requesting the administrative review in lieu of the required inspection containing a promise to continue to maintain a satisfactory level of compliance for the next 25-month inspection term.

(B) A review with a terminal management representative of the carrier's record as contained in the department's files. If a terminal has been authorized a second consecutive administrative review, the review required under this subparagraph is optional, and may be omitted at the carrier's request.

(C) Absent any cogent reasons to the contrary, upon completion of subparagraphs (A) and (B), the safety compliance rating assigned during the last required inspection shall be extended for 25 months.

(3) Not more than two administrative reviews may be conducted consecutively. At the completion of the 25-month inspection term following a second administrative review, a terminal inspection shall be conducted pursuant to subdivision (d). If this inspection results in a satisfactory compliance rating, the terminal shall again be eligible for an administrative review in lieu of the next required inspection. If the succession of satisfactory ratings is interrupted by any rating of other than satisfactory, irrespective of the reason for the inspection, the terminal shall again attain two consecutive satisfactory ratings to become eligible for an administrative review.

(4) As a condition for receiving the administrative reviews authorized under this subdivision in lieu of inspections, and in order to ensure that compliance levels remain satisfactory, the motor carrier shall agree to accept random, unannounced inspections 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 211

An act to amend Section 14132.06 of the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 4, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 14132.06 of the Welfare and Institutions Code is amended to read:

14132.06. (a) Services specified in this section that are provided by a local educational agency are covered Medi-Cal benefits, to the extent federal financial participation is available, and subject to

utilization controls and standards adopted by the department, and consistent with Medi-Cal requirements for physician prescription, order, and supervision.

(b) Any provider enrolled on or after January 1, 1993, to provide services pursuant to this section may bill for those services provided on or after January 1, 1993.

(c) Nothing in this section shall be interpreted to expand the current category of professional health care practitioners permitted to directly bill the Medi-Cal program.

(d) Nothing in this section is intended to increase the scope of practice of any health professional providing services under this section or Medi-Cal requirements for physician prescription, order, and supervision.

(e) (1) For purposes of this section, the local educational agency shall, as a condition of enrollment to provide services under this section, be considered the provider of services. A local educational agency provider shall, as a condition of enrollment to provide services under this section, enter into, and maintain, a contract with the department in accordance with guidelines contained in regulations adopted by the director and published in Title 22 of the California Code of Regulations.

(2) Notwithstanding paragraph (1), a local educational agency providing services pursuant to this section shall utilize current safety net and traditional health care providers, when those providers are accessible to specific schoolsites identified by the local educational agency to participate in this program, rather than adding duplicate capacity.

(f) For purposes of this section, covered services may include all of the following local educational agency services:

(1) Health and mental health evaluations and health and mental health education.

(2) Medical transportation.

(3) Nursing services.

(4) Occupational therapy.

(5) Physical therapy.

(6) Physician services.

(7) Psychology and counseling services.

(8) School health aide services.

(9) Speech pathology services and audiology services.

(10) Targeted case management services for children with an individualized education plan (IEP) , an individualized family service plan (IFSP), or an individualized health and support plan (IHSP) provided on or after July 1, 1997.

(g) Local educational agencies may, but need not, provide any or all of the services specified in subdivision (f).

(h) For purposes of this section, "local educational agency" means the same as defined by subdivision (e) of Section 33509 of the Education Code.

(i) Any local educational agency provider enrolled to provide service pursuant to this section on January 1, 1995, may bill for targeted case management services for children with an individualized education plan (IEP), an individualized family service plan (IFSP), provided on or after January 1, 1995, or an individualized health and support plan (IHSP), provided on or after July 1, 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:

To timely expand the ability of schools to provide needed educational, social, and health related services, it is necessary that this act take effect immediately.

CHAPTER 212

An act to amend Section 11413 of the Penal Code, relating to crime.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 11413 of the Penal Code is amended to read:

11413. (a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive, or who commits arson, in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony, and shall be punished by imprisonment in the state prison for three, five, or seven years, and a fine not exceeding ten thousand dollars ($10,000).

(b) Subdivision (a) applies to the following places:

(1) Any health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or any place where medical care is provided by a licensed health care professional.

(2) Any church, temple, synagogue, or other place of worship.

(3) The buildings, offices, and meeting sites of organizations that counsel for or against abortion or among whose major activities are lobbying, publicizing, or organizing with respect to public or private issues relating to abortion.

(4) Any place at which a lecture, film-showing, or other private meeting or presentation that educates or propagates with respect to abortion practices or policies, whether on private property or at a meeting site authorized for specific use by a private group on public property, is taking place.

(5) Any bookstore or public or private library.

(6) Any building or facility designated as a courthouse.

(7) The home or office of a judicial officer.

(8) Any building or facility regularly occupied by county probation department personnel in which the employees perform official duties of the probation department.

(9) Any private property, if the property was targeted because of the race, color, religion, ancestry, national origin, disability, gender, or sexual orientation of the owner or occupant of the property.

(10) Any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive.

(c) As used in this section, "judicial officer" means a magistrate, judge, justice, commissioner, referee, or any person appointed by a court to serve in one of these capacities, of any state or federal court located in this state.

(d) As used in this section, "terrorizing" means to cause a person of ordinary emotions and sensibilities to fear for personal safety.

(e) Nothing in this section shall be construed to prohibit the prosecution of any person pursuant to Section 12303.3 or any other provision of law in lieu of prosecution pursuant to 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 213

An act to amend Section 2651 of, and to add Sections 2650.2 and 2655.75 to, the Business and Professions Code, relating to physical therapy.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 2650.2 is added to the Business and Professions Code, to read:

2650.2. Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved physical therapist education program or a student enrolled in a program of supervised clinical training under the direction of an approved physical therapist education program pursuant to Section 2651, from performing physical therapy as a part of his or her course of study.

SEC. 2. Section 2651 of the Business and Professions Code is amended to read:

2651. The board may approve only those physical therapist education programs that prove to the satisfaction of the board that they comply with the minimum physical therapy educational requirements set forth in this chapter and adopted by the board pursuant to this chapter. Physical therapist education programs that are accredited by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association shall be deemed approved by the board unless the board determines otherwise.

SEC. 3. Section 2655.75 is added to the Business and Professions Code, to read:

2655.75. Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of instruction in an approved physical therapist assistant education program or a student enrolled in a program of supervised clinical training under the direction of an approved physical therapist assistant education program pursuant to Section 2655.9, as part of his or her course of study, from performing physical therapy techniques in preparing the student to be approved to assist a physical therapist in his or her practice of physical therapy.

CHAPTER 214

An act to amend Section 20395 of the Public Contract Code, relating to county transportation.

[Approved by Governor August 4, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 20395 of the Public Contract Code is amended to read:

20395. In any county that has appointed a road commissioner pursuant to Section 2006 of the Streets and Highways Code, or in any county that has abolished the office of road commissioner and complied with Section 2006.1 of the Streets and Highways Code, the board may authorize the road commissioner, or a registered civil

engineer under the direction of the county director of transportation, to have any work upon county highways done under his or her supervision and direction. The work may be done in any of the following ways:

(a) By letting a contract covering both work and material. In that event, the contract shall be let to the lowest responsible bidder as provided in this article.

(b) By purchasing the material and letting a contract for the performance of the work. In that event, the material shall be bought at the lowest possible cost and the contract let to the lowest responsible bidder as provided in this article.

(c) By purchasing the material and having the work done by day labor, in which case advertising for bids is not required.

(d) (1) By authorizing the county road commissioner or a registered civil engineer under the direction of the county director of transportation to execute changes for any contract pursuant to this section in an amount not to exceed five thousand dollars ($5,000) for contracts of fifty thousand dollars ($50,000) or less, or 10 percent for contracts over fifty thousand dollars ($50,000) but not to exceed two hundred fifty thousand dollars ($250,000). In no event shall any change exceed a net total addition of twenty-five thousand dollars ($25,000).

(2) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 1 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars ($250,000). In no event shall any change or alteration exceed one hundred thousand dollars ($100,000).

(e) By purchasing the material and letting a contract for the work or by letting a contract covering both work and material without advertising for bids when the estimated cost of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency exceeds twenty-five thousand dollars ($25,000) and the public interest and necessity demand immediate action to safeguard life, health, or property.

SEC. 2. Section 20395 of the Public Contract Code is amended to read:

20395. In any county that has appointed a road commissioner pursuant to Section 2006 of the Streets and Highways Code, or in any county that has abolished the office of road commissioner and complied with Section 2006.1 of the Streets and Highways Code, the board may authorize the road commissioner, or a registered civil engineer under the direction of the county director of transportation, to have any work upon county highways done under his or her supervision and direction. The work may be done in any of the following ways:

(a) By letting a contract covering both work and material. In that event, the contract shall be let to the lowest responsible bidder as provided in this article.

(b) By purchasing the material and letting a contract for the performance of the work. In that event, the material shall be bought at the lowest possible cost and the contract let to the lowest responsible bidder as provided in this article.

(c) By purchasing the material and having the work done by day labor, in which case advertising for bids is not required.

(d) (1) By authorizing the county road commissioner or a registered civil engineer under the direction of the county director of transportation to execute changes for any contract pursuant to this section in an amount not to exceed five thousand dollars ($5,000) for contracts of fifty thousand dollars ($50,000) or less, or 10 percent for contracts over fifty thousand dollars ($50,000) but not to exceed two hundred fifty thousand dollars ($250,000). In no event shall any change exceed a net total addition of twenty-five thousand dollars ($25,000).

(2) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars ($250,000). In no event shall any change or alteration exceed one hundred fifty thousand dollars ($150,000).

(e) By purchasing the material and letting a contract for the work or by letting a contract covering both work and material without advertising for bids when the estimated cost of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency exceeds twenty-five thousand dollars ($25,000) and the public interest and necessity demand immediate action to safeguard life, health, or property.

SEC. 3. Section 2 of this bill incorporates amendments to Section 20395 of the Public Contract Code proposed by both this bill and AB 683. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 20395 of the Public Contract Code, and (3) this bill is enacted after AB 683, in which case Section 1 of this bill shall not become operative.

CHAPTER 215

An act to amend Sections 20142, 20395, 20455, and 21551 of the Public Contract Code, relating to public works contracts.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 20142 of the Public Contract Code is amended to read:

20142. (a) The board of supervisors may, by ordinance, resolution, or board order, authorize the county engineer, or other county officer, to order changes or additions in the work being performed under construction contracts. When so authorized, any change or addition in the work shall be ordered in writing by the county engineer, or other designated officer, and the extra cost to the county for any change or addition to the work so ordered shall not exceed five thousand dollars ($5,000) when the total amount of the original contract does not exceed fifty thousand dollars ($50,000), nor 10 percent of the amount of any original contract that exceeds fifty thousand dollars ($50,000), but does not exceed two hundred fifty thousand dollars ($250,000).

(b) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 5 percent of the amount of the original contract cost in excess of two hundred fifty thousand dollars ($250,000). In no event shall any such change or alteration exceed one hundred fifty thousand dollars ($150,000).

SEC. 2. Section 20395 of the Public Contract Code is amended to read:

20395. In any county that has appointed a road commissioner pursuant to Section 2006 of the Streets and Highways Code, the board may authorize the road commissioner to have any work upon county highways done under his or her supervision and direction. The work may be done in any of the following ways:

(a) By letting a contract covering both work and material. In that event, the contract shall be let to the lowest responsible bidder as provided in this article.

(b) By purchasing the material and letting a contract for the performance of the work. In that event, the material shall be bought at the lowest possible cost and the contract let to the lowest responsible bidder as provided in this article.

(c) By purchasing the material and having the work done by day labor, in which case advertising for bids is not required.

(d) (1) By authorizing the county road commissioner to execute changes for any such contract in an amount not to exceed five thousand dollars ($5,000) for contracts of fifty thousand dollars ($50,000) or less, or 10 percent for contracts over fifty thousand dollars ($50,000) but not to exceed two hundred fifty thousand dollars ($250,000). In no event shall any such change exceed a net total addition of twenty-five thousand dollars ($25,000).

(2) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition

to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars ($250,000). In no event shall any such change or alteration exceed one hundred fifty thousand dollars ($150,000).

(e) By purchasing the material and letting a contract for the work or by letting a contract covering both work and material without advertising for bids when the estimated cost of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency exceeds twenty-five thousand dollars ($25,000) and the public interest and necessity demand immediate action to safeguard life, health, or property.

SEC. 2.5. Section 20395 of the Public Contract Code is amended to read:

20395. In any county that has appointed a road commissioner pursuant to Section 2006 of the Streets and Highways Code, or in any county that has abolished the office of road commissioner and complied with Section 2006.1 of the Streets and Highways Code, the board may authorize the road commissioner, or a registered civil engineer under the direction of the county director of transportation, to have any work upon county highways done under his or her supervision and direction. The work may be done in any of the following ways:

(a) By letting a contract covering both work and material. In that event, the contract shall be let to the lowest responsible bidder as provided in this article.

(b) By purchasing the material and letting a contract for the performance of the work. In that event, the material shall be bought at the lowest possible cost and the contract let to the lowest responsible bidder as provided in this article.

(c) By purchasing the material and having the work done by day labor, in which case advertising for bids is not required.

(d) (1) By authorizing the county road commissioner or a registered civil engineer under the direction of the county director of transportation to execute changes for any contract pursuant to this section in an amount not to exceed five thousand dollars ($5,000) for contracts of fifty thousand dollars ($50,000) or less, or 10 percent for contracts over fifty thousand dollars ($50,000) but not to exceed two hundred fifty thousand dollars ($250,000). In no event shall any change exceed a net total addition of twenty-five thousand dollars ($25,000).

(2) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars ($250,000). In no event shall any change or alteration exceed one hundred fifty thousand dollars ($150,000).

(e) By purchasing the material and letting a contract for the work or by letting a contract covering both work and material without advertising for bids when the estimated cost of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency exceeds twenty-five thousand dollars ($25,000) and the public interest and necessity demand immediate action to safeguard life, health, or property.

SEC. 3. Section 20455 of the Public Contract Code is amended to read:

20455. (a) After construction has begun, the legislative body, or the superintendent of streets if authorized by the legislative body, may order changes in the work without the necessity of a hearing. The order shall be in writing, and the amount of any change ordered shall not exceed five thousand dollars ($5,000) when the total amount of the original contract does not exceed fifty thousand dollars ($50,000), nor 10 percent of the amount of any original contract that exceeds fifty thousand dollars ($50,000), but does not exceed two hundred fifty thousand dollars ($250,000).

(b) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars ($250,000). In no event shall any such change or alteration exceed one hundred fifty thousand dollars ($150,000).

(c) The limitations on the cost of changes permitted by this section shall not apply where (1) the change is requested in writing by the owner of property subject to assessment for the improvement under construction and the nature of the change requested is such that the cost thereof will be assessed exclusively against the property of the person requesting the change, or (2) the change in the work will not adversely affect the benefiting property and any increase in the cost resulting from the changes will be paid by the city and will not be assessed against the property within the assessment district.

SEC. 4. Section 21551 of the Public Contract Code is amended to read:

21551. (a) All contracts for the construction of any unit of work estimated to cost over ten thousand dollars ($10,000) shall be let to the lowest responsible bidder in accordance with Article 3.5 (commencing with Section 20120) of Chapter 1.5. If cost of the project or service will not exceed ten thousand dollars ($10,000), the district may have the work done by force account. The district may purchase in the open market, without advertising for bid, materials and supplies for use in any work either under contract or by force account.

(b) The board of directors may, by ordinance, resolution, or board order, authorize the county engineer or other county officer to order changes or additions in work being performed under construction

contract. When so authorized, any change or addition in the work shall be ordered in writing by the county engineer, or other designated officer, and the extra cost for any change or addition to the work so ordered shall not exceed five thousand dollars ($5,000) when the total amount of the original contract does not exceed fifty thousand dollars ($50,000), nor 10 percent of the amount of any original contract that exceeds fifty thousand dollars ($50,000), but does not exceed two hundred fifty thousand dollars ($250,000).

(c) For contracts whose original cost exceeds two hundred fifty thousand dollars ($250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars ($25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars ($250,000). In no event shall any such change or alteration exceed one hundred fifty thousand dollars ($150,000).

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 20395 of the Public Contract Code proposed by both this bill and AB 464. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 20395 of the Public Contract Code, and (3) this bill is enacted after AB 464, in which case Section 2 of this bill shall not become operative.

CHAPTER 216

An act to amend Sections 9201, 9544, 9545, 9630, 9631, and 9718 of, to amend and renumber the heading of Chapter 14 (commencing with Section 9750) of Division 8.5 of, and to repeal Division 8.5 (commencing with Section 9000) of, the Welfare and Institutions Code, relating to aging.

[Approved by Governor August 4, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Division 8.5 (commencing with Section 9000) of the Welfare and Institutions Code, as added by Chapter 1096 of the Statutes of 1996, is repealed.

SEC. 2. Section 9201 of the Welfare and Institutions Code, as added by Chapter 1097 of the Statutes of 1996, is amended to read:

9201. The term of office of members of the commission shall be three years. Members shall not serve more than two terms, and shall be appointed for staggered terms. The members shall select one of their members to serve as chairperson and one of their members to serve as vice chairperson on an annual basis.

A commissioner who fails to attend two consecutive monthly meetings or who fails to attend four meetings per year, without having given written excuse acceptable to the commission, shall cause the commission to notify the appointing authority, and the appointing authority may declare the position vacant.

SEC. 3. Section 9544 of the Welfare and Institutions Code, as added by Chapter 1097 of the Statutes of 1996, is amended to read:

9544. (a) The Legislature finds and declares that the purpose of the Foster Grandparent Program shall be to provide personally meaningful volunteer community service opportunities to low-income older individuals through mentoring children with exceptional physical, developmental, or behavioral needs in accordance with the federal National and Community Service Trust Act of 1993 (42 U.S.C. Sec. 12651 et seq.).

(b) For purposes of this section, "foster grandparent volunteer" means an individual who is 60 years of age or older, has an insufficient income, as determined in accordance with Part 1208 of Title 45 of the Code of Federal Regulations, and provides at least four hours a day, five days a week of foster grandparent services under this chapter.

(c) Direct service contractors shall meet all of the following requirements:

(1) Be a city, county, city and county, or department of the state, or any suitable private, nonprofit organization, that demonstrates the ability to provide the specified services in a variety of settings, including, but not limited to, hospital pediatric wards, facilities for the physically, emotionally, or mentally impaired, correctional facilities, schools, day care centers, and residences.

(2) Recruit, select, train, and assign staff and volunteers.

(3) Provide volunteer participants with the same benefits, transportation, stipends, and income exemptions as provided to the foster grandparent volunteers funded through the Corporation for National Service.

(4) Provide or arrange for meals, transportation, and supervision for volunteers.

(5) Provide benefits and meaningful volunteer service opportunities to low-income individuals 60 years of age and older.

(6) Serve children under 21 years of age, who have special needs, or are deprived of normal relationships with adults.

(7) Provide services to, but not limited to, any of the following:

(A) Premature and failure-to-thrive babies, and abused, neglected, battered, and chronically ill children in hospitals.

(B) Autistic children, children with cerebral palsy and developmentally disabled children placed in institutions for the developmentally disabled.

(C) Physically impaired children, mentally disabled children, emotionally disturbed children, developmentally disabled children, and children who are socially and culturally deprived in school settings and child care centers, dependent children, neglected

children, mentally disabled children, emotionally disturbed or physically impaired children, battered and abused children in residential settings.

(D) Delinquent children and adolescents in correctional institutions.

(E) Children under 19 years of age, when the child has been charged with committing, or adjudged to have committed, an offense which is the equivalent to, a misdemeanor.

(8) Maintaining a systematic means of capturing and reporting all required community-based services program data.

(d) In addition to the opportunity to help children who have exceptional physical, developmental, or behavioral needs and are deprived of normal relationships with adults, foster grandparent volunteers shall receive all of the following:

(1) Expenses for transportation to and from their homes and the place where they render their services or may have transportation in buses or in other transportation made available to them.

(2) One free meal during each day in which the foster grandparent renders services.

(3) Accident insurance, an annual physical examination, and a nontaxable hourly stipend.

SEC. 4. Section 9545 of the Welfare and Institutions Code, as added by Chapter 1097 of the Statutes of 1996, is amended to read:

9545. (a) The Legislature finds and declares that the purpose of the Linkages Program shall be to provide care and case management services to frail elderly and functionally impaired adults to help prevent or delay placement in nursing facilities. For purposes of this section, “care or case management” means all of the following:

(1) As appropriate, ongoing care or case management to frail elderly and functionally impaired adults to help prevent or delay placement in nursing facilities.

(2) Client assessment, in conjunction with the development of a service plan with the participant and other appropriate persons, to provide for needs identified by the assessment.

(3) Authorization and arrangement for the purchase of services, or referral, with followup, to volunteer, informal, or third-party payer services. Contractors shall maximize to the fullest extent possible the use of existing services resources before using program funds to purchase services for clients. Any benefits received as a result of these purchases either shall not be considered income for purposes of programs provided for under Division 9 (commencing with Section 10000) or shall not be considered an alternative resource pursuant to Section 12301.

(4) Service and participant monitoring to determine that the services obtained are appropriate to need, of acceptable quality, and provided in a timely manner.

(5) Followup with clients, including periodic contact and initiation of an interim assessment, if deemed necessary, prior to scheduled reassessment.

(6) Assistance to older individuals entering or returning home from nursing facilities and who need help to make the transition.

(7) Comprehensive and timely information, when necessary, to individuals and their families about the availability of community resources, to assist functionally impaired adults and the frail elderly to maintain the maximum independence permitted by their functional ability.

(8) Short-term specialized assistance, including timely one-time-only assistance in securing community resources, counseling, and the arrangement of an action plan, when there is a temporary probable threat to the ability of the frail elderly person or functionally impaired adult to remain in the most independent living arrangement permitted by his or her functional ability.

(b) Contractors of the Linkages Program shall have experience in community long-term care services and capability to serve the frail elderly and functionally impaired adults, and where applicable, ensure separateness of the programs and demonstrate protective measures to avoid conflict of interest.

(c) Contractors of the Linkages Program shall have a systematic means of capturing and reporting all required community-based services program data.

(d) (1) Each county shall deposit funds collected pursuant to Section 1465.5 of the Penal Code in its general fund, to be available for use only for the support of services provided under this chapter in that county, including county administrative costs not exceeding 10 percent of the funds collected, except as otherwise provided in this subdivision. A county may join with other counties to establish and fund a program of services under this chapter.

(2) Funds utilized pursuant to this section shall not supplant, be offset against, or in any way reduce funds otherwise appropriated for the support of services provided under this chapter.

SEC. 5. Section 9630 of the Welfare and Institutions Code, as added by Chapter 1097 of the Statutes of 1996, is amended to read:

9630. As part of its role in providing leadership in advocating on behalf of older individuals, the department shall make efforts to increase public awareness about areas of importance to California's older individuals, their families, and other caregivers. These efforts to increase public awareness and education may be accomplished through the use of public service announcements, radio and television commercials or infomercials, access on the internet, newspaper and other periodical editorials and letters to the editor, public and corporate symposiums, symposiums or educational efforts by public or private schools, colleges, and universities, and mass transit and outdoor signage.

SEC. 6. Section 9631 of the Welfare and Institutions Code, as added by Chapter 1097 of the Statutes of 1996, is amended to read:

9631. (a) The department shall establish an Aging Information and Education Fund, from funds made available pursuant to the annual Budget Act, to implement public awareness of various issues, including at least the following areas:

(1) Medication management—to call attention to the large percentage of older individuals admitted to hospitals solely due to the mismanagement of prescribed and over-the-counter drugs, the need for proper and timely use of medications, and the role of the attending physicians in prescribing medications and their interactive potential for harm.

(2) Elder abuse prevention—to work in conjunction with state and local law enforcement entities to bring focus to the need to protect older individuals from physical, emotional, and fiduciary abuse, so that they may continue to live with peace of mind about their safety.

(3) Toll-free line for linkage to local service networks—to develop and make the public aware of a single statewide toll-free telephone number for access to local information about services available to the community for older individuals and persons with functional impairments.

(b) The sources of funding that may be used for this purpose include any nonprofit foundation, funds privately donated by individuals, and one-time-only funds designated for state operations. Nothing in this chapter shall be construed to authorize any expenditures that are not otherwise allowable by the originating source of the funding.

SEC. 7. Section 9718 of the Welfare and Institutions Code, as added by Chapter 1097 of the Statutes of 1996, is amended to read:

9718. Every long-term care facility, as defined in subdivision (b) of Section 9701, shall post in a conspicuous location a notice of the name, address, and phone number of the office and the nearest approved organization, and a brief description of the services provided by the office and the approved organization. The form of the notice shall be approved by the office.

SEC. 8. The heading of Chapter 14 (commencing with Section 9750) of Division 8.5 of the Welfare and Institutions Code, as added by Chapter 1097 of the Statutes of 1996, is amended and renumbered to read:

CHAPTER 12. REGULATIONS

CHAPTER 217

An act to amend Section 30055 of the Government Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 30055 of the Government Code is amended to read:

30055. For the 1996–97 fiscal year and each fiscal year thereafter, each county shall establish a Public Safety Augmentation Fund in the county treasury to receive those revenues allocated to the county pursuant to Sections 30052 and 30053. Amounts deposited in this fund shall be expended exclusively to fund public safety services, and for that purpose shall be allocated among the county and the cities in the county that provide public safety services, as follows:

(a) In allocating revenues from the Public Safety Augmentation Fund to cities, the auditor shall, except as otherwise provided in subdivision (b), (c), (d), or (e), multiply the monthly amount allocated to the county pursuant to subdivision (a) of Section 30053 by an allocation factor for each city, calculated as follows:

(1) The numerator shall be 50 percent of the difference between the amount of ad valorem property tax revenue shifted from that city to the county's Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the amount of vehicle license fee revenues allocated to the city pursuant to Section 11005.4 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(2) The denominator shall be the amount of ad valorem property tax revenue shifted from the county and all cities in the county to the county's Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, less the amount of vehicle license fee revenues allocated to the county and all cities in the county pursuant to Section 11005.4 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(b) Notwithstanding subdivision (a), the amount in the augmentation fund established pursuant to this section in each county described in paragraph (3) shall be allocated to the cities in that county that provide public safety services, as follows:

(1) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of the revenue shifted from that city to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of

which shall be the amount of revenue shifted from all cities in the county to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(2) The auditor shall multiply 5 percent of the amount in the augmentation fund established pursuant to this section by the allocation factor determined for each city in paragraph (1). The amount so computed for each city shall be allocated to that city.

(3) This subdivision applies only to the Counties of Fresno, Kings, Merced, San Bernardino, San Joaquin, Solano, and Yolo.

(4) This subdivision shall apply to a particular county described in paragraph (3) only if the total amount allocated under this paragraph to all of the cities therein that provide public safety services is less than the amount that would otherwise be allocated to all of those cities pursuant to subdivision (a).

(c) Notwithstanding subdivision (a), the amount in the augmentation fund established pursuant to this section for the County of Alameda shall be allocated to the cities in the County of Alameda that provide public safety services as follows:

(1) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of the revenue shifted from that city to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of which shall be the amount of revenue shifted from all cities in the County of Alameda to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(2) The auditor shall multiply 6.1 percent of the amount in the augmentation fund established pursuant to this section by the allocation factor determined for each city in paragraph (1). The amount so computed for each city shall be allocated to that city.

(d) Notwithstanding subdivision (a), for the 1997–98 fiscal year and each fiscal year thereafter, the auditor in the County of San Diego shall allocate to each eligible city in the county that provides public safety services, from the county's Public Safety Augmentation Fund created pursuant to paragraph (1), an amount obtained by multiplying the amount in the Public Safety Augmentation Fund by the allocation factor listed below for each city:

Carlsbad	0.3582694
Chula Vista	0.3126700
Coronado	0.1205707
Del Mar	0.0266781
El Cajon	0.1479797
Escondido	0.2874369
Imperial Beach	0.0543447

La Mesa	0.1035164
Lemon Grove	0.0151415
National City	0.0569347
Oceanside	0.6955004
San Diego	3.1831131
San Marcos	0.0585130
Vista	0.2269571

(e) Notwithstanding subdivision (a), the amount in the Public Safety Augmentation Fund established pursuant to this section for the County of Los Angeles shall be allocated to each eligible city in the county that provides public safety services as follows:

(1) For the 1997–98 and each fiscal year thereafter, the auditor shall allocate to eligible cities within the county the same percentage share of the augmentation fund that each eligible city received from amounts deposited into the augmentation fund for the 1995–96 fiscal year.

(2) For the 1996–97 fiscal year, the auditor shall allocate to eligible cities within the county the amount that would have been allocated to each of those cities had subdivision (a), as it read on January 1, 1997, been applied to amounts deposited into the augmentation fund for the 1995–96 fiscal year.

(3) Any amount calculated for a city pursuant to paragraph (2) that differs from the amount allocated to a city in the 1995–96 fiscal year shall be known as the "reconciliation amount."

(4) Any positive reconciliation amount calculated for a city pursuant to paragraph (3) shall be allocated to the appropriate city according to the following schedule:

(A) For the 1996–97 fiscal year, 50 percent of the reconciliation amount shall be paid within 31 days of the effective date of the act adding this subdivision.

(B) For the 1997–98 fiscal year, 25 percent of the reconciliation amount shall be paid, on a monthly basis, in 12 equal installments, with the first payment due July 20, 1997. However, any installment that is due prior to the effective date of the act adding this subdivision is due within 31 days of the effective date of the act adding this subdivision if that effective date is after July 20, 1997.

(C) For the 1998–99 fiscal year, 25 percent of the reconciliation amount shall be paid in full by September 30, 1998.

(5) The amount due a city in the fiscal year identified in paragraph (4) shall be offset by the positive growth calculated as follows:

(A) For the 1996–97 fiscal year, positive growth is the difference between a city's share of funds allocated in the 1995–96 fiscal year and the amount calculated as if paragraph (1) had been in effect for the 1996–97 fiscal year. If positive growth for the 1996–97 fiscal year cannot be calculated at the time the allocation is made to a city pursuant to subparagraph (A) of paragraph (4), the positive growth

for the 1996–97 fiscal year will be treated as an additional offset against payments to that city required pursuant to subparagraph (B) of paragraph (4).

(B) For the 1997–98 fiscal year, positive growth is the difference between a city's share of funds that would have been allocated in the 1996–97 fiscal year, had the allocation requirement of paragraph (1) been in effect for the 1996–97 fiscal year, and the amount calculated pursuant to paragraph (1) for the 1997–98 fiscal year.

(C) For the 1998–99 fiscal year, positive growth is the difference between a city's share of funds allocated in the 1997–98 fiscal year, excluding the reconciliation amount for that year, and the amount calculated pursuant to paragraph (1) for the 1998–99 fiscal year.

(6) Reconciliation amounts due in the 1998–99 fiscal year that are paid later than September 30, 1998, shall be subject to interest at the rate of 7 percent calculated from July 1, 1997.

(f) All moneys in the Public Safety Augmentation Fund not allocated to any city within the county pursuant to subdivision (a), (b), (c), (d), or (e) shall be allocated to the county.

SEC. 1.5. Section 30055 of the Government Code is amended to read:

30055. For the 1996–97 fiscal year and each fiscal year thereafter, each county shall establish a Public Safety Augmentation Fund in the county treasury to receive those revenues allocated to the county pursuant to Sections 30052 and 30053. Amounts deposited in this fund shall be expended exclusively to fund public safety services, and for that purpose shall be allocated among the county and the cities in the county that provide public safety services, as follows:

(a) In allocating revenues from the Public Safety Augmentation Fund to cities, the auditor shall, except as otherwise provided in subdivision (b), (c), (d), or (e), comply with all of the following:

(1) For the 1997–98 fiscal year and each fiscal year thereafter, the auditor shall allocate to each city from the county's Public Safety Augmentation Fund the same percentage of the total amount of moneys deposited in that fund that was allocated to that city for the 1995–96 fiscal year.

(2) (A) In accordance with the payment schedule set forth in subparagraph (B), the auditor shall, commencing with September 1997, allocate to each city that city's reconciliation amount if, and only if, the reconciliation amount is a positive number. For purposes of this subparagraph, a city's reconciliation amount means the difference between the following amounts:

(i) The amount that would have been allocated to that city from the county's Public Safety Augmentation Fund for the 1996–97 fiscal year, if moneys had been so allocated to that city using the same percentage of the total amount of money deposited in that fund that was allocated to that city for the 1995–96 fiscal year.

(ii) The amount that was in fact allocated from the county's Public Safety Augmentation Fund to that city for the 1996–97 fiscal year.

(B) The auditor shall allocate each city's reconciliation amount to that city in 36 equal and consecutive monthly installments, commencing on September 1, 1997. Each of these installments shall be paid at the same time as the regular monthly allocation made to that city pursuant to this section, and no interest shall be paid on any of these installments. However, if directed by the board of supervisors, the county auditor may expedite payment of the installments.

(b) Notwithstanding subdivision (a), the amount in the augmentation fund established pursuant to this section in each county described in paragraph (3) shall be allocated to the cities in that county that provide public safety services, as follows:

(1) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of the revenue shifted from that city to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of which shall be the amount of revenue shifted from all cities in the county to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(2) The auditor shall multiply 5 percent of the amount in the augmentation fund established pursuant to this section by the allocation factor determined for each city in paragraph (1). The amount so computed for each city shall be allocated to that city.

(3) This subdivision applies only to the Counties of Fresno, Kings, Merced, San Bernardino, San Joaquin, Solano, and Yolo.

(4) This subdivision shall apply to a particular county described in paragraph (3) only if the total amount allocated under this paragraph to all of the cities therein that provide public safety services is less than the amount that would otherwise be allocated to all of those cities pursuant to subdivision (a).

(c) Notwithstanding subdivision (a), the amount in the augmentation fund established pursuant to this section for the County of Alameda shall be allocated to the cities in the County of Alameda that provide public safety services as follows:

(1) The auditor shall determine an allocation factor for each city within the county, the numerator of which shall be the amount of the revenue shifted from that city to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year, and the denominator of which shall be the amount of revenue shifted from all cities in the County of Alameda to the Educational Revenue Augmentation Fund pursuant to Section 97.3 of the Revenue and Taxation Code for the 1993–94 fiscal year.

(2) The auditor shall multiply 6.1 percent of the amount in the augmentation fund established pursuant to this section by the

allocation factor determined for each city in paragraph (1). The amount so computed for each city shall be allocated to that city.

(d) Notwithstanding subdivision (a), for the 1997–98 fiscal year and each fiscal year thereafter, the auditor in the County of San Diego shall allocate to each eligible city in the county that provides public safety services, from the county's Public Safety Augmentation Fund created pursuant to paragraph (1), an amount obtained by multiplying the amount in the Public Safety Augmentation Fund by the allocation factor listed below for each city:

City	Allocation factor
Carlsbad	0.3582694
Chula Vista	0.3126700
Coronado	0.1205707
Del Mar	0.0266781
El Cajon	0.1479797
Escondido	0.2874369
Imperial Beach	0.0543447
La Mesa	0.1035164
Lemon Grove	0.0151415
National City	0.0569347
Oceanside	0.6955004
San Diego	3.1831131
San Marcos	0.0585130
Vista	0.2269571

(e) Notwithstanding subdivision (a), the amount in the Public Safety Augmentation Fund established pursuant to this section for the County of Los Angeles shall be allocated to each eligible city in the county that provides public safety services as follows:

(1) For the 1997–98 and each fiscal year thereafter, the auditor shall allocate to eligible cities within the county the same percentage share of the augmentation fund that each eligible city received from amounts deposited into the augmentation fund for the 1995–96 fiscal year.

(2) For the 1996–97 fiscal year, the auditor shall allocate to eligible cities within the county the amount that would have been allocated to each of those cities had subdivision (a), as it read on January 1, 1997, been applied to amounts deposited into the augmentation fund for the 1995–96 fiscal year.

(3) Any amount calculated for a city pursuant to paragraph (2) that differs from the amount allocated to a city in the 1995–96 fiscal year shall be known as the "reconciliation amount."

(4) Any positive reconciliation amount calculated for a city pursuant to paragraph (3) shall be allocated to the appropriate city according to the following schedule:

(A) For the 1996–97 fiscal year, 50 percent of the reconciliation amount shall be paid within 31 days of the effective date of the act adding this subdivision.

(B) For the 1997–98 fiscal year, 25 percent of the reconciliation amount shall be paid, on a monthly basis, in 12 equal installments, with the first payment due July 20, 1997. However, any installment that is due prior to the effective date of the act adding this subdivision is due within 31 days of the effective date of the act adding this subdivision if that effective date is after July 20, 1997.

(C) For the 1998–99 fiscal year, 25 percent of the reconciliation amount shall be paid in full by September 30, 1998.

(5) The amount due a city in the fiscal year identified in paragraph (4) shall be offset by the positive growth calculated as follows:

(A) For the 1996–97 fiscal year, positive growth is the difference between a city's share of funds allocated in the 1995–96 fiscal year and the amount calculated as if paragraph (1) had been in effect for the 1996–97 fiscal year. If positive growth for the 1996–97 fiscal year cannot be calculated at the time the allocation is made to a city pursuant to subparagraph (A) of paragraph (4), the positive growth for the 1996–97 fiscal year will be treated as an additional offset against payments to that city required pursuant to subparagraph (B) of paragraph (4).

(B) For the 1997–98 fiscal year, positive growth is the difference between a city's share of funds that would have been allocated in the 1996–97 fiscal year, had the allocation requirement of paragraph (1) been in effect for the 1996–97 fiscal year, and the amount calculated pursuant to paragraph (1) for the 1997–98 fiscal year.

(C) For the 1998–99 fiscal year, positive growth is the difference between a city's share of funds allocated in the 1997–98 fiscal year, excluding the reconciliation amount for that year, and the amount calculated pursuant to paragraph (1) for the 1998–99 fiscal year.

(6) Reconciliation amounts due in the 1998–99 fiscal year that are paid later than September 30, 1998, shall be subject to interest at the rate of 7 percent calculated from July 1, 1997.

(f) All moneys in the Public Safety Augmentation Fund not allocated to any city within the county pursuant to subdivision (a), (b), (c), (d), or (e) shall be allocated to the county.

(g) The amendments made to subdivision (a) by the act adding this subdivision shall be applicable for the 1997–98 fiscal year and each fiscal year thereafter.

SEC. 2. It is the intent of the Legislature in enacting this act to implement the correct allocation formula for distribution of Proposition 172 sales and use tax revenues between cities and the County of Los Angeles.

SEC. 3. 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 manner in which the unintended

consequences of previous legislation with respect to the allocation of sales and use tax revenues impacted the County of Los Angeles and cities located within that county, and the unique issues facing the County of Los Angeles and cities located within that county in addressing those unintended consequences.

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

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

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 30055 of the Government Code proposed by both this bill and AB 339. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 30055 of the Government Code, and (3) this bill is enacted after AB 339, in which case Section 30055 of the Government Code as amended by AB 339, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 6. This act shall become operative only if Assembly Bill 339 is enacted and becomes effective on or before January 1, 1998.

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 correct the formula for computing the allocation factors used by certain counties to allocate sales and use tax revenues to cities within those counties for public safety services at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 218

An act to amend Sections 22154 and 22155 of the Financial Code, relating to finance lenders.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 22154 of the Financial Code is amended to read:

22154. (a) No licensee shall conduct the business of making loans under this division within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as is authorized in writing by the commissioner upon the commissioner's finding that the character of the other business is such that the granting of the authority would not facilitate evasions of this division or of the rules and regulations made pursuant to this division. An authorization once granted remains in effect until revoked by the commissioner.

(b) The products or services of an affiliated corporation of the licensee that is a supervised financial institution, or a parent or subsidiary of a supervised financial institution that is an affiliate of the licensee, may be provided, offered, or sold at the licensed location of the licensee without authorization by the commissioner pursuant to subdivision (a) if (1) the activity is not prohibited by, or in violation of, the laws applicable to the affiliate or supervised financial institution, and (2) the products and services are not offered and sold in a manner that restricts the ability of the borrower or customer to individually select or reject a product or service that is offered.

(c) The following definitions govern the construction of this section:

(1) "Affiliated" or "affiliate" means the following: A corporation is an affiliate of, or a corporation is affiliated with, another specified corporation if it directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the other specified corporation.

(2) "Supervised financial institution" means any commercial bank, credit card bank, trust company, savings and loan association, savings bank, credit union, industrial loan company, California finance lender, residential mortgage lender or servicer, or insurer, provided that the institution is subject to supervision by an official or agency of this state or of the United States.

SEC. 2. Section 22155 of the Financial Code is amended to read:

22155. No licensee shall transact the business licensed or make any loan provided for by this division under any other name or at any other place of business than that named in the license except pursuant to a currently effective written order of the commissioner authorizing the other name or other place of business. The commissioner's order, while effective, shall be deemed to amend the original license issued pursuant to Section 22106. Notwithstanding any provision of this section, a licensee may make any loan and engage in any other business provided for by this division, other than the business described in subdivision (b) of Section 22154, at a place

other than the licensed location under either of the following conditions:

(a) The borrower requests, either orally or in writing, that a loan be initiated or made at a location other than the licensee's licensed location. The use by the licensee of a preprinted solicitation form returned to the licensee by the borrower shall not constitute a request by the borrower that a loan be initiated or made at a location other than the licensee's licensed location.

(b) The licensee makes a solicitation or advertises for, or makes an offer of, a loan displayed on "home pages" or similar methods by the licensee on the Internet, the World Wide Web, or similar proprietary or common carrier electronic systems, and the prospective borrower may transmit information over these electronic systems to the licensee in connection with the licensee's offer to make a loan.

CHAPTER 219

An act to amend Section 22958 of, and to add Section 22961 to, the Business and Professions Code, relating to tobacco.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

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

(a) The state has a special responsibility to protect minors from engaging in illegal activities.

(b) The state has strongly supported classroom education concerning the dangers of tobacco use, but this message is undercut if there are advertisements near schools that encourage the use of tobacco products.

(c) Many school districts in California have endorsed restricting the advertising of tobacco products and alcoholic beverages near schools in order to avoid sending mixed messages to their students.

(d) The United States Supreme Court has ruled that commercial advertising may be regulated, provided the restrictions meet a four-part test, including, but not limited to, whether the advertising is deceptive and misleading.

(e) Although the federal Cigarette Labeling and Advertising Act (15 U.S.C.A. Sec. 1331 et seq.) preempts states and localities from restricting advertising based upon public health considerations, it does not prevent measures directed at the reduction of illegal purchasing of tobacco by minors.

(f) Accordingly, the Legislature hereby endorses a restriction on the advertising of tobacco products near schools as a means to curb the illegal use of tobacco by minors.

SEC. 2. Section 22958 of the Business and Professions Code is amended to read:

22958. (a) The state department may assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under the age of 18 years, any tobacco, cigarette, or cigarette papers, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, according to the following schedule: (1) a civil penalty of from two hundred dollars ($200) to three hundred dollars ($300) for the first violation, (2) a civil penalty of from six hundred dollars ($600) to nine hundred dollars ($900) for the second violation within a five-year period, (3) a civil penalty of from one thousand two hundred dollars ($1,200) to one thousand eight hundred dollars ($1,800) for a third violation within a five-year period, (4) a civil penalty of from three thousand dollars ($3,000) to four thousand dollars ($4,000) for a fourth violation within a five-year period, or (5) a civil penalty of from five thousand dollars ($5,000) to six thousand dollars ($6,000) for a fifth or subsequent violation within a five-year period.

(b) The state department shall assess penalties in accordance with the schedule set forth in subdivision (a) against any person, firm, or corporation that sells, offers for sale, or distributes tobacco products from a cigarette or tobacco products vending machine, or any person, firm, or corporation that leases, furnishes, or services these machines in violation of Section 22960.

(c) The state department shall assess penalties in accordance with the schedule set forth in subdivision (a) against any person, firm, or corporation that advertises or causes to be advertised any tobacco product on any outdoor billboard in violation of Section 22961.

(d) If a civil penalty has been assessed pursuant to this section against any person, firm, or corporation for a single, specific violation of this division, the person, firm, or corporation shall not be prosecuted under Section 308 of the Penal Code for a violation based on the same facts or specific incident for which the civil penalty was assessed. If any person, firm, or corporation has been prosecuted for a single, specific violation of Section 308 of the Penal Code, the person, firm, or corporation shall not be assessed a civil penalty under this section based on the same facts or specific incident upon which the prosecution under Section 308 of the Penal Code was based.

(e) (1) In the case of a corporation or business with more than one retail location, to determine the number of accumulated violations for purposes of the penalty schedule set forth in subdivision (a), violations of this division by one retail location shall not be

accumulated against other retail locations of that same corporation or business.

(2) In the case of a retail location that operates pursuant to a franchise as defined in Section 20001 of the Business and Professions Code, violations of this division accumulated and assessed against a prior owner of a single franchise location shall not be accumulated against a new owner of the same single franchise location for purposes of the penalty schedule set forth in subdivision (a).

(f) 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.

SEC. 3. Section 22961 is added to the Business and Professions Code, to read:

22961. (a) No person, firm, corporation, partnership, or other organization shall advertise or cause to be advertised any tobacco products on any outdoor billboard located within 1,000 feet of any public or private elementary school, junior high school, or high school, or public playground.

(b) This section sets forth minimum state restrictions on the advertisement of any tobacco products on outdoor billboards near schools and public playgrounds and does not preempt or otherwise prohibit the adoption of a local standard that imposes a more restrictive or complete ban on billboard advertising or on tobacco-related billboard advertising. A local standard that imposes a more restrictive or complete ban on billboard advertising or on tobacco-related billboard advertising shall control in the event of any inconsistency between this section and a local standard.

(c) This section shall not be construed to prohibit the display of a message or advertisement opposing the use of tobacco products. However, this subdivision shall not be construed to permit an advertisement promoting the use of tobacco products by including a message opposing the use of tobacco products within that advertisement.

CHAPTER 220

An act to amend Sections 125.7, 495, 652, 1247.66, 1267, 1310, 1322, and 22958 of the Business and Professions Code, to add Section 11410.60 to the Government Code, to amend Sections 1280, 1280.1, 1295, 1337.9, 1408, 1410, 1428, 1437, 1615, 1618, 1639.4, 1643.1, 1728.2, 1736, 1736.5, 106715, 108900, 111645, 111855, 111940, 115145, 116425, and 116625 of, and to add Section 100171 to, the Health and Safety Code, to add Section 1953.5 to the Unemployment Insurance Code, and to amend Sections 14088.23, 14123, 14123.2, 14124.6, 14126.50, 14171, 14171.5, 14171.6, and 14304 of the Welfare and Institutions

Code, relating to administrative adjudication, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 125.7 of the Business and Professions Code is amended to read:

125.7. In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under Division 2 (commencing with Section 500), or any initiative act referred to in that division, has engaged or is about to engage in any act that constitutes a violation of a chapter of this code administered or enforced by a board referred to in Division 2 (commencing with Section 500), may, upon a petition filed by the board and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with this section.

(a) If the affidavits in support of the petition show that the licensee has engaged or is about to engage in acts or omissions constituting a violation of a chapter of this code and if the court is satisfied that permitting the licensee to continue to engage in the business or profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the licensee from engaging in the profession for which he or she is licensed.

(b) The order may not be issued without notice to the licensee unless it appears from facts shown by the affidavits that serious injury would result to the public before the matter can be heard on notice.

(c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed with the board pursuant to Section 11503 of the Government Code or, in the case of a licensee of the State Department of Health Services, with that department pursuant to Section 100171 of the Health and Safety Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government

Code. However, if the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date of the conclusion of the hearing, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at the time the board's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(e) The remedy provided for in this section shall be in addition to, and not a limitation upon, the authority provided by any other provision of this code.

SEC. 2. Section 495 of the Business and Professions Code is amended to read:

495. Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproval, public reproval and suspension, or public reproval and revocation 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, or, in the case of a licensee or certificate holder under the jurisdiction of the State Department of Health Services, in accordance with Section 100171 of the Health and Safety Code.

SEC. 3. Section 652 of the Business and Professions Code is amended to read:

652. Violation of this article in the case of a licensed person constitutes unprofessional conduct and grounds for suspension or revocation of his or her license by the board by whom he or she is licensed, or if a license has been issued in connection with a place of business, then for the suspension or revocation of the place of business in connection with which the violation occurs. The proceedings for suspension or revocation 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 each board shall have all the powers granted therein. However, in the case of a licensee of the State Department of Health Services, the proceedings shall be conducted in accordance with Section 110171 of the Health and Safety Code. In addition, any violation constitutes a misdemeanor as to any and all persons offering, delivering, receiving, accepting, or participating in any rebate, refund, commission, preference, patronage dividend, unearned discount, or consideration, whether or not licensed under this division, and is punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding two thousand five hundred dollars ($2,500), or by both the imprisonment and fine.

SEC. 4. Section 1247.66 of the Business and Professions Code is amended to read:

1247.66. (a) The department may deny, suspend, or revoke the certification of a hemodialysis technician if it finds that the hemodialysis technician is not in compliance with this article, or any regulations adopted by the department to administer this article.

(b) The department may deny, suspend, or revoke the certification of a hemodialysis technician for any of the following causes:

(1) Unprofessional conduct, which includes incompetence or gross negligence in carrying out his or her usual functions.

(2) Procuring a certificate by fraud, misrepresentation, or mistake.

(3) Making or giving any false statement or information in conjunction with the application for issuance or renewal of a certificate.

(4) Conviction of a crime substantially related to the qualifications, functions, and duties of a hemodialysis technician in which event the record of the conviction shall be conclusive evidence thereof.

(c) In addition to other acts constituting unprofessional conduct within the meaning of this article, all of the following constitute unprofessional conduct:

(1) Conviction for, or use of, any narcotic drug, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug, as defined in Article 7 (commencing with Section 4211) of Chapter 9, or alcoholic beverages, to an extent or in a manner dangerous or injurious to the hemodialysis technician or any other person, or the public, to the extent that this use impairs the ability to conduct, with safety to the public, the practice of a hemodialysis technician.

(2) Abuse, whether verbal, physical, or mental, of a patient in any setting where health care is being rendered.

(d) Proceedings to deny, suspend, or revoke a certification under this article shall be conducted in accordance with Section 100171 of the Health and Safety Code.

(e) 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. 5. Section 1267 of the Business and Professions Code is amended to read:

1267. Any denial, suspension, or revocation of a license under this chapter shall be conducted in compliance with Section 100171 of the Health and Safety Code.

SEC. 6. Section 1310 of the Business and Professions Code is amended to read:

1310. If the department determines that a laboratory that has been issued a license or registration under this chapter, except for a laboratory only performing tests or examinations classified as waived

under CLIA, no longer substantially meets the requirements of this chapter or the regulations adopted thereunder, the department, in lieu of, or in addition to, revocation or suspension of the license or registration under Section 1320 or 1323, may impose any of the following:

(a) Directed plans of correction, as defined under CLIA.

(b) Civil money penalties in an amount ranging from fifty dollars ($50) to three thousand dollars ($3,000) per day of noncompliance, or per violation, for a condition level deficiency that does not pose immediate jeopardy, to an amount ranging from three thousand fifty dollars ($3,050) to ten thousand dollars ($10,000) per day of noncompliance, or per violation, for a condition level deficiency that poses immediate jeopardy, but only after notice and an opportunity to respond in accordance with Section 100171 of the Health and Safety Code, and consideration of facts enumerated in CLIA in Section 493.1834 of Title 42 of the Code of Federal Regulations.

(c) Onsite monitoring, as defined under CLIA, and payment for the costs of onsite monitoring.

(d) Any combination of the actions described in subdivisions (a), (b), and (c).

SEC. 7. Section 1322 of the Business and Professions Code is amended to read:

1322. The proceedings under this chapter for the suspension or revocation of a license or registration shall be conducted in accordance with Section 100171 of the Health and Safety Code.

SEC. 8. Section 22958 of the Business and Professions Code is amended to read:

22958. (a) The state department may assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under the age of 18 years, any tobacco, cigarette, or cigarette papers, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, according to the following schedule: (1) a civil penalty of from two hundred dollars ($200) to three hundred dollars ($300) for the first violation, (2) a civil penalty of from six hundred dollars ($600) to nine hundred dollars ($900) for the second violation within a five-year period, (3) a civil penalty of from one thousand two hundred dollars ($1,200) to one thousand eight hundred dollars ($1,800) for a third violation within a five-year period, (4) a civil penalty of from three thousand dollars ($3,000) to four thousand dollars ($4,000) for a fourth violation within a five-year period, or (5) a civil penalty of from five thousand dollars ($5,000) to six thousand dollars ($6,000) for a fifth or subsequent violation within a five-year period.

(b) The state department shall assess penalties in accordance with the schedule set forth in subdivision (a) against any person, firm, or corporation that sells, offers for sale, or distributes tobacco products

from a cigarette or tobacco products vending machine, or any person, firm, or corporation that leases, furnishes, or services these machines in violation of Section 22960.

(c) If a civil penalty has been assessed pursuant to this section against any person, firm, or corporation for a single, specific violation of this division, the person, firm, or corporation shall not be prosecuted under Section 308 of the Penal Code for a violation based on the same facts or specific incident for which the civil penalty was assessed. If any person, firm, or corporation has been prosecuted for a single, specific violation of Section 308 of the Penal Code, the person, firm, or corporation shall not be assessed a civil penalty under this section based on the same facts or specific incident upon which the prosecution under Section 308 of the Penal Code was based.

(d) (1) In the case of a corporation or business with more than one retail location, to determine the number of accumulated violations for purposes of the penalty schedule set forth in subdivision (a), violations of this division by one retail location shall not be accumulated against other retail locations of that same corporation or business.

(2) In the case of a retail location that operates pursuant to a franchise as defined in Section 20001, violations of this division accumulated and assessed against a prior owner of a single franchise location shall not be accumulated against a new owner of the same single franchise location for purposes of the penalty schedule set forth in subdivision (a).

(e) Proceedings under this section shall be conducted in accordance with Section 100171 of the Health and Safety Code.

SEC. 9. Section 11410.60 is added to the Government Code, to read:

11410.60. (a) As used in this section, “quasi-public entity” means an entity, other than a governmental agency, whether characterized by statute as a public corporation, public instrumentality, or otherwise, that is expressly created by statute for the purpose of administration of a state function.

(b) This chapter applies to an adjudicative proceeding conducted by a quasi-public entity if all of the following conditions are satisfied:

(1) A statute vests the power of decision in the quasi-public entity.

(2) A statute, the United States Constitution, or the California Constitution, requires an evidentiary hearing for determination of facts for formulation and issuance of the decision. Nothing in this section is intended to create an evidentiary hearing requirement that is not otherwise statutorily or constitutionally imposed.

(3) The decision is not otherwise subject to administrative review in an adjudicative proceeding to which this chapter applies.

(c) For the purpose of application of this chapter to a decision by a quasi-public entity:

(1) “Agency,” as defined in Section 11405.30, also includes the quasi-public entity.

(2) "Regulation" includes a rule promulgated by the quasi-public entity.

(3) Article 8 (commencing with Section 11435.05), requiring language assistance in an adjudicative proceeding, applies to a quasi-public entity to the same extent as a state agency under Section 11018.

(d) This section shall be strictly construed to effectuate the intent of the Legislature to apply this chapter only to a decision by a quasi-public entity that is expressly created by statute for the purpose of administration of a state function.

(e) This section shall not apply to a decision made on authority of an approved plan of operations of a quasi-public entity that is subject to the regulation or supervision of the Insurance Commissioner.

SEC. 10. Section 1280 of the Health and Safety Code is amended to read:

1280. (a) The state department may provide consulting services upon request to any health facility to assist in the identification or correction of deficiencies or the upgrading of the quality of care provided by the health facility.

(b) The state department shall notify the health facility of all deficiencies in its compliance with this chapter and the rules and regulations adopted hereunder, and the health facility shall agree with the state department upon a plan of correction that shall give the health facility a reasonable time to correct these deficiencies. If at the end of the allotted time, as revealed by inspection, the health facility has failed to correct the deficiencies, the director may take action to revoke or suspend the license.

(c) (1) In addition to subdivision (a), if the health facility is licensed under subdivision (a), (b), or (f) of Section 1250, and if the facility fails to implement a plan of correction that has been agreed upon by both the facility and the state department within a reasonable time, the state department may order implementation of the plan of correction previously agreed upon by the facility and the state department. If the facility and the state department fail to agree upon a plan of correction within a reasonable time and if the deficiency poses an immediate and substantial hazard to the health or safety of patients, then the director may take action to order implementation of a plan of correction devised by the state department. The order shall be in writing and shall contain a statement of the reasons for the order. If the facility does not agree that the deficiency poses an immediate and substantial hazard to the health or safety of patients or if the facility believes that the plan of correction will not correct the hazard, or if the facility proposes a more efficient or effective means of remedying the deficiency, the facility may, within 10 days of receiving the plan of correction from the department, appeal the order to the director. The director shall review information provided by the facility, the department, and other affected parties and within a reasonable time render a decision

in writing that shall include a statement of reasons for the order. During the period which the director is reviewing the appeal, the order to implement the plan of correction shall be stayed. The opportunity for appeal provided pursuant to this subdivision shall not be deemed to be an adjudicative hearing and is not required to comply with Section 100171.

(2) If any condition within a health facility licensed under subdivision (a), (b), or (f) of Section 1250 poses an immediate and substantial hazard to the health or safety of patients, the state department may order either of the following until the hazardous condition is corrected:

(A) Reduction in the number of patients.

(B) Closure of the unit or units within the facility that pose the risk. If the unit to be closed is an emergency room in a designated facility, as defined in Section 1797.67, the state department shall notify and coordinate with the local emergency medical services agency.

(3) The facility may appeal an order pursuant to paragraph (2) by appealing to the superior court of the county in which the facility is located.

(4) Paragraph (2) shall not apply to a deficiency for which the facility was cited prior to January 1, 1994.

(d) Reports on the results of each inspection of a health facility shall be prepared by the inspector or inspector team and shall be kept on file in the state department along with the plan of correction and health facility comments. The inspection report may include a recommendation for reinspection. Inspection reports of an intermediate care facility/developmentally disabled habilitative or an intermediate care facility/developmentally disabled—nursing shall be provided by the state department to the appropriate regional center pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(e) All inspection reports and lists of deficiencies shall be open to public inspection when the state department has received verification that the health facility has received the report from the state department. All plans of correction shall be open to public inspection upon receipt by the state department.

(f) In no event shall the act of providing a plan of correction, the content of the plan of correction, or the execution of a plan of correction, be used in any legal action or administrative proceeding as an admission within the meaning of Sections 1220 to 1227, inclusive, of the Evidence Code against the health facility, its licensee, or its personnel.

SEC. 11. Section 1280.1 of the Health and Safety Code is amended to read:

1280.1. (a) If a licensee of a health facility licensed under subdivision (a), (b), or (f) of Section 1250 fails to correct a deficiency within the time specified in a plan of correction, the state department

may assess the licensee a civil penalty in an amount not to exceed fifty dollars ($50) per patient affected by the deficiency for each day that the deficiency continues beyond the date specified for correction. The civil penalties shall be assessed only for deficiencies that pose an immediate and substantial hazard to the health or safety of patients. If the licensee disputes a determination by the state department regarding alleged failure to correct a deficiency or regarding the reasonableness of the proposed deadline for correction, the licensee may, within 10 days, request a hearing pursuant to Section 100171. Penalties shall be paid when appeals pursuant to those provisions have been exhausted.

(b) This section shall not apply to a deficiency for which a facility was cited prior to January 1, 1994.

SEC. 12. Section 1295 of the Health and Safety Code is amended to read:

1295. Proceedings for the suspension, revocation, or denial of licenses or special permits under this chapter shall be conducted in accordance with Section 100171. In the event of conflict between this chapter and Section 100171, Section 100171 shall prevail.

SEC. 13. Section 1337.9 of the Health and Safety Code is amended to read:

1337.9. (a) The state department may deny an application for, or initiate an action to suspend or revoke, a nurse assistant, or deny a training and examination application.

(b) The state department shall deny a training and examination application and deny, suspend, or revoke a certificate issued under this article if the applicant or certificate holder has been convicted of a violation or attempted violation of any one or more of the following Penal Code provisions: Section 187, subdivision (a) of Section 192, Section 203, 205, 206, 207, 209, 210, 210.5, 211, 220, 222, 243.4, 245, 261, 262, or 264.1, Sections 265 to 267, inclusive, Section 273a, 273.5, or 285, subdivisions (c), (d), (f), and (g) of Section 286, Section 288, subdivisions (c), (d), (f), and (g) of Section 288a, Section 288.5, 289, 289.5, 368, 451, 459, 470, 475, 484, or 484b, Sections 484d to 484j, inclusive, Section 487, 503, or 518, unless any of the following applies:

(1) The person was convicted of a felony and has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of the Penal Code and the information or accusation against him or her has been dismissed pursuant to Section 1203.4 of the Penal Code.

(2) The person was convicted of a misdemeanor and the information or accusation against him or her has been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(3) The certificate holder was convicted of a felony or a misdemeanor, but has previously disclosed the fact of each conviction to the department, and the department has made a determination in

accordance with law that the conviction does not disqualify the applicant from certification.

(c) An application or certificate shall be denied, suspended, or revoked upon conviction in another state of an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in subdivision (b), unless evidence of rehabilitation comparable to the certificate of rehabilitation or dismissal of a misdemeanor set forth in paragraph (1) or (2) of subdivision (b) is provided.

(d) The state department may deny an application or deny, suspend, or revoke a certificate issued under this article for any of the following:

(1) Unprofessional conduct, including, but not limited to, incompetence, gross negligence unless due to circumstances beyond the nurse assistant's control, physical, mental, or verbal abuse of patients or misappropriation of property of patients or others.

(2) Conviction of a crime substantially related to the qualifications, functions, and duties of a certified nurse assistant, irrespective of a subsequent order under Section 1203.4, 1203.4a, or 4852.13 of the Penal Code, where the state department determines that the applicant or certificate holder has not adequately demonstrated that he or she has been rehabilitated and will present a threat to the health, safety, or welfare of patients.

(3) Conviction for, or use of, any controlled substance as defined in Division 10 (commencing with Section 11000), or any dangerous drug, as defined in Article 7 (commencing with Section 4211) of Chapter 9, or alcoholic beverages, to an extent or in a manner dangerous or injurious to the certified nurse assistant, any other person, or the public, to the extent that this use would impair the ability to conduct, with safety to the public, the practice authorized by a certificate.

(4) Procuring a certified nurse assistant certificate by fraud or misrepresentation or mistake.

(5) Making or giving any false statement or information in conjunction with the application for issuance of a nurse assistant certificate or training and examination application.

(6) Impersonating any applicant, or acting as proxy for an applicant, in any examination required under this article for the issuance of a certificate.

(7) Impersonating another certified nurse assistant, a licensed vocational nurse, or a registered nurse, or permitting or allowing another person to use a certificate for the purpose of providing nursing services.

(8) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of, this article.

(e) When the state department determines that a certificate shall be suspended, the state department shall specify the period of actual

suspension. The state department may determine that the suspension shall be stayed, placing the certificate holder on probation with specified conditions for a period not to exceed two years. When the state department determines that probation is the appropriate action, the certificate holder shall be notified that in lieu of the state department proceeding with a formal action to suspend the certification and in lieu of an appeal pursuant to subdivision (h), the certificate holder may request to enter into a diversion program agreement. A diversion program agreement shall specify terms and conditions related to matters, including, but not limited to, work performance, rehabilitation, training, counseling, progress reports, and treatment programs. If a certificate holder successfully completes a diversion program, no action shall be taken upon the allegations that were the basis for the diversion agreement. Upon failure of the certificate holder to comply with the terms and conditions of an agreement, the state department may proceed with a formal action to suspend or revoke the certification.

(f) A plea or verdict of guilty, or a conviction following a plea of nolo contendere shall be deemed a conviction within the meaning of this article. The state department may deny an application or deny, suspend, or revoke a certification based on a conviction as provided in this article when the judgment of conviction is entered or when an order granting probation is made suspending the imposition of sentence.

(g) Upon determination to deny an application or deny, revoke, or suspend a certificate, the state department shall notify the applicant or certificate holder in writing by certified mail of all of the following:

(1) The reasons for the determination.

(2) The applicant's or certificate holder's right to appeal the determination if the determination was made under subdivision (d).

(h) (1) Upon written notification that the state department has determined that an application shall be denied or a certificate shall be denied, suspended, or revoked under subdivision (d), the applicant or certificate holder may request an administrative hearing by submitting a written request to the state department within 20 business days of receipt of the written notification. Upon receipt of a written request, the state department shall hold an administrative hearing pursuant to the procedures specified in Section 100171, except where those procedures are inconsistent with this section.

(2) A hearing under this section shall be conducted by a hearing officer or administrative law judge designated by the director at a location, other than the work facility, convenient to the applicant or certificate holder. The hearing shall be tape recorded and a written decision shall be sent by certified mail to the applicant or certificate holder within 30 calendar days of the hearing. Except as specified in subdivision (i), the effective date of an action to revoke or suspend a certificate shall be specified in the written decision, or if no

administrative hearing is timely requested, the effective date will be 21 business days from written notification of the department's determination to revoke or suspend.

(i) The state department may revoke or suspend a certificate prior to any hearing when immediate action is necessary in the judgment of the director to protect the public welfare. Notice of this action, including a statement of the necessity of immediate action to protect the public welfare, shall be sent in accordance with subdivision (g). If the certificate holder requests an administrative hearing pursuant to subdivision (h), the state department shall hold the administrative hearing as soon as possible but not later than 30 calendar days from receipt of the request for a hearing. A written hearing decision upholding or setting aside the action shall be sent by certified mail to the certificate holder within 30 calendar days of the hearing.

(j) Upon the expiration of the term of suspension, he or she shall be reinstated by the state department and shall be entitled to resume practice unless it is established to the satisfaction of the state department that the person has practiced as a certified nurse assistant in this state during the term of suspension. In this event, the state department shall revoke the person's certificate.

(k) Upon a determination to deny an application or deny, revoke, or suspend a certificate, the state department shall notify the employer of the applicant or certificate holder in writing of that determination, and whether the determination is final, or whether a hearing is pending relating to this determination. If a licensee or facility is required to deny employment or terminate employment of the employee based upon notice from the state that the employee is determined to be unsuitable for employment under this section, the licensee or facility shall not incur criminal, civil, unemployment insurance, workers' compensation, or administrative liability as a result of that denial or termination.

SEC. 14. Section 1408 of the Health and Safety Code is amended to read:

1408. (a) Upon verification of compliance with this chapter and with the approval of the department, the department shall issue the license to the applicant.

(b) If the applicant is not in compliance with this chapter, the department shall deny the applicant a license. Immediately upon the denial of any license, the department shall notify the applicant in writing. Within 20 days of receipt of the department's notice, the applicant may present his or her written petition for a hearing to the department. The proceedings shall be conducted in accordance with Section 100171.

SEC. 15. Section 1410 of the Health and Safety Code is amended to read:

1410. The department may suspend or revoke licenses issued under this chapter for violation of any provisions of this chapter or

rules and regulations promulgated hereunder. In addition, the department shall assess a civil penalty in the amount of fees received by a licensee as a result of a violation of any provisions of this chapter or rules and regulations promulgated hereunder. Proceedings to suspend or revoke a license shall be conducted pursuant to Section 100171.

SEC. 16. Section 1428 of the Health and Safety Code is amended to read:

1428. (a) If the licensee desires to contest a citation or the proposed assessment of a civil penalty therefor, the licensee shall use the processes described in subdivisions (b) and (c) for classes "AA," "A," or "B" citations. As a result of a citation review conference, a citation or the proposed assessment of a civil penalty may be affirmed, modified, or dismissed by the director or the director's designee. If the director's designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within 15 business days after he or she receives the decision by the director's designee.

(b) If a licensee notifies the director that he or she intends to contest a class "AA" or a class "A" citation, the licensee may first within 15 business days after service of the citation notify the director in writing of his or her request for a citation review conference. The licensee shall inform the director in writing, within 15 business days of the service of the citation or the receipt of the decision of the director's designee after the citation review conference, of the licensee's intent to adjudicate the validity of the citation in the municipal or superior court in the county in which the long-term health care facility is located. In order to perfect a judicial appeal of a contested citation, a licensee shall file a civil action in the municipal or superior court in the county in which the long-term health care facility is located. The action shall be filed no later than 90 calendar days after a licensee notifies the director that he or she intends to contest the citation, or no later than 90 days after the receipt of the decision by the director's designee after the citation review conference, and served not later than 90 days after filing. Notwithstanding any other provision of law, for those citations issued after January 1, 1993, a licensee prosecuting a judicial appeal shall file and serve an at-issue memorandum pursuant to Rule 209 of the California Rules of Court by July 1, 1993, or within six months after the state department files its answer in the appeal, whichever is later. Notwithstanding subdivision (d), the court shall dismiss the appeal upon motion of the state department if the at-issue memorandum is not filed by the facility within the period specified.

(c) If a licensee desires to contest a class "B" citation, the licensee may request, within 15 business days after service of the citation, a citation review conference, by writing the director or the director's designee of the licensee's intent to appeal the citation through the citation review conference. If the licensee wishes to appeal the citation which has been upheld in a citation review conference, the licensee shall, within 15 working days from the date the citation review conference decision was rendered, notify the director or the director's designee that he or she wishes to appeal the decision through the procedures set forth in Section 100171. The administrative law judge may affirm, modify, or dismiss the citation or the proposed assessment of a civil penalty. The licensee may choose to have his or her appeal heard by the administrative law judge without having first appealed the decision to a citation review conference by notifying the director in writing within 15 business days of the service of the citation.

(d) If a licensee is dissatisfied with the decision of the administrative law judge, the licensee may, in lieu of seeking judicial review of the decision as provided in Section 1094.5 of the Code of Civil Procedure, elect to submit the matter to binding arbitration by filing, within 60 days of its receipt of the decision, a request for arbitration with the American Arbitration Association. The parties shall agree upon an arbitrator designated from the American Arbitration Association in accordance with the association's established rules and procedures. The arbitration hearing shall be set within 45 days of the election to arbitrate, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 additional days if necessary at the arbitrator's discretion. Except as otherwise specifically provided in this subdivision, the arbitration hearing shall be conducted in accordance with the American Arbitration Association's established rules and procedures.

(e) If an appeal is prosecuted under this section, including an appeal taken in accordance with Section 100171 the state department shall have the burden of establishing by a preponderance of the evidence that (1) the alleged violation did occur, (2) the alleged violation met the criteria for the class of citation alleged, and (3) the assessed penalty was appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that the assessment of a civil penalty should be upheld. If a licensee fails to notify the director in writing that he or she intends to contest the citation, or the proposed assessment of a civil penalty therefor, or the decision made by the director's designee, after a citation review conference, within the time specified in this section, the decision by the director's designee after a citation review conference shall be deemed a final order of the state department and shall not be subject to further administrative review, except that the licensee may seek judicial relief from the time limits specified in this section.

If a licensee appeals a contested citation or the assessment of a civil penalty, no civil penalty shall be due and payable unless and until the appeal is terminated in favor of the state department.

(f) The director or the director's designee shall establish an independent unit of trained citation review conference hearing officers within the state department to conduct citation review conferences. Citation review conference hearing officers shall be directly responsible to the deputy director for licensing and certification, and shall not be concurrently employed as supervisors, district administrators, or regional administrators with the licensing and certification division. Specific training shall be provided to members of this unit on conducting an informal conference, with emphasis on the regulatory and legal aspects of long-term health care.

Where the state department issues a citation as a result of a complaint or regular inspection visit, and a resident or residents are specifically identified in a citation by name as being specifically affected by the violation, then the following persons may attend the citation review conference:

(1) The complainant and his or her designated representative.

(2) A personal health care provider, designated by the resident.

(3) A personal attorney, only if the long-term health care facility has an attorney present.

(4) Any person representing the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code.

Where the state department determines that residents in the facility were threatened by the cited violation but does not name specific residents, any person representing the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, and a representative of the residents or family council at the facility may participate to represent all residents. In this case, these representatives shall be the sole participants for the residents in the conference. The residents' council shall designate which representative will participate.

The complainant, affected resident, or their designated representatives shall be notified by the state department of the conference and their right to participate. The director's designee shall notify the complainant or his or her designated representative and the affected resident or his or her designated representative, of his or her determination based on the citation review conference.

(g) In assessing the civil penalty for a violation, all relevant facts shall be considered, including, but not limited to, all of the following:

(1) The probability and severity of the risk which the violation presents to the patient's or resident's mental and physical condition.

(2) The patient's or resident's medical condition.

(3) The patient's or resident's mental condition and his or her history of mental disability.

(4) The good faith efforts exercised by the facility to prevent the violation from occurring.

(5) The licensee's history of compliance with regulations.

(h) Except as otherwise provided in this subdivision, an assessment of civil penalties for a class "A" or class "B" violation shall be trebled and collected for a second and subsequent violation for which a citation of the same class was issued within any 12-month period. Trebling shall occur only if the first citation issued within the 12-month period was issued in the same class, a civil penalty was assessed, and a plan of correction was submitted for the previous same-class violation occurring within the period, without regard to whether the action to enforce the previous citation has become final. However, the increment to the civil penalty required by this subdivision shall not be due and payable unless and until the previous action has terminated in favor of the state department.

If the class "B" citation is issued for a patient's rights violation, as defined in subdivision (d) of Section 1424, it shall not be trebled unless the state department determines the violation has a direct or immediate relationship to the health, safety, security, or welfare of long-term health care facility residents.

(i) The director shall prescribe procedures for the issuance of a notice of violation with respect to violations having only a minimal relationship to safety or health.

(j) Actions brought under this chapter shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing the proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(k) If the citation is dismissed, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the citation was dismissed.

(*l*) Penalties paid on violations under this chapter shall be applied against the state department's accounts to offset any costs incurred by the state pursuant to this chapter. Any costs or penalties assessed pursuant to this chapter shall be paid within 30 days of the date the decision becomes final. If a facility does not comply with this requirement, the state department shall withhold any payment under the Medi-Cal program until the debt is satisfied. No payment shall be withheld if the state department determines that it would cause undue hardship to the facility or to patients or residents of the facility.

(m) The amendments made to subdivisions (a) and (c) of this section by Chapter 84 of the Statutes of 1988, to extend the number of days allowed for the provision of notification to the director, do not

affect the right, that is also contained in those amendments, to request judicial relief from these time limits.

SEC. 17. Section 1437 of the Health and Safety Code is amended to read:

1437. If a health facility, or an applicant for a license has not been previously licensed pursuant to Chapter 2 (commencing with Section 1250), the state department may only provisionally license the facility as provided in this section. A provisional license to operate a health facility shall terminate six months from the date of issuance. Within 30 days of the termination of a provisional license, the state department shall give the facility a full and complete inspection, and, if the facility meets all applicable requirements for licensure, a regular license shall be issued. If the health facility does not meet the requirements for licensure but has made substantial progress towards meeting the requirements, as determined by the state department, the initial provisional license shall be renewed for six months. If the state department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the state department determines upon its inspection made within 30 days of the termination of a renewed provisional license that there is lack of full compliance with the requirements, no further license shall be issued.

If an applicant for a provisional license to operate a health facility has been denied provisional licensing by the state department, he or she may contest the denial by filing a request for a hearing pursuant to Section 100171.

The department shall not apply less stringent criteria when granting a provisional license pursuant to this section than it applies when granting a permanent license.

General acute care hospitals and acute psychiatric hospitals are exempt from this section.

SEC. 18. Section 1615 of the Health and Safety Code is amended to read:

1615. (a) A license shall be automatically revoked when there is a change of address, ownership, or person in charge of biologics production. However, a new license may be secured for the new location, owner, or person in charge prior to the actual change if the contemplated change is in compliance with all the provisions of this chapter and regulations pertaining thereto.

(b) Proceedings for denial of license shall be conducted in accordance with Section 100171.

SEC. 19. Section 1618 of the Health and Safety Code is amended to read:

1618. (a) Licenses shall be suspended or revoked by the department for the violation of any provision of this chapter, or of any rule or regulation made by the department under authority

conferred by this chapter. The proceedings shall be conducted in accordance with Section 100171.

(b) Licenses may be denied for any reason applicable to revocation and suspension of licenses.

(c) District and city attorneys shall prosecute violations of this chapter upon evidence of violations within their respective jurisdictions submitted by the department.

SEC. 20. Section 1639.4 of the Health and Safety Code is amended to read:

1639.4. Immediately upon the denial of any application for a license, the state department shall notify the applicant in writing. Within 20 days after the state department mails the notice, the applicant may present a written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Section 100171.

SEC. 21. Section 1643.1 of the Health and Safety Code is amended to read:

1643.1. Proceedings for the suspension or revocation of licenses under this chapter shall be conducted in accordance with Section 100171.

SEC. 22. Section 1728.2 of the Health and Safety Code is amended to read:

1728.2. (a) If a home health agency or an applicant for a license has not been previously licensed, the state department may only issue a provisional license to the agency as provided in this section.

(b) A provisional license to operate a home health agency shall terminate six months from the date of issuance.

(c) Within 30 days prior to the termination of a provisional license, the state department shall give the agency a full and complete inspection, and, if the agency meets all applicable requirements for licensure, a regular license shall be issued. If the home health agency does not meet the requirements for licensure but has made substantial progress towards meeting the requirements, as determined by the state department, the initial provisional license shall be renewed for six months.

(d) If the state department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the state department determines upon its inspection made within 30 days of the termination of a renewed provisional license that there is lack of full compliance with the requirements, no further license shall be issued.

(e) If an applicant for a provisional license to operate a home health agency has been denied provisional licensing by the state department, the applicant may contest the denial by filing a request for a hearing pursuant to Section 100171.

(f) The department shall not apply less stringent criteria when granting a provisional license pursuant to this section than it applies when granting a permanent license.

SEC. 23. Section 1736 of the Health and Safety Code is amended to read:

1736. Proceedings for the denial, suspension or revocation of licenses or denial or withdrawal of approval under this chapter shall be conducted in accordance with Section 100171.

The suspension, expiration, or forfeiture by operation of law of a license issued by the state department; its suspension, forfeiture, or cancellation by order of the state department or by order of a court of law; or its surrender without the written consent of the state department, shall not deprive the state department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

SEC. 24. Section 1736.5 of the Health and Safety Code is amended to read:

1736.5. (a) The state department shall deny a training application and deny, suspend, or revoke a certificate issued under this article if the applicant or certificate holder has been convicted of a violation or attempted violation of any of the following Penal Code provisions: Section 187, subdivision (a) of Section 192, Section 203, 205, 206, 207, 209, 210, 210.5, 211, 220, 222, 243.4, 245, 261, 262, or 264.1, Sections 265 to 267, inclusive, Section 273a, 273.5, or 285, subdivisions (c), (d), (f), and (g) of Section 286, Section 288, subdivisions (c), (d), (f), and (g) of Section 288a, Section 288.5, 289, 289.5, 368, 451, 459, 470, 475, 484, or 484b, Sections 484d to 484j, inclusive, Section 487, 503, or 518, unless any of the following apply:

(1) The person was convicted of a felony and has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of the Penal Code and the information or accusation against him or her has been dismissed pursuant to Section 1203.4 of the Penal Code.

(2) The person was convicted of a misdemeanor and the information or accusation against him or her has been dismissed pursuant to Section 1203.4 or 1203.4a of the Penal Code.

(3) The certificate holder was convicted of a felony or a misdemeanor, but has previously disclosed the fact of each conviction to the department, and the department has made a determination in accordance with law that the conviction does not disqualify the applicant from certification.

(b) An application or certificate shall be denied, suspended, or revoked upon conviction in another state of an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses set forth in subdivision (a), unless evidence of rehabilitation comparable to the certificate of

rehabilitation or dismissal of a misdemeanor set forth in paragraph (1) or (2) of subdivision (a) is provided.

(c) The state department may deny an application or deny, suspend, or revoke a certificate issued under this article for any of the following:

(1) Unprofessional conduct, including, but not limited to, incompetence, gross negligence, physical, mental, or verbal abuse of patients, or misappropriation of property of patients or others.

(2) Conviction of a crime substantially related to the qualifications, functions, and duties of a home health aide, irrespective of a subsequent order under Section 1203.4, 1203.4a, or 4852.13 of the Penal Code, where the state department determines that the applicant or certificate holder has not adequately demonstrated that he or she has been rehabilitated and will present a threat to the health, safety, or welfare of patients.

(3) Conviction for, or use of, any controlled substance as defined in Division 10 (commencing with Section 11000), or any dangerous drug, as defined in Article 7 (commencing with Section 4211) of Chapter 9, or alcoholic beverages, to an extent or in a manner dangerous or injurious to the home health aide, any other person, or the public, to the extent that this use would impair the ability to conduct, with safety to the public, the practice authorized by a certificate.

(4) Procuring a home health aide certificate by fraud, misrepresentation, or mistake.

(5) Making or giving any false statement or information in conjunction with the application for issuance of a home health aide certificate or training and examination application.

(6) Impersonating any applicant, or acting as proxy for an applicant, in any examination required under this article for the issuance of a certificate.

(7) Impersonating another home health aide, a licensed vocational nurse, or a registered nurse, or permitting or allowing another person to use a certificate for the purpose of providing nursing services.

(8) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of, this article.

(d) When the state department determines that a certificate shall be suspended, the state department shall specify the period of actual suspension. The state department may determine that the suspension shall be stayed, placing the certificate holder on probation with specified conditions for a period not to exceed two years. When the state department determines that probation is the appropriate action, the certificate holder shall be notified that in lieu of the state department proceeding with a formal action to suspend the certification and in lieu of an appeal pursuant to subdivision (g), the certificate holder may request to enter into a diversion program

agreement. A diversion program agreement shall specify terms and conditions related to matters, including, but not limited to, work performance, rehabilitation, training, counseling, progress reports, and treatment programs. If a certificate holder successfully completes a diversion program, no action shall be taken upon the allegations that were the basis for the diversion agreement. Upon failure of the certificate holder to comply with the terms and conditions of an agreement, the state department may proceed with a formal action to suspend or revoke the certification.

(e) A plea or verdict of guilty, or a conviction following a plea of nolo contendere, shall be deemed a conviction within the meaning of this article. The state department may deny an application or deny, suspend, or revoke a certification based on a conviction as provided in this article when the judgment of conviction is entered or when an order granting probation is made suspending the imposition of sentence.

(f) Upon determination to deny an application or deny, revoke, or suspend a certificate, the state department shall notify the applicant or certificate holder in writing by certified mail of all of the following:

(1) The reasons for the determination.

(2) The applicant's or certificate holder's right to appeal the determination if the determination was made under subdivision (c).

(g) (1) Upon written notification that the state department has determined that an application shall be denied or a certificate shall be denied, suspended, or revoked under subdivision (c), the applicant or certificate holder may request an administrative hearing by submitting a written request to the state department within 20 business days of receipt of the written notification. Upon receipt of a written request, the state department shall hold an administrative hearing pursuant to procedures specified in Section 100171, except insofar as those procedures are inconsistent with this section.

(2) A hearing under this section shall be conducted by a hearing officer or administrative law judge designated by the director at a location other than the work facility convenient to the applicant or certificate holder. The hearing shall be tape recorded and a written decision shall be sent by certified mail to the applicant or certificate holder within 30 calendar days of the hearing. Except as specified in subdivision (h), the effective date of an action to revoke or suspend a certificate shall be specified in the written decision, or if no administrative hearing is timely requested, the effective date will be 21 business days from written notification of the department's determination to revoke or suspend.

(h) The state department may revoke or suspend a certificate prior to any hearing when immediate action is necessary in the judgment of the director to protect the public welfare. Notice of this action, including a statement of the necessity of immediate action to protect the public welfare, shall be sent in accordance with

subdivision (f). If the certificate holder requests an administrative hearing pursuant to subdivision (g), the state department shall hold the administrative hearing as soon as possible but not later than 30 calendar days from receipt of the request for a hearing. A written hearing decision upholding or setting aside the action shall be sent by certified mail to the certificate holder within 30 calendar days of the hearing.

(i) Upon the expiration of the term of suspension, he or she shall be reinstated by the state department and shall be entitled to resume practice unless it is established to the satisfaction of the state department that the person has practiced as a home health aide in California during the term of suspension. In this event, the state department shall revoke the person's certificate.

(j) Upon a determination to deny an application or deny, revoke, or suspend a certificate, the department shall notify the employer of the applicant or certificate holder in writing of that determination, and whether the determination is final, or whether a hearing is pending relating to this determination. If a licensee or facility is required to deny employment or terminate employment of the employee based upon notice from the state that the employee is determined to be unsuitable for employment under this section, the licensee or facility shall not incur criminal, civil, unemployment insurance, workers' compensation, or administrative liability as a result of that denial or termination.

SEC. 25. Section 100171 is added to the Health and Safety Code, to read:

100171. Notwithstanding any other provision of law, whenever the department is authorized or required by statute, regulation, due process (Fourteenth Amendment, United States Constitution; subdivision (a) of Section 7 of Article I, California Constitution), or a contract, to conduct an adjudicative hearing leading to a final decision of the director or the department, the following shall apply:

(a) The proceeding shall be conducted pursuant to the administrative adjudication provisions of Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as specified in this section.

(b) Notwithstanding Section 11502 of the Government Code, whenever the department conducts a hearing under Chapter 4.5 (commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the hearing shall be conducted before an administrative law judge selected by the department and assigned to a hearing office that complies with the procedural requirements of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Notwithstanding Section 11508 of the Government Code, whenever the department conducts a hearing under Chapter 4.5

(commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the time and place of the hearing shall be determined by the staff assigned to the hearing office of the department, unless the department by regulation specifies otherwise.

(d) (1) The following sections of the Government Code shall apply to any adjudicative hearing conducted by the department only if the department has not, by regulation, specified an alternative procedure for the particular type of hearing at issue: Section 11503 (relating to accusations), Section 11504 (relating to statements of issues), Section 11505 (relating to the contents of the statement to respondent), Section 11506 (relating to the notice of defense), Section 11507.6 (relating to discovery rights and procedures), Section 11508 (relating to the time and place of hearings), and Section 11516 (relating to amendment of accusations).

(2) Any alternative procedure specified by the department in accordance with this subdivision shall conform to the purpose of the Government Code provision it replaces insofar as it is possible to do so consistent with the specific procedural requirements applicable to the type of hearing at issue.

(3) Any alternative procedures adopted by the department under this subdivision shall not diminish the amount of notice given of the issues to be heard by the department or deprive appellants of the right to discovery suitable to the particular proceedings. Modifications of timeframes or of the place of hearing made by regulation may not lengthen timeframes within which the department is required to act nor require hearings to be held at a greater distance from the appellant's place of residence or business than is the case under the otherwise applicable Government Code provision.

(e) The specific timelines specified in Section 11517 of the Government Code shall not apply to any adjudicative hearing conducted by the department to the extent that the department has, by regulation, specified different timelines for the particular type of hearing at issue.

(f) In the case of any adjudicative hearing conducted by the department, "transcript," as used in subdivision (c) of Section 11517 of the Government Code, shall be deemed to include any alternative form of recordation of the oral proceedings, including, but not limited to, an audiotape.

(g) Pursuant to Section 11415.50 of the Government Code, the department may, by regulation, provide for any appropriate informal procedure to be used for an informal level of review that does not itself lead to a final decision of the department or the director. The procedures specified in Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any such an informal level of review.

(h) Notwithstanding any other provision of law, any adjudicative hearing conducted by the department that is conducted pursuant to a federal statutory or regulatory requirement that contains specific procedures may be conducted pursuant to those procedures to the extent they are inconsistent with the procedures specified in this section.

(i) Nothing in this section shall apply to a fair hearing involving a Medi-Cal beneficiary insofar as the hearing is, by agreement or otherwise, heard before an administrative law judge employed by the State Department of Social Services.

(j) Nothing in this provision shall supersede express provisions of law that apply to any hearing that is not adjudicative in nature or that does not involve due process rights specific to an individual or specific individuals, as opposed to the general public or a segment of the general public.

SEC. 26. Section 106715 of the Health and Safety Code is amended to read:

106715. (a) Notwithstanding any other provisions of this article, the department upon the recommendation of the committee may suspend, deny, refuse to renew, or revoke a registration certificate issued under this article after sufficient notice and an opportunity for a hearing and upon findings that the registered environmental health specialist has done any of the following:

(1) Knowingly made a false statement of fact required to be revealed in the application for registration.

(2) Been convicted of a crime, if the crime is related to the qualifications, functions, and duties of an environmental health specialist.

(3) Knowingly made a false statement of fact required to be revealed in an application for, or renewal of, registration.

(4) Committed an act of deceit, misrepresentation, violation of contract, fraud, negligence, professional incompetence, or unethical practice.

(b) The procedure to deny, suspend, refuse to renew, or revoke an environmental health specialist registration certificate pursuant to this section shall be as follows:

(1) All cases, complaints, or allegations charging a violation of this subdivision shall be made in writing and submitted to the department.

(2) The department shall make a preliminary investigation by:

(A) Obtaining copies of all pertinent written documents (laws, reports, contacts, and correspondence).

(B) Interviewing, in person or by telephone, of all individuals involved with the issue.

(3) The department shall compile the information into a confidential case document that includes the following:

(A) A description of the complaint.

(B) A chronology of events.

(C) Results of the interviews.

(D) Copies of the written documents.

(4) The case document shall be submitted to each member of the committee requesting their recommendation whether or not the information warrants further investigation and an informal hearing.

(5) The department shall review committee recommendations and the preliminary investigation findings and then decide whether to dismiss the complaint or proceed to an informal committee hearing. Dismissal of the charges shall be followed by a letter to both complainant and the registered environmental health specialist involved explaining the department's action.

(6) If the decision is made to proceed with an informal hearing, the department shall request the committee to appoint one or more hearing officers to hear the case.

(A) All parties shall be notified of the time and place of the hearing.

(B) An investigation of the issue may be made by an independent professional investigator if it is felt warranted by the department and the committee. The investigation results shall be submitted to the department, committee hearing officers, complainant, and respondent prior to the hearing.

(C) The informal hearing shall permit the right to be heard (with an attorney, if desired) and the proceedings recorded. Such a hearing shall be considered an informal level of review and shall be governed by subdivision (g) of Section 100171.

(D) Upon the finding that a violation of this section occurred, the following disciplinary ranges may be recommended to the department by the committee and may be adopted by the department if the respondent does not timely request further review as specified in subdivision (d):

(i) Knowingly made a false statement of fact required to be revealed in the application for registration.

(I) Maximum: Revocation.

(II) Minimum: Fifteen-day suspension. Range depends on whether or not the registration was falsely approved.

(ii) Been convicted of a crime, if the crime is related to the qualifications, functions, and duties of a registered environmental health specialist.

(I) Maximum: Deny, refuse to renew, or revocation of registration.

(II) Minimum: Ninety-day actual suspension.

(iii) Knowingly made a false statement of fact required to be revealed in an application for, or renewal of, registration.

(I) Maximum: Revocation.

(II) Minimum: Seven-day actual suspension.

(iv) Committed an act of deceit, misrepresentation, violation of contract, fraud, negligence, professional incompetence, or unethical practice.

(I) Maximum: Revocation.

(II) Minimum: Ninety-day suspension stayed for three years on the following conditions of probation.

—Forty-five-day actual suspension.

—The respondent shall obey all laws and regulations related to the practice of environmental health.

(c) A copy of the recommendation made to the department by the committee shall be transmitted to the respondent within 10 calendar days of its receipt by the department.

(d) The respondent may request further review of the recommendation resulting from the informal level of review by sending a letter so stating to the address specified in the letter transmitting the recommendation. To be timely, the request shall be postmarked no later than 15 calendar days after receipt by the respondent of the recommendation at issue. Upon receiving a timely request for review, the department shall set the matter for hearing pursuant to Section 100171.

SEC. 27. Section 108900 of the Health and Safety Code is amended to read:

108900. (a) The department may impose a civil penalty payable to the department upon any person who violates this chapter or any regulation adopted pursuant to this chapter in the amount of not more than five thousand dollars ($5,000) per day. Each day a violation continues shall be considered a separate violation.

(b) If, after examination of a possible violation and the facts surrounding that possible violation, the department concludes that a violation has occurred, the department may issue a complaint to the person charged with the violation. The complaint shall allege the acts or failures to act that constitute the basis for the violation and the amount of the penalty. The complaint shall be served by personal service or by certified mail and shall inform the person so served of the right to a hearing.

(c) Any person served with a complaint pursuant to subdivision (c) may, within 20 days after service of the complaint, request a hearing by filing with the department a notice of defense. A notice of defense is deemed to have been filed within the 20-day period if it is postmarked within the 20-day period. If a hearing is requested by the person, it shall be conducted within 90 days after the receipt by the department of the notice of defense. If no notice of defense is filed within 20 days after service of the complaint, the department shall issue an order setting the penalty as proposed in the complaint unless the department and the person have entered into a settlement agreement, in that case the department shall issue an order setting the penalty in the amount specified in the settlement agreement. When the person has not filed a notice of defense or where the department and the person have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

(d) Any hearing required under this section shall be conducted pursuant to Section 100171, except to the extent that the procedures specified in Section 100171 are inconsistent with this section.

(e) Orders setting civil penalties under this section shall become effective and final upon issuance thereof, and payment shall be made within 30 days of issuance. A copy of the order shall be served by personal service or by certified mail upon the person served with the complaint.

(f) Within 30 days after service of a copy of a decision issued by the director after a hearing, any person so served may file with the superior court a petition for writ of mandate for review of the decision. Any person who fails to file the petition within this 30-day period may not challenge the reasonableness or validity of the decision or order of the director in any judicial proceeding brought to enforce the decision or order or for other remedies. Section 1094.5 of the Code of Civil Procedure shall govern any proceedings conducted pursuant to this subdivision. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the director if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this section. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(g) The remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.

(h) If the violation is committed after a previous imposition of a penalty under this section that has become final, if the violation is committed with intent to mislead or defraud, or if the violation concerns tableware primarily used by children or marketed for children, the person shall be subject to imprisonment for not more than one year in the county jail or imprisonment in state prison, by a fine of not more than ten thousand dollars ($10,000), or by both the imprisonment and fine.

SEC. 28. Section 111645 of the Health and Safety Code is amended to read:

111645. Any violation of any provision of this part or any regulation adopted pursuant to this part shall be grounds for denying a license or for suspending or revoking a license. Proceedings for the denial, suspension, or revocation of a license shall be conducted pursuant to Section 100171.

SEC. 29. Section 111855 of the Health and Safety Code is amended to read:

111855. (a) If any person violates any provision of this part, or any regulation adopted pursuant to this part, the department may assess a civil penalty against that person as provided by this section.

(b) The penalty may be in an amount not to exceed one thousand dollars ($1,000) per day. Each day a violation continues shall be considered a separate violation.

(c) If, after examination of a possible violation and the facts surrounding that possible violation, the department concludes that a violation has occurred, the department may issue a complaint to the person charged with the violation. The complaint shall allege the acts or failures to act that constitute the basis for the violation and the amount of the penalty. The complaint shall be served by personal service or by certified mail and shall inform the person so served of the right to a hearing.

(d) Any person served with a complaint pursuant to subdivision (c) of this section may, within 20 days after service of the complaint, request a hearing by filing with the department a notice of defense. A notice of defense is deemed to have been filed within the 20-day period if it is postmarked within the 20-day period. If a hearing is requested by the person, it shall be conducted within 90 days after the receipt by the department of the notice of defense. If no notice of defense is filed within 20 days after service of the complaint, the department shall issue an order setting the penalty as proposed in the complaint unless the department and the person have entered into a settlement agreement, in which case the department shall issue an order setting the penalty in the amount specified in the settlement agreement. When the person has not filed a notice of defense or where the department and the person have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

(e) Any hearing required under this section shall be conducted pursuant to the procedures specified in Section 100171, except to the extent they are inconsistent with the specific requirements of this section.

(f) Orders setting civil penalties under this section shall become effective and final upon issuance thereof, and payment shall be made within 30 days of issuance. A copy of the order shall be served by personal service or by certified mail upon the person served with the complaint.

(g) Within 30 days after service of a copy of a decision issued by the director after a hearing, any person so served may file with the superior court a petition for writ of mandate for review of the decision. Any person who fails to file the petition within this 30-day period may not challenge the reasonableness or validity of the decision or order of the director in any judicial proceeding brought to enforce the decision or order or for other remedies. Section 1094.5 of the Code of Civil Procedure shall govern any proceedings conducted pursuant to this subdivision. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the director if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any

corrective action required pursuant to this part or the accrual of any penalties assessed pursuant to this section. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(h) The remedies under this section are in addition to, and do not supersede, or limit, any and all other remedies, civil or criminal.

SEC. 30. Section 111940 of the Health and Safety Code is amended to read:

111940. (a) If any person violates any provision of Chapter 4 (commencing with Section 111950), Chapter 5 (commencing with Section 112150), Chapter 6 (commencing with Section 112350), Chapter 7 (commencing with Section 112500), Chapter 8 (commencing with Section 112650), Chapter 10 (commencing with Section 113025), or Article 3 (commencing with Section 113250) of Chapter 11, or Chapter 4 (commencing with Section 108100) of Part 3, or any regulation adopted pursuant to these provisions, the department may assess a civil penalty against that person as provided by this section.

(b) The penalty may be in an amount not to exceed one thousand dollars ($1,000) per day. Each day a violation continues shall be considered a separate violation.

(c) If, after examination of a possible violation and the facts surrounding that possible violation, the department concludes that a violation has occurred, the department may issue a complaint to the person charged with the violation. The complaint shall allege the acts or failures to act that constitute the basis for the violation and the amount of the penalty. The complaint shall be served by personal service or by certified mail and shall inform the person so served of the right to a hearing.

(d) Any person served with a complaint pursuant to subdivision (c) of this section may, within 20 days after service of the complaint, request a hearing by filing with the department a notice of defense. A notice of defense is deemed to have been filed within the 20-day period if it is postmarked within the 20-day period. If a hearing is requested by the person, it shall be conducted within 90 days after the receipt by the department of the notice of defense. If no notice of defense is filed within 20 days after service of the complaint, the department shall issue an order setting the penalty as proposed in the complaint unless the department and the person have entered into a settlement agreement, in that case the department shall issue an order setting the penalty in the amount specified in the settlement agreement. When the person has not filed a notice of defense or where the department and the person have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

(e) Any hearing required under this section shall be conducted pursuant to the procedures specified in Section 100171, except to the

extent they are inconsistent with the specific requirements of this section.

(f) Orders setting civil penalties under this section shall become effective and final upon issuance thereof, and payment shall be made within 30 days of issuance. A copy of the order shall be served by personal service or by certified mail upon the person served with the complaint.

(g) Within 30 days after service of a copy of a decision issued by the director after a hearing, any person so served may file with the superior court a petition for writ of mandate for review of the decision. Any person who fails to file the petition within this 30-day period may not challenge the reasonableness or validity of the decision or order of the director in any judicial proceeding brought to enforce the decision or order or for other remedies. Section 1094.5 of the Code of Civil Procedure shall govern any proceedings conducted pursuant to this subdivision. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the director if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to the Miscellaneous Food, Food Facility, and Hazardous Substances Act (Section 27) or the accrual of any penalties assessed pursuant to this section. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(h) The remedies under this section are in addition to, and do not supersede, or limit, any and all other remedies, civil or criminal.

SEC. 31. Section 115145 of the Health and Safety Code is amended to read:

115145. (a) In any proceeding under this chapter for granting or amending any license, or for determining compliance with, or granting exceptions from, regulations adopted in accordance with this chapter, the department shall afford an opportunity for a hearing on the record upon the request of any person whose interest may be affected by the proceeding, and shall admit that person as a party to the proceeding.

(b) Proceedings for the suspension or revocation of licenses under this chapter shall be conducted pursuant to Section 100171.

(c) The adoption, repeal, or amendment of regulations pursuant to this chapter shall be accomplished in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 32. Section 116425 of the Health and Safety Code is amended to read:

116425. (a) The department may exempt any public water system from any maximum contaminant level or treatment technique requirement if it finds all the following:

(1) The public water system was in operation, or had applied for a permit to operate, on the effective date of the maximum contaminant level or treatment technique requirement.

(2) Due to compelling factors, which may include economic factors, the public water system is unable to comply with the maximum contaminant level or treatment technique requirement.

(3) The granting of the exemption will not result in an unreasonable risk to health.

(b) If the department grants a public water system an exemption for a primary drinking water standard under subdivision (a), the department shall prescribe, at the time an exemption is granted, a schedule for both of the following:

(1) Compliance by the public water system with each contaminant level or treatment technique requirement for which the exemption was granted.

(2) Implementation by the public water system of interim control measures the department may require for each contaminant or treatment technique requirement for which the exemption was granted.

(c) Any schedule prescribed by the department pursuant to this section shall require compliance by the public water system with each contaminant level or treatment technique requirement for which the exemption was granted within 12 months from the granting of the exemption.

(d) The final date for compliance with any schedule issued pursuant to this section may be extended by the department for a period not to exceed three years from the date of the granting of the exemption if the department finds all of the following:

(1) The system cannot meet the standard without capital improvements that cannot be completed within the period of the exemption.

(2) In the case of a system that needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain the financial assistance or the system has entered into an enforceable agreement to become part of a regional public water system.

(3) The system is taking all practicable steps to meet the standard.

(e) In the case of a system that does not serve more than 500 service connections and that needs financial assistance for the necessary improvements, an exemption granted pursuant to paragraph (2) of subdivision (d) may be renewed for one or more additional two-year periods if the system establishes that it is taking all practicable steps to meet the requirements of subdivision (d).

(f) Prior to the granting of an exemption pursuant to this section, the department shall provide notice and an opportunity for a public hearing. Notice of any public hearing held pursuant to this section shall be given by the department in writing to the public water system seeking the exemption and to the public as provided in

Section 6061 of the Government Code. A public hearing provided pursuant to this subdivision is not an adjudicative hearing and is not required to comply with Section 100171.

SEC. 33. Section 116625 of the Health and Safety Code is amended to read:

116625. (a) The department, after a hearing noticed and conducted as provided in Section 100171, may suspend or revoke any permit issued pursuant to this chapter if the department determines pursuant to the hearing that the permittee is not complying with the permit, this chapter, or any regulation, standard, or order issued or adopted thereunder, or that the permittee has made a false statement or representation on any application, record, or report maintained or submitted for purposes of compliance with this chapter. If the permit at issue has been temporarily suspended pursuant to subdivision (c), the accusation shall be served and notice of the hearing date given within 15 days of the effective date of the temporary suspension order. The commencement of the hearing shall be as soon as practicable, but in no case later than 60 days after the effective date of the temporary suspension order.

(b) The permittee may file with the superior court a petition for a writ of mandate for review of any decision of the department made pursuant to subdivision (a). Failure to file a petition shall not preclude a party from challenging the reasonableness or validity of a decision of the department in any judicial proceeding to enforce the decision or from pursuing any remedy authorized by this chapter.

(c) The department may temporarily suspend any permit issued pursuant to this chapter prior to any hearing when the action is necessary to prevent an imminent or substantial danger to health. The director shall notify the permittee of the temporary suspension and the effective date thereof and, at the same time, notify the permittee that a hearing has been scheduled. The hearing shall be held as soon as possible, but not later than 15 days after the effective date of the temporary suspension and shall deal only with the issue of whether the temporary suspension shall remain in place pending a hearing on the merits. The temporary suspension shall remain in effect until the hearing is completed and the director has made a final determination on the temporary suspension, that in any event shall be made within 15 days after the completion of the hearing. If the determination is not transmitted within 15 days after the hearing is completed, the temporary suspension shall be of no further effect. Dissolution of the temporary suspension does not deprive the department of jurisdiction to proceed with a hearing on the merits under subdivision (a).

SEC. 34. Section 1953.5 is added to the Unemployment Insurance Code, to read:

1953.5. The presiding officer may conduct all or part of a hearing by telephone, television, or other electronic means, notwithstanding a party's objection pursuant to Section 11440.30 of the Government

Code, on a showing of good cause by the party requesting the hearing by telephone, television, or other electronic means.

SEC. 35. Section 14088.23 of the Welfare and Institutions Code is amended to read:

14088.23. (a) The department may apply one or more of the following sanctions against any contractor for failure to comply with the requirements of this article, regulations adopted by the department, the contract between the contractor and the department, or for other good cause shown. Good cause includes, but is not necessarily limited to, three repeated and uncorrected findings of serious deficiencies that have the potential to endanger patient care, as defined by the department in accordance with this section, identified in the medical audits conducted by the department:

(1) Terminate the contract.

(2) Suspend enrollment and marketing activities.

(3) Require the contractor to suspend or terminate personnel of the contractor or to terminate participation by subcontractors specified by the department.

(4) Impose civil penalties not to exceed ten thousand dollars ($10,000) per violation pursuant to regulations adopted by the director. Unless imposed in error, penalties shall not be returned to the plan.

(5) Take other appropriate action as determined necessary by the department.

(b) The department shall give the contractor and any other persons who may be directly interested not less than 30 days' notice of its intention to impose any of the sanctions authorized by this section.

(c) The notice required by subdivision (b) shall be written, and shall specify each requirement that has not been met, the proposed effective date of the sanction or sanctions, and the amount and duration of each proposed sanction.

(d) (1) Within five working days after the receipt of the written notice required by subdivision (b), the contractor may submit notice of its intent to comply with the requirements specified in the written notice.

(2) If the contractor submits the notice of intent authorized by paragraph (1), the department shall allow the contractor to demonstrate its compliance with the requirements specified in the department's written notice. Substantial compliance shall be achieved within 30 calendar days from the date of the submission of the notice of intent to comply by the contractor. Within 15 days following the completion of the 30-day compliance correction period, the department shall review the corrective actions taken by the contractor and, if appropriate, approve those actions.

(3) If a contractor subject to notice to apply sanctions under subdivision (b) does not demonstrate appropriate corrective compliance within the 30-day corrective action period or does not

submit a notice of intent to comply with the requirements specified in the notice required by subdivision (b), the department shall notify the contractor, in writing, of the effective date and terms of the sanction or sanctions applied pursuant to this section.

(4) The department may make one or more of the following temporary suspension orders as an immediate sanction: temporarily suspend enrollment activities, temporarily suspend marketing activities, require the contractor temporarily to suspend specified personnel of the contractor, or require the contractor temporarily to suspend participation by a specified subcontractor. The temporary suspension orders may be effective beginning on the first day after the expiration of the 30-day compliance correction period, if the contractor submitted a notice of intent to comply, but has not demonstrated appropriate corrective action, or beginning on the first day after the notice required by subdivision (b) if the contractor did not submit a notice of intent to comply. All other sanctions shall be effective no earlier than 20 days after the notice specified in paragraph (3).

(5) If the department issues a temporary suspension order as an immediate sanction, it shall notify the contractor of the nature and effective date of the temporary suspension and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense filed by the contractor, the department shall, within 15 days, set the matter for hearing, which shall be held as soon as possible, but not later than 30 days after receipt of the notice of hearing by the contractor. The hearing may be continued at the request of the contractor if a continuance is necessary to permit presentation of an adequate defense. The temporary suspension order shall remain in effect until the hearing is completed and the department has made a final determination on the merits. However, the temporary suspension order shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(6) A contractor may request a hearing in connection with any sanctions applied pursuant to this section, other than those contained in a temporary suspension order, within 15 working days after the notice of the effective date of the sanctions has been given pursuant to paragraph (3), by sending a letter so stating to the address specified in the notice. The department shall stay implementation of the sanction upon receipt of the request for a hearing. Implementation of the sanction shall remain stayed until the effective date of the final decision of the department.

(7) Except as otherwise provided herein, all hearings to review the imposition of sanctions, including temporary suspension orders, shall be held pursuant to the procedures set forth in Section 100171 of the Health and Safety Code.

(e) The department may collect civil penalties imposed pursuant to this section by withholding the amount of the penalty from capitation payments owed by the department to the contractor.

SEC. 36. Section 14123 of the Welfare and Institutions Code is amended to read:

14123. Participation in the Medi-Cal program by a provider of service is subject to suspension in order to protect the health of the recipients and the funds appropriated to carry out this chapter.

(a) The director may suspend a provider of service from further participation under the Medi-Cal program for violation of any provision of this chapter or Chapter 8 (commencing with Section 14200) or any rule or regulation promulgated by the director pursuant to those chapters. Any such suspension may be for an indefinite or specified period of time and with or without conditions or may be imposed with the operation of the suspension stayed or probation granted. The director shall suspend a provider of service for conviction of any felony or any misdemeanor involving fraud, abuse of the Medi-Cal program or any patient, or otherwise substantially related to the qualifications, functions, or duties of a provider of service.

If the provider of service is a clinic, group, corporation, or other association, conviction of any officer, director, or shareholder with a 10 percent or greater interest in that organization, of such a crime shall result in the suspension of that organization and the individual convicted if the director believes that suspension would be in the best interest of the Medi-Cal program. If the provider of services is a political subdivision of the state or other government agency, the conviction of the person in charge of the facility of such a crime may result in the suspension of that facility. The record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of the fact that the conviction occurred. A plea or verdict of guilty, or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

After conviction, but before the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, the director, if he or she believes that suspension would be in the best interests of the Medi-Cal program, may order the suspension of a provider of service. When the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence irrespective of any subsequent order under Section 1203.4 of the Penal Code allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment, the director shall order the suspension of a provider of service. The suspension shall not take effect earlier than the date of the director’s order. Suspension following a conviction is not subject to the proceedings required in

subdivision (c). However, the director may grant an informal hearing at the request of the provider of service to determine in the director's sole discretion if the circumstances surrounding the conviction justify rescinding or otherwise modifying the suspension provided for in this subdivision.

If the provider of service appeals the conviction and the conviction is reversed, the provider may apply for reinstatement to the Medi-Cal program after the conviction is reversed. Notwithstanding Section 14126.6, the application for reinstatement shall not be subject to the one-year waiting period for the filing of a reinstatement petition pursuant to Section 11522 of the Government Code.

(b) Whenever the director receives written notification from the Secretary of the United States Department of Health and Human Services, that a physician or other individual practitioner has been suspended from participation in the Medicare or medicaid programs, the director shall promptly suspend the practitioner from participation in the Medi-Cal program. This automatic suspension is not subject to the proceedings required in subdivision (c). No payment from state or federal funds may be made for any item or service rendered by the practitioner during the period of suspension.

(c) The proceedings for suspension shall be conducted pursuant to Section 100171 of the Health and Safety Code. The director may temporarily suspend any provider of service prior to any hearing when in his or her opinion that action is necessary to protect the public welfare or the interests of the Medi-Cal program. The director shall notify the provider of service of the temporary suspension and the effective date thereof and at the same time serve the provider with an accusation. The accusation and all proceedings thereafter shall be in accordance with Section 100171 of the Health and Safety Code. Upon receipt of a notice of defense by the provider, the director shall set the matter for hearing within 30 days after receipt of the notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. The temporary suspension shall, however, be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed. This subdivision does not apply where the suspension of a provider is based upon the conviction of any crime involving fraud, abuse of the Medi-Cal program, or suspension from the federal Medicare program. In those instances, suspension shall be automatic.

(d) The suspension by the director of any provider of service shall preclude the provider from submitting claims for payment, either personally or through claims submitted by any clinic, group, corporation, or other association to the Medi-Cal program for any services or supplies the provider has provided under the program, except for services or supplies provided prior to the suspension. No clinic, group, corporation, or other association which is a provider of

service shall submit claims for payment to the Medi-Cal program for any services or supplies provided by a person within the organization who has been suspended or revoked by the director, except for services or supplies provided prior to the suspension.

Where the provisions of this chapter or Chapter 8 (commencing with Section 14200) or the regulations promulgated by the director are violated by a provider of service which is a clinic, group, corporation, or other association, the director may suspend the organization and any individual person within the organization who is responsible for the violation.

(e) Notice of the suspension shall be sent by the director to the provider's state licensing, certifying, or registering authority, along with the evidence upon which the suspension was based.

(f) In addition to the bases for suspension contained in subdivisions (a) and (b), the director may suspend a provider of service from further participation under the Medi-Cal dental program for the provision of services that are below or less than the standard of acceptable quality, as established by the California Dental Association Guidelines for the Assessment of Clinical Quality and Professional Performance, Copyright 1995, Third Edition, as periodically amended. Any such suspension shall be subject to the requirements contained in subdivisions (a) to (e), inclusive.

SEC. 37. Section 14123.2 of the Welfare and Institutions Code is amended to read:

14123.2. Any provider or person that presents or causes to be presented a claim for services to an officer, employee, or agent of the state, or of any department or agency thereof as defined in appropriate state law, that the director determines is for a medical or other item or service that the person knows or has reason to know; (a) was not provided as claimed, or (b) payment for which may not be made under the program in the following instances: (1) when the person or provider has been suspended from participation in the program, or (2) when the department determines that the services or items claimed are substantially in excess of the needs of individuals or are of a quality that fails to meet professionally recognized standards of health care, or (3) when the department determines that a person has demonstrated a pattern of abusive overbilling of the program, or (4) when the department determines that a person has intentionally or negligently made a false statement or representation on any request for payment submitted to the Medi-Cal program; or (c) is submitted in violation of an agreement between the person and the state, shall be subject in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than three times the amount claimed for each item or service. For continuing intentional violations, a civil money penalty of not more than three times the amount claimed for each item or service may be imposed for each day the violation continues.

The director shall make the determination to assess civil money penalties and shall be responsible for the collection of the penalty amounts.

The provider or person subjected to a civil money penalty may appeal any decision by the director to assess the penalty pursuant to Section 100171 of the Health and Safety Code.

Notwithstanding any other provisions of law, all money collected pursuant to this section shall be deposited in the General Fund on a monthly basis.

SEC. 38. Section 14124.6 of the Welfare and Institutions Code is amended to read:

14124.6. In the event the director orders that oral argument or a hearing be held upon a petition for reinstatement or reduction of penalty filed pursuant to Section 11522 of the Government Code, he or she may hear and decide the matter himself or herself or may, in his or her discretion, either (1) sit and hear the matter with an administrative law judge assigned by the department or (2) assign the matter to an administrative law judge assigned by the department who shall proceed in accordance with Section 100171 of the Health and Safety Code, and who shall prepare a proposed decision for the department for action pursuant to Section 11517 of the Government Code.

SEC. 39. Section 14126.50 of the Welfare and Institutions Code is amended to read:

14126.50. Facilities and previous licensees of facilities may appeal the result of any department audit pursuant to this article, as provided in Section 100171 of the Health and Safety Code.

SEC. 40. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall establish administrative appeal processes to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections 10722 and 14170 and for final settlements, including, in the case of hospitals, the application of Sections 51536, 51537, and 51539 of Title 22 of the California Code of Regulations. All these processes shall be established by regulation, pursuant to, and consistent with, Section 100171 of the Health and Safety Code.

(b) Different administrative appeal processes may be established by the director for grievances or complaints arising from the determinations of a tentative or final settlement based on audit or examination findings made by or on behalf of the department pursuant to Sections 10722 and 14170. However, consistent with existing practice, no administrative appeal shall be available for tentative settlement of cost reports.

(c) The administrative appeal process established by the director for tentative settlements, including, in the case of hospitals, the application of Sections 51536, 51537, and 51539 of Title 22 of the California Code of Regulations shall be an informal process which,

however, guarantees a provider the right to present any grievance or complaint to the department in writing. Any subsequent hearings shall be conducted in an informal manner and shall be held at the discretion of the department.

(d) The time limitations in subdivisions (e) and (f) for the impartial hearing and the final decisions are mandatory. If the department fails to conduct the hearing or to adopt a final decision thereon within the time limitations provided in subdivisions (e) and (f), the amount of any overpayment which is ultimately determined by the department to be due shall be reduced by 10 percent for each 30-day period, or portion thereof, that the hearing or the decision, or both, are delayed beyond the time limitations provided in subdivisions (e) and (f). However, the time period shall be extended by either of the following:

(1) Delay caused by a provider.

(2) Extensions of time granted a provider at its sole request or at the joint request of the provider and the department.

(e) (1) The administrative appeal process established by the director shall commence with an informal conference with the provider, a representative of the department, and the administrative law judge. The informal conference shall be conducted no later than 90 days after the filing of a timely and specific statement of disputed issues by the provider. The administrative law judge, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. The review conducted at this informal level shall be completed no later than 180 days after the filing of a timely and specific statement of disputed issues by the provider.

(2) Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (a). The impartial hearing shall be conducted no later than 300 days after the filing of a timely and specific statement of disputed issues by the provider.

(3) (A) Subject to subdivision (f), a final decision in a noninstitutional provider appeal shall be adopted within 180 days after the closure of the record of the impartial hearing, and a final decision in an institutional provider appeal shall be adopted within 300 days after the closure of the record of the impartial hearing.

(B) The department shall mail a copy of the adopted decision to all parties within 30 days of the date of adoption of the decision.

(f) In the event the director intends to modify a proposed decision, on or before the 180th day following the closure of the record of the hearing for noninstitutional providers or the 300th day following the closure of the record of the hearing for institutional providers, the director shall provide written notice of his or her intention to the parties and shall afford the parties an opportunity to present written argument. Following this notice, on or before the

240th day following the closure of the record of the hearing for noninstitutional providers or the 420th day following closure of the record of the hearing for institutional providers, or within that additional time period as is granted pursuant to the sole request of a provider or at the joint request of the provider and the department, the director shall issue a final decision.

(g) In the event recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of a disallowed payment shall be entitled to interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund, commencing on the date the appeal is formally accepted by the department or the date payment is received by the department, whichever is later.

(h) Except as provided in subdivision (i), commencing 60 days after issuance of the first statement of account status or demand for repayment resulting from an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund during the month the first statement of account status or demand for repayment was issued shall be assessed against any unrecovered overpayment due to the department.

(i) (1) Commencing on the day following the last day of the period covered by an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate established under Section 19269 of the Revenue and Taxation Code which is in effect on the date of the commencement of that interest shall be assessed against any unrecovered overpayment due to the department by providers of durable medical equipment or incontinence supplies.

(2) Interest which accrues under this subdivision for recoupment of an overpayment based on the lack of medical necessity for a previously approved claim shall commence to accrue on the date of written demand by the department.

(j) The final decision of the director shall be reviewable in accordance with Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director’s final decision.

SEC. 41. Section 14171.5 of the Welfare and Institutions Code is amended to read:

14171.5. Any institutional provider of health care services that obtained reimbursement under this chapter to which it is not entitled shall be subject to the following interest charges or penalties:

(a) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (h) of Section 14171.

(b) When it is established upon audit that the provider claimed payments related to services or costs that the department had previously notified the provider in an audit report that the costs or services were not reimbursable, the provider shall pay in addition to

the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after this notice, plus the cost of the audit. In addition, interest shall be assessed at the rate specified in subdivision (h) of Section 14171. Providers who wish to preserve appeal rights or to challenge the department's positions regarding appeal issues, may claim such cost or services and not be reimbursed therefor, provided that they are identified and presented separately on the cost report.

(c) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay a penalty of 25 percent of the amount improperly claimed, plus the cost of the audit, in addition to the amount thereof. In addition, interest will be assessed at the rate specified by subdivision (h) of Section 14171. A fraudulent claim is a claim upon which the provider has been convicted of fraud upon the program. Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(d) Appeals to action taken in subdivisions (a), (b), and (c) of Section 14171.5 above are subject to the administrative appeals process provided by Section 14171.

(e) Penalties paid by providers under subdivisions (a), (b), and (c) of Section 14171.5 are not reimbursable by the program.

(f) As used in this section, "the cost of the audit" includes actual hourly wages, travel, and incidental expenses at rates allowable by State Board of Control rules, and applicable overhead costs.

SEC. 42. Section 14171.6 of the Welfare and Institutions Code is amended to read:

14171.6. (a) Any provider of durable medical equipment or incontinence supplies that obtains reimbursement under this chapter to which it is not entitled shall be subject to interest charges or penalties as specified in this section.

(b) When it is established upon audit that the provider has claimed payments under this chapter to which it is not entitled, the provider shall pay, in addition to the amount improperly received, interest at the rate specified by subdivision (i) of Section 14171.

(c) (1) When it is established upon audit that the provider claimed payments related to services or costs that the department had previously notified the provider in an audit report that the costs or services were not reimbursable, the provider shall pay, in addition to the amount improperly claimed, a penalty of 10 percent of the amount improperly claimed after receipt of the notice, plus the cost of the audit.

(2) In addition to the penalty and costs specified by paragraph (1), interest shall be assessed at the rate specified in subdivision (i) of Section 14171.

(3) Providers that wish to preserve appeal rights or to challenge the department's positions regarding appeal issues may claim the

costs or services and not be reimbursed therefor if they are identified and presented separately on the cost report.

(d) (1) When it is established that the provider fraudulently claimed and received payments under this chapter, the provider shall pay, in addition to the amount improperly claimed, a penalty of 300 percent of the amount improperly claimed, plus the cost of the audit.

(2) In addition to the penalty and costs specified by paragraph (1), interest shall be assessed at the rate specified by subdivision (i) of Section 14171.

(3) For purposes of this subdivision, a fraudulent claim is a claim upon which the provider has been convicted of fraud upon the Medi-Cal program.

(e) Nothing in this section shall prevent the imposition of any other civil or criminal penalties to which the provider may be liable.

(f) Any appeal to any action taken pursuant to subdivision (b), (c), or (d) is subject to the administrative appeals process provided by Section 14171.

(g) As used in this section, "cost of the audit" includes actual hourly wages, travel, and incidental expenses at rates allowable by rules adopted by the State Board of Control and applicable overhead costs that are incurred by employees of the state in administering this chapter with respect to the performance of audits.

SEC. 43. Section 14304 of the Welfare and Institutions Code is amended to read:

14304. (a) The director shall terminate a contract with a prepaid health plan or a Medi-Cal managed health care plan if he or she finds that the standards prescribed in this chapter, the regulations, or the contract are not being complied with, that claims accrued or to accrue have not or will not be recompensed, or for other good cause shown. Good cause includes, but is not necessarily limited to, three repeated and uncorrected findings of serious deficiencies that have the potential to endanger patient care, as defined by the department in accordance with this section, identified in the medical audits conducted by the department. Except in the event that the director determines there is an immediate threat to the health of Medi-Cal beneficiaries enrolled in the plan, at the request of the plan, the department shall hold a public hearing to commence 30 days after notice of intent to terminate the contract has been received by the plan. The department shall present evidence at the hearing showing good cause for the termination. The department shall assign an administrative law judge who shall provide a written recommendation to the department on the termination of the contract within 30 days after conclusion of the hearing. Reasonable notice of the hearing shall be given to the plan, to Medi-Cal beneficiaries enrolled in the plan, and others who may be directly interested, including any other persons and organizations as the

director may deem necessary. The notice shall state the effective date of, and the reason for, the termination.

(b) In lieu of contract termination specified in subdivision (a), the director shall have the power and authority to take one or more of the following sanctions against a contractor for noncompliance with the findings by the director as specified in subdivision (a):

(1) Suspend enrollment and marketing activities.

(2) Require the contractor to suspend or terminate contractor personnel or subcontractors.

(3) Impose civil penalties not to exceed ten thousand dollars ($10,000) per violation pursuant to regulations adopted by the director. Unless imposed in error, penalties shall not be returned to the plan.

(4) Make one or more of the temporary suspension orders set out in subdivision (d).

(5) Take other appropriate action as determined necessary by the department.

The director shall give reasonable notice of his or her intention to apply any of the sanctions authorized by this subdivision to the plan and others who may be directly interested, including any other persons and organizations as the director may deem necessary. The notice shall include the effective date, the duration of, and the reason for each sanction proposed by the director.

(c) Notwithstanding subdivision (b), the director shall terminate a contract with a prepaid health plan which the United States Secretary of Health and Human Services has determined does not meet the requirements for participation in the medicaid program contained in Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(d) The department may make one or more of the following temporary suspension orders as an immediate sanction: temporarily suspend enrollment activities, temporarily suspend marketing activities, require the contractor temporarily to suspend specified personnel of the contractor, or require the contractor temporarily to suspend participation by a specified subcontractor. The temporary suspension orders must be effective no earlier than 20 days after the notice specified in subdivision (b).

If the department issues a temporary suspension order as an immediate sanction, it shall notify the contractor of the nature and effective date of the temporary suspension and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense filed by the contractor, the department shall within 15 days set the matter for hearing, which shall be held as soon as possible, but not later than 30 days after receipt of the notice of hearing by the contractor. The hearing may be continued at the request of the contractor if a continuance is necessary to permit presentation of an adequate defense. The temporary suspension order shall remain in effect until the hearing is completed and the department has made

a final determination on the merits. However, the temporary suspension order shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(e) A contractor may request a hearing in connection with any sanctions applied pursuant to subdivision (b), other than those contained in a temporary suspension order, within 15 working days after the notice of the effective date of the sanctions has been given, by sending a letter so stating to the address specified in the notice. The department shall stay implementation of the sanction upon receipt of the request for a hearing. Implementation of the sanction shall remain stayed until the effective date of the final decision of the department.

(f) Except as otherwise provided in this section, all hearings to review the imposition of sanctions, including temporary suspension orders, shall be held pursuant to the procedures set forth in Section 100171 of the Health and Safety Code.

(g) The director may collect civil penalties by withholding the amount from capitation owed to the plan.

SEC. 44. 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:

Chapter 938 of the Statutes of 1995 enacted major revisions 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). In order to integrate the provisions of this act with those of Chapter 938 of the Statutes of 1995 at the earliest possible time, and thus avoid needless confusion, duplication, and expense among providers and recipients of health care related services, it is necessary that this act take effect immediately.

CHAPTER 221

An act to amend Section 10263 of the Public Contract Code, relating to state contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 4, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 10263 of the Public Contract Code is amended to read:

10263. (a) Provisions shall be included in any invitation for bid and in any contract documents to permit the substitution of securities for any moneys withheld by a public agency to ensure performance under a contract. At the request and expense of the contractor, securities equivalent to the amount withheld shall be deposited with the State Treasurer or, a state or federally chartered bank in California, as the escrow agent, who shall then pay the moneys to the contractor. Upon satisfactory completion of the contract, the securities shall be returned to the contractor.

(b) Alternatively, the contractor may request and the owner shall make payment of retentions earned directly to the escrow agent. The contractor may direct the investment of the payments into securities and the contractor shall receive the interest earned on the investments upon the same terms provided for in this section for securities deposited by the contractor. Upon satisfactory completion of the contract, the contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the owner, pursuant to the terms of this section.

(c) Alternatively, and subject to the approval and at the sole discretion of the public agency, the payment of retentions earned may be deposited directly with a person licensed under Division 6 (commencing with Section 17000) of the Financial Code as the escrow agent. Upon written request of an escrow agent who has not been approved by the public agency under this subdivision, the public agency shall provide written notice to that escrow agent within 10 business days of receipt of the request indicating the reason or reasons for not approving that escrow agent. An escrow agent that has been disapproved by the public agency may not maintain any cause of action of any nature against the state or any public agency, officer, agent, or employee of any public agency, in connection with the disapproval of that escrow agent. The payments shall be deposited in a trust account with a federally chartered bank or savings association within 24 hours of receipt by the escrow agent. The contractor shall not place any retentions with the escrow agent in excess of the coverage provided to that escrow agent pursuant to subdivision (b) of Section 17314 of the Financial Code. In all respects not inconsistent with this subdivision, the remaining provisions of this section shall apply to escrow agents acting pursuant to this subdivision. In addition, an escrow agent subject to this subdivision shall maintain insurance to cover negligent acts and omissions of the escrow agent in connection with the handling of retentions under this section in an amount not less than one hundred thousand dollars ($100,000) per contract, executed by an admitted insurer and in a form satisfactory to the public agency.

(d) Securities eligible for investment under this section shall include those listed in Section 16430 of the Government Code, bank or savings and loan certificates of deposit, interest-bearing demand

deposit accounts, standby letters of credit, or any other security mutually agreed to by the contractor and the public agency.

The contractor shall be beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

Failure to include the provisions prescribed by this section in bid and contract documents shall void any provisions for performance retentions in a public agency contract.

(e) The Legislature hereby finds and declares that the provisions of this section are of statewide concern and are necessary to encourage full participation by contractors in public contract procedures.

(f) The escrow agreement used pursuant to this section shall be null, void, and unenforceable unless it is substantially similar to the following form:

ESCROW AGREEMENT FOR
SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between ________________________________

________________ whose address is ________________
________________ hereinafter called "owner,"
________________ whose address is ________________
________________ hereinafter called "contractor," and
________________ whose address is ________________
________________ hereinafter called "escrow agent."

For the consideration hereinafter set forth, the owner, contractor, and escrow agent agree as follows:

(1) Pursuant to Section 10263 of the Public Contract Code of the State of California, the contractor has the option to deposit securities with the escrow agent as a substitute for retention earnings required to be withheld by the owner pursuant to the construction contract entered into between the owner and contractor for ________ in the amount of ________ dated ________ (hereafter referred to as the "contract"). Alternatively, on written request of the contractor, the owner shall make payments of the retention earnings directly to the escrow agent. When the contractor deposits the securities as a substitute for the contract earnings, the escrow agent shall notify the owner within ten days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the contract between the owner and contractor. Securities shall be held in the name of the ________, and shall designate the contractor as the beneficial owner.

(2) The owner shall make progress payments to the contractor for those funds which otherwise would be withheld from progress payments pursuant to the contract provision, provided that the escrow agent holds securities in the form and amount specified above.

(3) When the owner makes payment of retentions earned directly to the escrow agent, the escrow agent shall hold them for the benefit of the contractor until such time as the escrow created under this contract is terminated. The contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the owner pays the escrow agent directly.

(4) The contractor shall be responsible for paying all fees for the expenses incurred by the escrow agent in administering the escrow account. These expenses and payment terms shall be determined by the contractor and escrow agent.

(5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on the interest shall be for the sole account of contractor and shall be subject to withdrawal by contractor at any time and from time to time without notice to the owner.

(6) The contractor shall have the right to withdraw all or any part of the principal in the escrow account only by written notice to the escrow agent accompanied by written authorization from the owner to the escrow agent that the owner consents to the withdrawal of the amount sought to be withdrawn by contractor.

(7) The owner shall have a right to draw upon the securities in the event of default by the contractor. Upon seven days' written notice to the escrow agent from the owner of the default, the escrow agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the owner.

(8) Upon receipt of written notification from the owner certifying that the contract is final and complete, and that the contractor has complied with all requirements and procedures applicable to the contract, the escrow agent shall release to the contractor all securities and interest on deposit less escrow fees and charges of the escrow account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

(9) The escrow agent shall rely on the written notifications from the owner and the contractor pursuant to Sections (1) to (8), inclusive, of this agreement and the owner and contractor shall hold the escrow agent harmless from the escrow agent's release, conversion, and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the owner and on

behalf of the contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of the owner:	On behalf of the contractor:
Title	Title
Name	Name
Signature	Signature
Address	Address

On behalf of the escrow agent:

Title

Name

Signature

Address

At the time the escrow account is opened, the owner and contractor shall deliver to the escrow agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Owner	Contractor
Title	Title
Name	Name
Signature	Signature

SEC. 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 prevent a disruption in the performance of escrows conducted under subdivision (c) of Section 10263 of the Public Contract Code at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 222

An act to amend Sections 483.020, 484.050, 484,090, 485.220, and 492.030 of, to amend and repeal Sections 483.010 and 483.015 of, and to add Section 483.012 to, the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 483.010 of the Code of Civil Procedure, as amended by Section 1 of Chapter 591 of the Statutes of 1995, is amended to read:

483.010. (a) Except as otherwise provided by statute, an attachment may be issued only in an action on a claim or claims for money, each of which is based upon a contract, express or implied, where the total amount of the claim or claims is a fixed or readily ascertainable amount not less than five hundred dollars ($500) exclusive of costs, interest, and attorney's fees.

(b) An attachment may not be issued on a claim which is secured by any interest in real property arising from agreement, statute, or other rule of law (including any mortgage or deed of trust of realty and any statutory, common law, or equitable lien on real property, but excluding any security interest in fixtures subject to Division 9 (commencing with Section 9101) of the Commercial Code). However, an attachment may be issued where the claim was originally so secured but, without any act of the plaintiff or the person to whom the security was given, the security has become valueless or has decreased in value to less than the amount then owing on the claim, in which event the amount to be secured by the attachment shall not exceed the lesser of the amount of the decrease or the difference between the value of the security and the amount then owing on the claim.

(c) If the action is against a defendant who is a natural person, an attachment may be issued only on a claim which arises out of the conduct by the defendant of a trade, business, or profession. An attachment may not be issued on a claim against a defendant who is a natural person if the claim is based on the sale or lease of property, a license to use property, the furnishing of services, or the loan of money where the property sold or leased, or licensed for use, the services furnished, or the money loaned was used by the defendant primarily for personal, family, or household purposes.

(d) An attachment may be issued pursuant to this section whether or not other forms of relief are demanded.

SEC. 2. Section 483.010 of the Code of Civil Procedure, as amended by Section 2 of Chapter 591 of the Statutes of 1995, is repealed.

SEC. 3. Section 483.012 is added to the Code of Civil Procedure, to read:

483.012. Subject to the restrictions of Sections 580b and 580d, in an action to foreclose a mortgage or deed of trust on real property or an estate for years therein, pursuit of any remedy provided by this title shall not constitute an action for the recovery of a debt for purposes of subdivision (a) of Section 726 or a failure to comply with any other statutory or judicial requirement to proceed first against security.

SEC. 4. Section 483.015 of the Code of Civil Procedure, as amended by Section 3 of Chapter 591 of the Statutes of 1995, is amended to read:

483.015. (a) Subject to subdivision (b) and to Section 483.020, the amount to be secured by an attachment is the sum of the following:

(1) The amount of the defendant's indebtedness claimed by the plaintiff.

(2) Any additional amount included by the court under Section 482.110.

(b) The amount described in subdivision (a) shall be reduced by the sum of the following:

(1) The amount of any money judgment in favor of the defendant and against the plaintiff that remains unsatisfied and is enforceable.

(2) The amount of any indebtedness of the plaintiff that the defendant has claimed in a cross-complaint filed in the action if the defendant's claim is one upon which an attachment could be issued.

(3) The amount of any claim of the defendant asserted as a defense in the answer pursuant to Section 431.70 if the defendant's claim is one upon which an attachment could be issued had an action been brought on the claim when it was not barred by the statute of limitations.

(4) The value of any security interest in the property of the defendant held by the plaintiff to secure the defendant's indebtedness claimed by the plaintiff, together with the amount by which the value of the security interest has decreased due to the act of the plaintiff or a prior holder of the security interest.

SEC. 5. Section 483.015 of the Code of Civil Procedure, as amended by Section 4 of Chapter 591 of the Statutes of 1995, is repealed.

SEC. 6. Section 483.020 of the Code of Civil Procedure is amended to read:

483.020. (a) Subject to subdivisions (d) and (e), the amount to be secured by the attachment in an unlawful detainer proceeding is the sum of the following:

(1) The amount of the rent due and unpaid as of the date of filing the complaint in the unlawful detainer proceeding.

(2) Any additional amount included by the court under subdivision (c).

(3) Any additional amount included by the court under Section 482.110.

(b) In an unlawful detainer proceeding, the plaintiff's application for a right to attach order and a writ of attachment pursuant to this title may include (in addition to the rent due and unpaid as of the date of the filing of the complaint and any additional estimated amount authorized by Section 482.110) an amount equal to the rent for the period from the date the complaint is filed until the estimated date of judgment or such earlier estimated date as possession has been or is likely to be delivered to the plaintiff, such amount to be computed at the rate provided in the lease.

(c) The amount to be secured by the attachment in the unlawful detainer proceeding may, in the discretion of the court, include an additional amount equal to the amount of rent for the period from the date the complaint is filed until the estimated date of judgment or such earlier estimated date as possession has been or is likely to be delivered to the plaintiff, such amount to be computed at the rate provided in the lease.

(d) Except as provided in subdivision (e), the amount to be secured by the attachment as otherwise determined under this section shall be reduced by the amounts described in subdivision (b) of Section 483.015.

(e) Where the plaintiff has received a payment or holds a deposit to secure (1) the payment of rent and the performance of other obligations under the lease or (2) only the performance of other obligations under the lease, the amount of the payment or deposit shall not be subtracted in determining the amount to be secured by the attachment.

SEC. 7. Section 484.050 of the Code of Civil Procedure is amended to read:

484.050. The notice of application and hearing shall inform the defendant of all of the following:

(a) A hearing will be held at a place and at a time, to be specified in the notice, on plaintiff's application for a right to attach order and a writ of attachment.

(b) The order will be issued if the court finds that the plaintiff's claim is probably valid and the other requirements for issuing the order are established. The hearing is not for the purpose of determining whether the claim is actually valid. The determination of the actual validity of the claim will be made in subsequent proceedings in the action and will not be affected by the decisions at the hearing on the application for the order.

(c) The amount to be secured by the attachment is determined pursuant to Sections 482.110, 483.010, 483.015, and 483.020, which statutes shall be summarized in the notice.

(d) If the right to attach order is issued, a writ of attachment will be issued to attach the property described in the plaintiff's application unless the court determines that such property is exempt from attachment or that its value clearly exceeds the amount necessary to satisfy the amount to be secured by the attachment. However, additional writs of attachment may be issued to attach other nonexempt property of the defendant on the basis of the right to attach order.

(e) If the defendant desires to oppose the issuance of the order, the defendant shall file with the court and serve on the plaintiff a notice of opposition and supporting affidavit as required by Section 484.060 not later than five court days prior to the date set for hearing.

(f) If the defendant claims that the personal property described in the application, or a portion thereof, is exempt from attachment, the defendant shall include that claim in the notice of opposition filed and served pursuant to Section 484.060 or file and serve a separate claim of exemption with respect to the property as provided in Section 484.070. If the defendant does not do so, the claim of exemption will be barred in the absence of a showing of a change in circumstances occurring after the expiration of the time for claiming exemptions.

(g) The defendant may obtain a determination at the hearing whether real or personal property not described in the application or real property described in the application is exempt from attachment by including the claim in the notice of opposition filed and served pursuant to Section 484.060 or by filing and serving a separate claim of exemption with respect to the property as provided in Section 484.070, but the failure to so claim that the property is exempt from attachment will not preclude the defendant from making a claim of exemption with respect to the property at a later time.

(h) Either the defendant or the defendant's attorney or both of them may be present at the hearing.

(i) The notice shall contain the following statement: "You may seek the advice of an attorney as to any matter connected with the plaintiff's application. The attorney should be consulted promptly so that the attorney may assist you before the time set for hearing."

SEC. 8. Section 484.090 of the Code of Civil Procedure is amended to read:

484.090. (a) At the hearing, the court shall consider the showing made by the parties appearing and shall issue a right to attach order, which shall state the amount to be secured by the attachment determined by the court in accordance with Section 483.015 or 483.020, if it finds all of the following:

(1) The claim upon which the attachment is based is one upon which an attachment may be issued.

(2) The plaintiff has established the probable validity of the claim upon which the attachment is based.

(3) The attachment is not sought for a purpose other than the recovery on the claim upon which the attachment is based.

(4) The amount to be secured by the attachment is greater than zero.

(b) If, in addition to the findings required by subdivision (a), the court finds that the defendant has failed to prove that all the property sought to be attached is exempt from attachment, it shall order a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220.

(c) If the court determines that property of the defendant is exempt from attachment, in whole or in part, the right to attach order shall describe the exempt property and prohibit attachment of the property.

(d) The court's determinations shall be made upon the basis of the pleadings and other papers in the record; but, upon good cause shown, the court may receive and consider at the hearing additional evidence, oral or documentary, and additional points and authorities, or it may continue the hearing for the production of the additional evidence or points and authorities.

SEC. 9. Section 485.220 of the Code of Civil Procedure is amended to read:

485.220. (a) The court shall examine the application and supporting affidavit and, except as provided in Section 486.030, shall issue a right to attach order, which shall state the amount to be secured by the attachment, and order a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220, if it finds all of the following:

(1) The claim upon which the attachment is based is one upon which an attachment may be issued.

(2) The plaintiff has established the probable validity of the claim upon which the attachment is based.

(3) The attachment is not sought for a purpose other than the recovery upon the claim upon which the attachment is based.

(4) The affidavit accompanying the application shows that the property sought to be attached, or the portion thereof to be specified in the writ, is not exempt from attachment.

(5) The plaintiff will suffer great or irreparable injury (within the meaning of Section 485.010) if issuance of the order is delayed until the matter can be heard on notice.

(6) The amount to be secured by the attachment is greater than zero.

(b) If the court finds that the application and the supporting affidavit do not satisfy the requirements of Section 485.010, it shall so state and deny the order. If denial is solely on the ground that Section 485.010 is not satisfied, the court shall so state and such denial does not preclude the plaintiff from applying for a right to attach order and writ of attachment under Chapter 4 (commencing with Section 484.010) with the same affidavits and supporting papers.

SEC. 10. Section 492.030 of the Code of Civil Procedure is amended to read:

492.030. (a) The court shall examine the application and supporting affidavit and shall issue a right to attach order, which shall state the amount to be secured by the attachment, and order a writ of attachment to be issued upon the filing of an undertaking as provided by Sections 489.210 and 489.220, if it finds all of the following:

(1) The claim upon which the attachment is based is one upon which an attachment may be issued.

(2) The plaintiff has established the probable validity of the claim upon which the attachment is based.

(3) The defendant is one described in Section 492.010.

(4) The attachment is not sought for a purpose other than the recovery on the claim upon which the attachment is based.

(5) The affidavit accompanying the application shows that the property sought to be attached, or the portion thereof to be specified in the writ, is subject to attachment pursuant to Section 492.040.

(6) The amount to be secured by the attachment is greater than zero.

(b) If the court finds that the application and supporting affidavit do not satisfy the requirements of this chapter, it shall so state and deny the order. If denial is solely on the ground that the defendant is not one described in Section 492.010, the judicial officer shall so state and such denial does not preclude the plaintiff from applying for a right to attach order and writ of attachment under Chapter 4 (commencing with Section 484.010) with the same affidavits and supporting papers.

CHAPTER 223

An act to amend Sections 31581.2, 31630, 31639.85, and 31685.5 of the Government Code, relating to county employees.

[Approved by Governor August 4, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 31581.2 of the Government Code is amended to read:

31581.2. The board of supervisors or the governing body of the district may agree to pay any portion of the contributions required to be paid by a member. All payments shall be in lieu of wages and shall be reported simply as normal contributions and shall be credited to member accounts.

The enactment of a resolution pursuant to this section shall not create vested rights in any member. The board of supervisors or the governing body of the district may amend or repeal the resolution at any time, subject to the provisions of Sections 3504 and 3505, or any similar rule or regulation of the county or district.

SEC. 2. Section 31630 of the Government Code is amended to read:

31630. Notwithstanding any other provisions in this chapter, the South Coast Air Quality Management District and in any county which has adopted Section 31676.1, 31676.11, 31676.12, 31676.13, 31676.14, 31676.15, or 31751, the board of supervisors or district board, as the case may be, may agree to pay any portion of the members' normal contributions to the system. All the contributions paid by the county or district, as the case may be, shall remain its contributions, and no right therein shall accrue to any employee prior to the employee's election to take a regular, deferred, or disability retirement.

Any contributions paid by the board of supervisors or the district board on behalf of the members shall be as determined by upon actuarial advice, and approved by the board of retirement.

SEC. 3. Section 31639.85 of the Government Code is amended to read:

31639.85. Notwithstanding any other provisions in this chapter, in any county which has adopted Section 31676.1, 31676.11, 31676.12, 31676.13, 31676.14, or 31676.15 the board of supervisors may agree to pay any portion of the safety members' normal contributions to the system. All contributions paid by the county shall remain county contributions, and no right therein shall accrue to any employee prior to the employee's election to take a regular, deferred or disability retirement.

Any contributions paid by the board of supervisors on behalf of the safety members shall be as determined upon actuarial advice, and approved by the board of retirement.

SEC. 4. Section 31685.5 of the Government Code is amended to read:

31685.5. A nonmember shall be retired upon his or her written application to the board if all of the following conditions are met:

(a) The member or nonmember has attained the minimum age prescribed by the applicable service retirement formula of the member.

(b) On the date of retirement, the member had sufficient credited service to retire for service, notwithstanding any service credit awarded to the nonmember.

CHAPTER 224

An act to amend Sections 113803, 113813, 113865, 114020, 114145, 114265, 114360, and 114380 of, to amend the heading of Article 11 (commencing with Section 114250) of Chapter 4 of Part 7 of Division 104 of, and to amend and renumber Section 113732 of, the Health and Safety Code, relating to retail food facilities.

[Approved by Governor August 4, 1997. Filed with
Secretary of State August 4, 1997.]

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

SECTION 1. Section 113732 of the Health and Safety Code, as added by Section 321.5 of Chapter 1023 of the Statutes of 1996, is amended and renumbered to read:

113733. (a) All animal byproducts and inedible kitchen grease disposed of by any food facility, except restaurants, shall be transported by a renderer licensed under Section 19300 of the Food and Agricultural Code, or a registered transporter of inedible kitchen grease, licensed under Section 19310 of the Food and Agricultural Code. Nothing in this section prevents a food facility from transporting its own animal byproducts in its own vehicles to a central collection point. For the purposes of this section, inedible kitchen grease does not include grease recovered from an interceptor.

(b) "Restaurant," as used in this section, means any coffeeshop, cafeteria, short-order cafe, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria or eating establishment, in-plant or employee eating establishment, studio facility, dinnerhouse, delicatessen, commissary, hotel or motel food service operation, and any other eating establishment, organization, club, including veterans' club, boardinghouse, guesthouse, or political subdivision, that gives, sells, or offers for sale, food to the public, guests, patrons, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering functions.

SEC. 2. Section 113803 of the Health and Safety Code is amended to read:

113803. "Hermetically sealed container" means a container that is designed and intended to be secure against the entry of micro-organisms and, in the case of low-acid canned foods, to maintain the commercial sterility of its contents after processing.

SEC. 3. Section 113813 of the Health and Safety Code is amended to read:

113813. "Injected" means manipulating a meat so that infectious or toxigenic micro-organisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting

the meat with, for example, juices, that may be referred to as "injecting," "pinning," or "stitch pumping."

SEC. 4. Section 113865 of the Health and Safety Code is amended to read:

113865. "Remodel" means construction, building, or repair to the food facility that requires a permit from the local building authority. For purposes of Article 11 (commencing with Section 114250), Article 12 (commencing with Section 114285), and Article 17 (commencing with Section 114358), remodel means any replacement or significant modification of an integral piece of equipment.

SEC. 5. Section 114020 of the Health and Safety Code is amended to read:

114020. (a) No employee shall commit any act that may result in the contamination or adulteration of food, food contact surfaces, or utensils.

(b) All employees preparing, serving, or handling food or utensils shall wear clean, washable outer garments, or other clean uniforms. All employees shall wear hairnets, caps, or other suitable coverings to confine all hair when required to prevent the contamination of food, equipment, or utensils.

(c) All employees shall thoroughly wash their hands and arms by vigorously rubbing them with cleanser and warm water, paying particular attention to areas between the fingers and around and under the nails, rinsing with clean water. Employees shall wash their hands:

(1) Immediately before engaging in food preparation, including working with unpackaged food, clean equipment and utensils, and unwrapped single-service food containers and utensils.

(2) Before dispensing or serving food or handling clean tableware and serving utensils in the food service area.

(3) As often as necessary, during food preparation, to remove soil and contamination and to prevent cross-contamination when changing tasks.

(4) When switching between working with raw foods and working with ready-to-eat foods.

(5) After touching bare human body parts other than clean hands and clean, exposed portions of arms.

(6) After using the toilet room.

(7) After caring for or handling any animal allowed in a food facility pursuant to Section 114045.

(8) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking.

(9) After handling soiled equipment or utensils.

(10) After engaging in any other activities that contaminate the hands.

(d) No employee shall expectorate or use tobacco in any form in any area where food is prepared, served, or stored, or where utensils are cleaned or stored.

(e) Employees serving ready-to-eat foods shall use gloves, tongs, or other implements to place food on tableware or in other containers.

(f) Gloves shall be worn when contacting food and food contact surfaces if the employee has any cuts, sores, rashes, artificial nails, nail polish, rings (other than a plain ring, such as a wedding band), uncleanable orthopedic support devices, or finger nails that are not clean, neatly trimmed, and smooth.

(g) Whenever gloves are worn, they shall be changed, replaced, or washed as often as handwashing is required in subdivision (c). When single-use gloves are used, they shall be replaced after removal.

SEC. 6. Section 114145 of the Health and Safety Code is amended to read:

114145. (a) Each food establishment, except produce stands and swap meet prepackaged food stands, shall be fully enclosed in a building consisting of floors, walls, and an overhead structure that meet the minimum standards prescribed by this chapter. Food establishments that are not fully enclosed on all sides and that are in operation on January 1, 1985, shall not be required to meet the requirement for a fully enclosed structure pursuant to this section.

(b) This section shall not be construed to require the enclosure of dining areas or open-air barbecue facilities, or outdoor displays that meet the following requirements:

(1) Only prepackaged nonpotentially hazardous food, uncut produce, or both is displayed or sold in the outdoor displays.

(2) Outdoor displays are contiguous with a fully enclosed food establishment that is in compliance with subdivision (a).

(3) Outdoor displays have overhead protection that extends over all food items.

(4) Food items from the outdoor display are stored inside a fully enclosed food establishment that is in compliance with subdivision (a) at all times other than during business hours. Any food items to be stored pursuant to this subdivision shall be stored in accordance with subdivision (a) of Section 114080.

(5) Outdoor displays comply with Section 114010 and have been approved by the enforcement agency.

(6) Outdoor displays are under the constant and complete control of the operator of the permitted food establishment.

(c) This section shall not be construed to require the enclosure during operating hours of customer self-service nonpotentially hazardous bulk beverage dispensing operations that meet the following requirements:

(1) The dispensing operations are installed contiguous with a fully enclosed food establishment that is in compliance with subdivision (a) and operated by the food establishment.

(2) The beverages are dispensed from enclosed equipment that precludes exposure of the beverages until they are dispensed at the nozzles.

(3) Ice is dispensed only from an ice maker-dispenser. Ice is not scooped or manually loaded into an ice dispenser out-of-doors.

(4) Single-service utensils are protected from contamination and are individually wrapped or dispensed from approved sanitary dispensers.

(5) The dispensing operations have overhead protection that fully extends over all equipment associated with the facility.

(6) During nonoperating hours the dispensing operations are fully enclosed so as to be protected from contamination by vermin and exposure to the elements.

(7) The owner or operator of the food establishment demonstrates to the enforcement agency that acceptable methods are in place to properly clean and sanitize the beverage dispensing equipment.

(8) Beverage dispensing operations are in compliance with Section 114010 and have been approved by the enforcement agency.

(9) Beverage dispensing operations are under the constant and complete control of the permitholder of the food establishments who is operating the dispensing facility.

(d) This section shall not be construed to allow outdoor displays in violation of local ordinances.

SEC. 7. The heading of Article 11 (commencing with Section 114250) of Chapter 4 of Part 7 of Division 104 of the Health and Safety Code is amended to read:

Article 11. Mobile Food Facilities

SEC. 8. Section 114265 of the Health and Safety Code is amended to read:

114265. (a) The name, address, and telephone number of the owner, operator, permittee, business name, or commissary shall be legible, clearly visible, and permanently indicated on at least two sides of the exterior of the mobile food facility. The name shall be in letters at least 8 centimeters (3 inches) high and shall have strokes at least 1 centimeter ($^3/_8$ inch) wide, and shall be of a color contrasting with the mobile food facility exterior. Letters and numbers for address and telephone numbers shall not be less than 2.5 centimeters (one inch) high.

(b) Mobile food facility equipment, including, but not limited to, the interior of cabinet units and compartments, shall be designed so as to, and made of materials that, result in smooth, readily accessible, and easily cleanable surfaces. Unfinished wooden surfaces are prohibited. Construction joints shall be tightly fitted and sealed so as

to be easily cleanable. Equipment and utensils shall be constructed of durable, nontoxic materials and shall be easily cleanable.

(c) During operation, no food intended for retail shall be conveyed, held, stored, displayed, or served from any place other than a mobile food facility except for the restocking of product in a manner approved by the enforcement agency.

(d) Notwithstanding subdivision (k), food products remaining after each day's operation shall be stored only in an approved commissary or other approved facility.

(e) During transportation, storage, and operation of a mobile food facility, food, food contact surfaces, and utensils shall be protected from contamination. Single-service utensils shall be individually wrapped or in sanitary containers or approved sanitary dispensers, stored in a clean, dry place until used, handled in a sanitary manner, and used only once. Food contact surfaces and utensils shall be cleaned and sanitized in accordance with subdivisions (i), (j), and (k) of Section 114090.

(f) All food displayed, sold, or offered for sale from a mobile food facility shall be obtained from an approved source.

(g) Food condiments shall be protected from contamination and, where available for customer self-service, be prepackaged or available only from approved dispensing devices.

(h) Mobile food facilities shall be operated within 60 meters (200 feet) of approved and readily available toilet and hand washing facilities or as otherwise approved by the enforcement agency to ensure restroom facilities are available to facility employees.

(i) All mobile food facilities shall operate out of a commissary or other approved facility. Mobile food facilities shall report to the commissary or other approved facility at least once each operating day for cleaning and servicing operations. Mobile food facilities shall be properly stored, cleaned, and serviced at, or within, a commissary or other facility as approved by the enforcement agency so as to provide protection from unsanitary conditions.

(j) Potentially hazardous food shall be maintained at or below 5 degrees Celsius (41 degrees Fahrenheit) or at or above 60 degrees Celsius (140 degrees Fahrenheit) at all times in accordance with Section 113995.

(k) Potentially hazardous food held at or above 60 degrees Celsius (140 degrees Fahrenheit) on a mobile food facility shall be destroyed at the end of the operating day.

(*l*) All waste water from a mobile food facility shall be drained to an approved waste water receptor at the commissary or other approved facility.

(m) All new and replacement gas-fired appliances shall meet applicable American Gas Association standards. All new and replacement electrical appliances shall meet applicable Underwriters Laboratory standards.

(n) Bulk beverage dispensers shall only be filled at the commissary or other facility approved by the enforcement agency unless a hand washing sink as described in paragraph (1) of subdivision (p) is provided.

(o) Where nonprepackaged food is handled for display or sale, the mobile food facility shall be equipped with a food compartment that completely encloses all food, food contact surfaces, and the handling of ready-to-eat food. The opening to the food compartment shall be sized as appropriate to the food handling activity without compromising the intended protection from contamination, and shall be provided with tight-fitting doors that, when closed, protect interior surfaces from dust, debris, insects, and other vermin.

(p) Mobile food facilities, not under a valid public health permit as of January 1, 1997, on which nonprepackaged ready-to-eat food is sold or offered for sale shall be constructed and equipped in compliance with all of the following:

(1) A minimum of a one-compartment metal sink, hand washing cleanser and single-service towels in approved dispensers shall be provided. The sink shall be furnished with hot running water that is at least 49 degrees Celsius (120 degrees Fahrenheit) and cold running water that is less than 38 degrees Celsius (101 degrees Fahrenheit) through a mixing-type faucet that permits both hands to be free for washing. The sink shall be large enough to accommodate the largest utensils washed. The sink, hand washing cleanser, and single-service towels shall be located as to be easily accessible and unobstructed for use by the operator in the working area. The minimum water heater capacity shall be one-half gallon.

(2) The potable water tank and delivery system shall be constructed of approved materials, provide protection from contamination, and shall be of a capacity commensurate with the level of food handling activity on the mobile food facility. The capacity of the system shall be sufficient to furnish enough hot and cold water for the following: steam table, utensil washing and sanitizing, hand washing, and equipment cleaning. At least 18 liters (5 gallons) of water shall be provided exclusively for hand washing. Any water needed for other purposes shall be in addition to the 18 liters (5 gallons) for hand washing.

(3) (i) The waste water tank or tanks shall have a minimum capacity that is 50 percent greater than the potable water tank or tanks supplying the hand and utensil washing sink. In no case shall this waste water capacity be less than 28 liters (7.5 gallons).

(ii) Mobile food facilities utilizing ice in the storage, display, or service of food or beverages shall provide an additional minimum waste water holding tank capacity equal to one-third of the volume of the ice cabinet to accommodate the drainage of ice melt.

(iii) Mobile food facilities equipped with a tank supplying product water for the preparation of a food or beverage shall provide an

additional waste water tank capacity equal to at least 15 percent of this water supply.

(iv) Additional waste water tank capacity may be required where waste water production or spillage is likely to occur.

(v) Any connection to a waste water tank shall preclude the possibility of contaminating any food, food contact surface, or utensil.

(4) A mobile food facility's potable water tank inlet shall be provided with a connection of a size and type that will prevent its use for any other service and shall be constructed so that backflow and other contamination of the water supply is prevented. Hoses used to fill potable water tanks shall be made of food grade materials and handled in a sanitary manner.

(5) Mobile food facilities limited to the portioning and dispensing of nonprepackaged, nonpotentially hazardous food are exempt from the hand washing and utensil washing sink requirements of this subdivision if there is an approved supply of gloves or utensils, or both, on the facility that preclude any hand contact with the food products being dispensed. This exemption does not extend to the scooping of ice.

(q) Mobile food facilities selling unpackaged frozen ice cream bars or holding cream, milk, or similar dairy products pursuant to Section 114270 shall be equipped with refrigeration units as described in Section 113860.

(r) Operators of mobile food facilities handling nonprepackaged food shall develop and follow written operational procedures for food handling and the cleaning and sanitizing of food contact surfaces and utensils. The enforcement agency shall review and approve the procedures prior to implementation and an approved copy shall be kept on the mobile food facility during periods of operation.

(s) All potentially hazardous food shall be prepackaged in an approved food facility except as provided in Sections 114260 and 114270.

SEC. 9. Section 114360 of the Health and Safety Code is amended to read:

114360. Under the controls and conditions specified in this article, a satellite food distribution facility as defined in subdivision (b) of Section 113880 may do any of the following:

(a) Hold, portion, and dispense any foods that are prepared or prepackaged by the onsite food establishment or prepackaged by another approved source.

(b) Prepare foods other than potentially hazardous foods, remove the packaging of foods described in subdivision (a), prepare hot dogs, and coat ice cream bars with chocolate and nuts, if all food preparation and handling is within a compartment complying with subdivision (o) of Section 114265.

(c) Add condiments, sauces, garnishes, and similar accompaniments to foods at the time of sale, regardless of whether the accompaniments are potentially hazardous foods.

(d) Bake potatoes in enclosed ovens.

SEC. 10. Section 114380 of the Health and Safety Code is amended to read:

114380. Notwithstanding Section 114021, restricted food service transient occupancy establishments shall not be required to post signs in toilet rooms in guestrooms.

SEC. 11. 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 225

An act to amend Section 12514 of the Water Code, relating to water.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 4, 1997.]

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

SECTION 1. Section 12514 of the Water Code is amended to read:

12514. (a) The board shall determine, by majority vote, where to maintain its office and shall hold meetings at that office or elsewhere upon call of the chairman or three members of the board. The board shall not relocate its office more than once within each gubernatorial term.

(b) The local agencies that are represented on the board may reimburse employees of the board for relocation or net commuting expenses, or both, incurred by those employees as the result of a change in the location of the office pursuant to subdivision (a). The costs shall be divided equally among the local agencies. Any commuting expenses shall not exceed the state's reimbursement rate for state employees. Any relocation benefits shall be approved by each local agency prior to those benefits being offered to board staff.

(c) Any payments made pursuant to subdivision (b) do not constitute income for the purposes of subdivision (a) of Section 82030 of the Government Code, in accordance with paragraph (2) of subdivision (b) of that section.

CHAPTER 226

An act to add Section 8880.335 to the Government Code, relating to the California State Lottery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 4, 1997. Filed with
Secretary of State August 5, 1997.]

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

SECTION 1. Section 8880.335 is added to the Government Code to read:

8880.335. The commission may promulgate regulations to authorize the use of an electronic or electromechanical device to dispense lottery tickets to be used in the play of any lottery game, if the device satisfies all of the following specifications:

(a) The lottery ticket dispenser dispenses a paper or cardboard ticket that provides the purchaser of the ticket with an opportunity to win a prize in a lottery game, and the ticket fits one of the following descriptions:

(1) The ticket has an ascertainable prize value, including a null prize value or an opportunity to enter another lottery game at the time it is dispensed, provided that the prize value of the ticket may be revealed to the purchaser of the ticket only after the purchaser has removed the ticket from the dispenser and only by physically removing a covering that hides numbers or symbols that are imprinted on the ticket.

(2) The ticket has no value at the time it is dispensed, except for restitution of the purchase price, but may acquire a redemption value as the result of a draw that occurs after the ticket is dispensed.

(b) If the lottery ticket dispenser dispenses tickets described in paragraph (1) of subdivision (a), then neither the operation or functioning of the ticket dispenser nor the operation or functioning of any component, subcomponent, part, chip, or program of the ticket dispenser, or of any device in direct or indirect communication with the ticket dispenser, may affect the probability that a ticket that is dispensed will have a prize value other than a null prize value.

(c) If a lottery ticket dispenser includes any component, subcomponent, mechanism, or feature that is capable of generating numbers or symbols for use in the play of a lottery game, or if the lottery ticket dispenser communicates directly or indirectly with any device that includes any component, subcomponent, mechanism, or feature that is capable of generating numbers or symbols for use in the play of a lottery game, that component, subcomponent, mechanism, or feature may be used only in the production and dispensing of lottery tickets described in paragraph (2) of subdivision (a).

(d) A lottery ticket dispenser that dispenses tickets described in paragraph (2) of subdivision (a) shall not also be the device used in the subsequent draw to determine winning tickets and shall not be capable of causing, directly or indirectly, the operation of any device used in the subsequent draw to determine winning tickets.

(e) The lottery ticket dispenser shall not make change or otherwise dispense coins, currency, or any thing of value other than a lottery ticket.

(f) No lottery ticket dispenser that utilizes a television monitor or video screen shall display or reproduce the image or facsimile of, or any other visual representation of, a lottery ticket that will be or has been dispensed or issued from that lottery ticket dispenser. Nothing herein shall preclude the use of television monitors or video screens to transmit messages about lottery games and game results, if those messages are not generated by the lottery ticket dispenser.

SEC. 2. Nothing in Section 1 of this act is intended to prohibit or restrict the California State Lottery Commission from adopting regulations to authorize the use of electronic or electromechanical devices, in addition to those specified in Section 8880.335 of the Government Code, that are in conformity with the California State Lottery Act of 1984 and not prohibited by Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

SEC. 3. The Legislature finds that the enactment of this act is in furtherance of the purpose of the California State Lottery Act of 1984 because the sole purpose of this act is to enable the lottery commission to employ electronic and electromechanical devices in the sale of lottery tickets while ensuring that the devices themselves do not become an object of play.

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 the maximum additional funds to benefit education, without the imposition of additional or increased taxes, by allowing the use of instant ticket vending machines by the California State Lottery, and thereby increasing sales and the allocation of lottery proceeds to education, it is necessary that this act take effect immediately.

CHAPTER 227

An act to amend Section 69.5 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 5, 1997.]

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

SECTION 1. Section 69.5 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 897 of the Statutes of 1996, is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) The ordinance provides that its provisions shall remain operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowner's exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated that is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in

a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one

coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who was a record owner of the original property at the time of its sale or is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed.

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall

be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) “Replacement dwelling” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and “land owned by the claimant” includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site.

(4) “Original property” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and “land owned by the claimant” includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site.

(5) “Equal or lesser value” means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is,

in part, purchased and, in part, newly constructed, the date the "replacement dwelling is purchased or newly constructed" is the date of purchase or the date of completion of construction, whichever is later.

(6) "Full cash value of the replacement dwelling" means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) "Full cash value of the original property" means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) "Sale" means any change in ownership of the original property for consideration.

(9) "Claimant" means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) "Property that is eligible for the homeowner's exemption" includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) "Person" means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(12) "Severely and permanently disabled" means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this

subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), if a written notice of rescission is delivered to the office of the assessor in which the original claim was filed and all of the following have occurred:

(1) The notice is signed by the original filing claimant or claimants.

(2) The notice is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any

replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, except as provided in paragraph (4), this section shall apply to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section shall apply only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) The amendments to this section made by the act adding this subdivision, and by the act amending subdivision (a) during the 1997–98 Regular Session of the Legislature, shall become operative on January 1, 1999.

CHAPTER 228

An act to add Section 17134 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 4, 1997. Filed with Secretary of State August 5, 1997.]

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

SECTION 1. Section 17134 is added to the Revenue and Taxation Code, to read:

17134. Any loan made pursuant to the Forgivable Loan Program of the California State University shall be deemed to be a student loan within the meaning of Section 108(f)(2) of the Internal Revenue Code, and Section 108(f)(1) shall apply to any discharge of the loan that is made in connection with the borrower's performance of services for the California State University.

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 229

An act to amend Sections 22001, 22050, 22101, 22105, 22106, and 22152 of, and to repeal and add Section 22102 of, the Financial Code, relating to financial institutions.

[Approved by Governor August 6, 1997. Filed with
Secretary of State August 6, 1997.]

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

SECTION 1. Section 22001 of the Financial Code is amended to read:

22001. (a) This division shall be liberally construed and applied to promote its underlying purposes and policies, which are:

(1) To ensure an adequate supply of credit to borrowers in this state.

(2) To simplify, clarify, and modernize the law governing loans made by finance lenders.

(3) To foster competition among finance lenders.

(4) To protect borrowers against unfair practices by some lenders, having due regard for the interests of legitimate and scrupulous lenders.

(5) To permit and encourage the development of fair and economically sound lending practices.

(6) To encourage and foster a sound economic climate in this state.

(b) Consumer loans, as defined in Sections 22203 and 22204, are subject to this chapter, Chapter 2 (commencing with Section 22200), Article 1 (commencing with Section 22700) of Chapter 4, and Article 2 (commencing with Section 22750) of Chapter 4.

(c) Commercial loans, as defined in Section 22502, are subject to this chapter, Chapter 3 (commencing with Section 22500), Article 1 (commencing with Section 22700) of Chapter 4, and Article 3 (commencing with Section 22780) of Chapter 4.

SEC. 2. Section 22050 of the Financial Code is amended to read:

22050. (a) This division does not apply to any person doing business under any law of this state or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, credit unions, small business investment companies, California business and industrial development corporations, or licensed pawnbrokers.

(b) This division does not apply to a broker-dealer acting pursuant to a certificate, then in effect, issued pursuant to Section 25211 of the Corporations Code.

(c) This division does not apply to a college or university making a loan for the purpose of permitting a person to pursue a program or course of study leading to a degree or certificate.

(d) This division does not apply to a check cashier who holds a valid permit issued pursuant to Section 1789.37 of the Civil Code when acting under the authority of that permit.

(e) This division does not apply to any person who makes no more than one loan in a 12-month period as long as that loan is a commercial loan as defined in Section 22502.

SEC. 3. Section 22101 of the Financial Code is amended to read:

22101. (a) An application for a license under this division shall be in the form and contain the information that the commissioner may by rule require and shall be filed upon payment of the fee specified in Section 22103.

(b) Nothing in this section shall be construed to prevent a licensee from engaging in the business of a finance lender through a subsidiary corporation if the subsidiary corporation is licensed pursuant to this division.

(c) For purposes of this section, "subsidiary corporation" means a corporation that is wholly owned by a licensee.

(d) A new application shall not be required for a change in the address of an existing location previously licensed under this division. However, the licensee shall comply with the requirements of Section 22153.

SEC. 4. Section 22102 of the Financial Code is repealed.

SEC. 5. Section 22102 is added to the Financial Code, to read:

22102. A licensee with one or more licensed locations seeking an additional location license may file a short form license application as may be established by the commissioner pursuant to Section 22101.

SEC. 6. Section 22105 of the Financial Code is amended to read:

22105. (a) Upon the filing of an application pursuant to Section 22101 or 22102 and the payment of the fees, the commissioner shall investigate the applicant, and its general partners and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests if the applicant is a partnership. If the applicant is a corporation, trust, or association, including an unincorporated organization, the commissioner shall investigate its officers, directors, and persons owning or controlling, directly or indirectly, 10 percent or more of the outstanding equity securities. If the commissioner determines that the applicant has satisfied this division and does not find facts constituting reasons for denial under Section 22109, the commissioner shall issue and deliver a license to the applicant.

(b) For purposes of subdivision (a), the investigation in connection with an application described in Section 22102 may be limited to the information not already included in previous applications filed pursuant to this division.

SEC. 7. Section 22106 of the Financial Code is amended to read:

22106. (a) The license shall state the name of the licensee, and if the licensee is a partnership, the names of its general partners, and if a corporation or an association, the date and place of its

incorporation or organization, and the address of the licensee's principal business location. On the approval and licensing of a location pursuant to Section 22101 or 22102, the commissioner shall issue an original license endorsed to show the address of the authorized location and, if applicable, the name of the subsidiary corporation licensed to operate the location. The license shall state whether the licensee is licensed as a finance lender or a broker.

(b) A license for a business location outside this state may be issued if the licensee agrees in writing in the license application to do, at the option of the applicant, one of the following:

(1) Make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state.

(2) Pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

A licensee located outside this state is not required to maintain books and records regarding licensed loans separate from those for other loans if the licensed loans can be readily identified.

SEC. 8. Section 22152 of the Financial Code is amended to read:

22152. A licensee shall maintain only one place of business under a duplicate or original license issued pursuant to Section 22101 or 22102. The commissioner may issue more than one license to the same licensee upon compliance with all the provisions of this division governing an original issuance of a license.

SEC. 9. (a) In enacting this act it is the intent of the Legislature to streamline, to the extent feasible, the form, content, and investigation of an additional license location application to eliminate the processing of unnecessary and duplicative application information and, at the same time, ensure sufficient administrative flexibility to review and investigate any application information to comply with the requirements of the law.

(b) Subdivisions (b) and (c) as added to Section 22001 of the Financial Code by this act do not constitute a change in, but are declarative of, existing law.

CHAPTER 230

An act to amend Section 3126 of the Public Utilities Code, relating to public utilities.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 3126 of the Public Utilities Code is amended to read:

3126. An association may buy, hold, and exercise all privileges of ownership of real or personal property as may be necessary or convenient for the conduct and operation of, or incidental to, any business of the association. Without limiting the foregoing, an association may acquire a real property easement from a public utility for the purpose of accommodating the association's gas plant, and the easement shall be deemed to be held for a public purpose by the association, provided that the commission finds that the use by the association is in the public interest.

CHAPTER 231

An act to amend Section 10089.8 of the Insurance Code, relating to insurance.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 10089.8 of the Insurance Code is amended to read:

10089.8. (a) The authority shall operate pursuant to a written plan of operations. The panel shall submit a plan to the board for approval. If it approves the plan, the board shall submit the plan to the commissioner for his or her approval. On receiving the commissioner's approval, the board shall formally adopt the plan and submit the plan to the Legislature. Upon commencement of the issuance of insurance policies by the authority, any subsequent amendments to the plan of operation shall be approved by the board and the commissioner.

(b) If at any time the commissioner disapproves the submitted plan or any plan amendments adopted by the board, the board may within 15 days submit changes in the plan to the commissioner. If the commissioner disapproves the plan or the changes in the plan, or if the board fails to submit a plan or to make and submit the requested changes, the commissioner may require the board to adopt that plan or those changes directed by the commissioner.

(c) The plan of operations shall establish in detail the policies and procedures of the authority, including, but not limited to, financial operations of the authority, claims procedures, methods of premium collection, procedures consistent with constitutional, statutory, and common law requirements for resolving grievances of applicants or

policyholders who are dissatisfied with application handling or adverse claims decisions, whether by the authority or by a participating insurer, assessment procedures, a plan for resolution of assessment disputes between the authority and insureds, grievances between the authority and participating insurers, participating insurer fees and expenses, reasonable underwriting standards, and producer compensation.

(d) The plan of operations shall include provisions that establish a mechanism for policyholders to make installment payments of the annual premium paid for coverage by the authority. The authority shall make the installment payment option available to all policyholders who elect to purchase coverage from the authority. The authority may charge a nominal fee to policyholders who opt to make installment payments. The fees, in the aggregate, shall cover the full costs of administering the installment payment option incurred by the authority and the participating insurer but shall not include any interest or finance charge. The authority shall not require a participating insurer, in the case of a policyholder who opts to make installment payments as provided in this subdivision, to remit any portion of the annual premium to the authority before that amount of the annual premium is collected by the participating insurer. The authority shall consult with participating insurers in establishing or amending the provisions of the plan of operations that govern the installment payment option.

CHAPTER 232

An act to amend Sections 10148, 10170.4, 10170.5, 10226, 10236.2, and 10250.3 of, to amend and repeal Sections 10208.5, 10210, 10213.5, 10213.6, 10215, 10222, and 11011 of, and to add Section 10226.5 to, the Business and Professions Code, to amend Section 1920 of, and to repeal Sections 1918 and 1919 of, the Civil Code, and to repeal Section 28 of Chapter 416 of the Statutes of 1993, relating to real estate.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 10148 of the Business and Professions Code is amended to read:

10148. (a) A licensed real estate broker shall retain for three years copies of all listings, deposit receipts, canceled checks, trust records, and other documents executed by him or her or obtained by him or her in connection with any transactions for which a real estate broker license is required. The retention period shall run from the date of the closing of the transaction or from the date of the listing

if the transaction is not consummated. After notice, the books, accounts, and records shall be made available for examination, inspection, and copying by the commissioner or his or her designated representative during regular business hours; and shall, upon the appearance of sufficient cause, be subject to audit without further notice, except that the audit shall not be harassing in nature.

(b) The commissioner shall charge a real estate broker for the cost of an audit, if prior to the audit the commissioner has found, in a final desist and refrain order issued under Section 10086 or in a final decision following a disciplinary hearing held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that the broker has violated Section 10145 or a regulation or rule of the commissioner interpreting Section 10145.

(c) If a broker fails to pay for the cost of an audit as described in subdivision (b) within 60 days of mailing a notice of billing, the commissioner may suspend or revoke the broker's license or deny renewal of the broker's license. The suspension or denial shall remain in effect until the cost is paid or until the broker's right to renew a license has expired.

The commissioner may maintain an action for the recovery of the cost in any court of competent jurisdiction. In determining the cost incurred by the commissioner for an audit, the commissioner may use the estimated average hourly cost for all persons performing audits of real estate brokers.

SEC. 2. Section 10170.4 of the Business and Professions Code is amended to read:

10170.4. The commissioner shall adopt regulations pursuant to Section 10080, to prescribe all of the following:

(a) A definition of basic requirements for continuing education of 45 clock hours of attendance at approved educational courses, seminars, workshops, or conferences, or their equivalent, achieved during a four-year period preceding license renewal application.

(b) A basis and method of qualifying educational programs, the successful completion of which, will satisfy the requirements of this article.

(c) A procedure for evaluation of petitions based on a claim of equivalency with the requirements of subdivision (a), and a reasonable standard by which an activity would be judged equivalent, including, but not limited to, instruction in real estate subjects, publication of professional articles or books, or development of real estate educational programs, law or research.

(d) A system of control and reporting qualifying attendance.

(e) An appropriate form of testing, examination or evaluation by the sponsor of each approved correspondence or homestudy educational program, or equivalent, of the student.

(f) A statement of the conditions of exemption from the continuing education requirements established under this article, as

well as a method of applying and qualifying for these exemptions, for reasons of health, military service, or other compelling cause.

In exercising the authority under this article, the commissioner shall establish standards which will assure reasonable currency of knowledge as a basis for a level of real estate practice which will provide a high level of consumer protection and of competence in achieving the objectives of members of the public who engage the services of licensees. The standards shall permit a variety of alternatives of subject material to licensees taking cognizance of specialized areas of practice, and alternatives in sources of programs considering availability in area and time. The standards shall include, where qualified, generally accredited educational institutions, private vocational schools, correspondence institutions, educational programs, workshops, and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings.

SEC. 3. Section 10170.5 of the Business and Professions Code is amended to read:

10170.5. (a) Except as otherwise provided in Sections 10153.4 and 10170.8, no real estate license shall be renewed unless the commissioner finds that the applicant for license renewal has, during the four-year period preceding the renewal application, successfully completed the 45 clock hours of education provided for in Section 10170.4, including all of the following:

(1) A three-hour course in ethics, professional conduct, and legal aspects of real estate, which shall include, but not be limited to, relevant legislation, regulations, articles, reports, studies, court decisions, treatises, and information of current interest.

(2) A three-hour course in agency relationships and duties in a real estate brokerage practice, including instruction in the disclosures to be made and the confidences to be kept in the various agency relationships between licensees and the parties to real estate transactions.

(3) A three-hour course in trust fund accounting and handling.

(4) A three-hour course in fair housing.

(5) Not less than 18 clock hours of courses or programs related to consumer protection, and designated by the commissioner as satisfying this purpose in his or her approval of the offering of these courses or programs, which shall include, but not be limited to, forms of real estate financing relevant to serving consumers in the marketplace; land use regulation and control; pertinent consumer disclosures; agency relationships; capital formation for real estate development; fair practices in real estate; appraisal and valuation techniques; landlord-tenant relationships; energy conservation; environmental regulation and consideration; taxation as it relates to consumer decisions in real estate transactions; probate and similar disposition of real property; governmental programs such as revenue

bond activities, redevelopment, and related programs; business opportunities; and mineral, oil, and gas conveyancing.

(6) Other courses and programs that will enable a licensee to achieve a high level of competence in serving the objectives of consumers who may engage the services of licensees to secure the transfer, financing, or similar objectives with respect to real property, including organizational and management techniques that will significantly contribute to this goal.

(b) Except as otherwise provided in Sections 10153.4 and 10170.8, no real estate license shall be renewed for a licensee who already has renewed under subdivision (a), unless the commissioner finds that the applicant for license renewal has, during the four-year period preceding the renewal application, successfully completed the 45 clock hours of education provided for in Section 10170.4, including a six-hour update survey course that covers the subject areas specified in paragraphs (1) to (4), inclusive, of subdivision (a).

(c) Any denial of a license pursuant to this section shall be subject to Section 10100.

SEC. 4. Section 10208.5 of the Business and Professions Code, as amended by Section 1 of Chapter 342 of the Statutes of 1996, 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 superseded pursuant to subdivision (a) of Section 10226.5.

SEC. 5. Section 10208.5 of the Business and Professions Code, as amended by Section 2 of Chapter 342 of the Statutes of 1996, is repealed.

SEC. 6. Section 10210 of the Business and Professions Code, as amended by Section 5 of Chapter 342 of the Statutes of 1996, 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 superseded pursuant to Section 10226 or subdivision (a) of Section 10226.5, whichever is applicable.

SEC. 7. Section 10210 of the Business and Professions Code, as amended by Section 6 of Chapter 342 of the Statutes of 1996, is repealed.

SEC. 8. Section 10213.5 of the Business and Professions Code, as amended by Section 7 of Chapter 342 of the Statutes of 1996, 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 superseded pursuant to subdivision (a) of Section 10226.5.

SEC. 9. Section 10213.5 of the Business and Professions Code, as amended by Section 8 of Chapter 342 of the Statutes of 1996, is repealed.

SEC. 10. Section 10213.6 of the Business and Professions Code, as amended by Section 9 of Chapter 342 of the Statutes of 1996, 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 superseded pursuant to subdivision (a) of Section 10226.5.

SEC. 11. Section 10213.6 of the Business and Professions Code, as amended by Section 10 of Chapter 342 of the Statutes of 1996, is repealed.

SEC. 12. Section 10215 of the Business and Professions Code, as amended by Section 13 of Chapter 342 of the Statutes of 1996, 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 superseded pursuant to Section 10226 or subdivision (a) of Section 10226.5, whichever is applicable.

SEC. 13. Section 10215 of the Business and Professions Code, as amended by Section 14 of Chapter 342 of the Statutes of 1996, is repealed.

SEC. 14. Section 10222 of the Business and Professions Code, as amended by Section 15 of Chapter 342 of the Statutes of 1996, is amended to read:

10222. For any examination required under any order issued pursuant to the provisions of the Administrative Procedure Act, the fee shall be the same as for a salesperson or broker license examination, as appropriate.

SEC. 15. Section 10222 of the Business and Professions Code, as amended by Section 16 of Chapter 342 of the Statutes of 1996, is repealed.

SEC. 16. Section 10226 of the Business and Professions Code is amended to read:

10226. (a) The commissioner may periodically by regulation prescribe fees lower than the maximum fees provided in Sections 10209.5, 10210, 10214.5, 10215, 10250.3, and 11011 whenever he or she determines those lower fees are sufficient to offset the costs and expenses incurred in the administration of Part 1 (commencing with Section 10000) of this division. The commissioner shall hold at least one regulation hearing each calendar year, to determine if lower fees should be prescribed.

(b) If, as of June 30 of any fiscal year, the balance of funds in the Real Estate Fund exceeds an amount equal to 50 percent of the department's authorized budget for the following year, then within 30 days thereafter the commissioner shall, notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), issue regulations reducing real estate license and subdivision fees so that as of June 30 of the next fiscal year the balance of funds in the Real Estate Fund shall not exceed an amount equal to 50 percent of the department's authorized budget for that year.

(c) If the commissioner fails to reduce these fees within the timeframe specified in subdivision (b), then fees shall automatically be reduced to the levels as indicated in subdivision (b) of Section 10226.5. Such a reduction shall be effective no later than September 1 of the fiscal year wherein the commissioner is obliged to issue regulations pursuant to subdivision (b).

SEC. 17. Section 10226.5 is added to the Business and Professions Code, to read:

10226.5. (a) If at any time funds are transferred from the Real Estate Fund to the General Fund by the Budget Act then 30 days from and after the date of the transfer, fees shall be reduced as indicated in subdivision (b), irrespective of any provisions of the Budget Act precluding that reduction.

(b) Fees shall be reduced pursuant to paragraph (a) to the following maximum amounts:

(1) Broker examination or reexamination: Fifty dollars ($50).

(2) First reschedule of broker examination: Fifteen dollars ($15); subsequent reschedules: Twenty-five dollars ($25).

(3) Real estate broker license, original or renewal: One hundred sixty-five dollars ($165).

(4) Salesperson examination or reexamination: Twenty-five dollars ($25).

(5) First reschedule of salesperson examination: Ten dollars ($10); subsequent reschedules: Twenty-five dollars ($25).

(6) Real estate salesperson license, normal original or renewal: One hundred twenty dollars ($120).

(7) Real estate salesperson license without all educational requirements: One hundred forty-five dollars ($145).

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

(9) An original public report for subdivision interests described in Section 11004.5: One thousand six hundred dollars ($1,600) plus ten dollars ($10) for each subdivision interest to be offered.

(10) An original public report for subdivision interests other than those described in Section 11004.5: Five hundred dollars ($500) plus ten dollars ($10) for each interest to be offered.

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

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

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

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

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

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

(17) An amended public report for subdivision interests described in Section 11004.5: Three hundred dollars ($300) 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.

(18) An amended public report to offer subdivision interests other than those described in Section 11004.5: Three hundred dollars ($300) 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.

(19) An application for an original, renewal, or amended registration as required by Section 10249: One hundred dollars ($100).

(20) The filing fee for an application for a permit to be issued pursuant to Article 8.5 (commencing with Section 10250) for each

subdivision or phase of the subdivision in which interests are to be offered for sale or lease shall be as follows:

(A) One thousand six hundred dollars ($1,600) plus ten dollars ($10) for each subdivision interest to be offered for an original permit application.

(B) Five hundred dollars ($500) plus ten dollars ($10) for each subdivision interest to be offered that was not permitted to be offered under the permit to be renewed for a renewal permit application.

(C) Three hundred dollars ($300) plus ten dollars ($10) for each subdivision interest to be offered under the amended permit for which a fee has not previously been paid for an amended permit application.

(D) Five hundred dollars ($500) for a conditional permit application.

SEC. 18. Section 10236.2 of the Business and Professions Code is amended to read:

10236.2. (a) A real estate broker who satisfies the criteria of subdivision (a) or (b) of Section 10232 and who fails to notify the Department of Real Estate, in writing, of that fact within 30 days thereafter as required by subdivision (f) of Section 10232 shall be assessed a penalty of fifty dollars ($50) per day for each additional day written notification has not been received up to and including the 30th day after the first day of the assessment penalty. On and after the 31st day the penalty is one hundred dollars ($100) per day, not to exceed a total penalty of ten thousand dollars ($10,000) regardless of the number of days, until the department receives the written notification.

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

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

SEC. 19. Section 10250.3 of the Business and Professions Code is amended to read:

10250.3. (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 article that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the administration of this article. The commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed.

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

(1) One thousand seven hundred dollars ($1,700) plus ten dollars ($10) for each subdivision interest to be offered for an original permit application.

(2) Six hundred dollars ($600) plus ten dollars ($10) for each subdivision interest to be offered that was not permitted to be offered under the permit to be renewed for a renewal permit application.

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

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

(c) Fees collected by the Department of Real Estate under authority of this article shall be deposited into the Real Estate Fund under Chapter 6 (commencing with Section 10450) of Part 1. Fees received by the department pursuant to this article shall be deemed earned upon receipt. A part of a fee is not refundable unless the commissioner determines that it was paid as a result of mistake or inadvertence.

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

SEC. 20. Section 11011 of the Business and Professions Code, as amended by Section 17 of Chapter 342 of the Statutes of 1996, 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 this chapter that are lower than the maximum fees specified in subdivision (b) if the commissioner determines that the lower fees are sufficient to offset the costs and expenses incurred in the administration of this chapter. The commissioner shall hold at least one hearing each calendar year to determine if lower fees than those specified in subdivision (b) should be prescribed.

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

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

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

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

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

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

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

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

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

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

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

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

(c) The 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 this part and 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 this chapter shall be deemed earned upon receipt. No part of any fee is refundable unless the commissioner determines that it was paid as the result of a mistake or inadvertence.

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

SEC. 21. Section 11011 of the Business and Professions Code, as added by Section 27.5 of Chapter 416 of the Statutes of 1993, is repealed.

SEC. 22. Section 1918 of the Civil Code is repealed.

SEC. 23. Section 1919 of the Civil Code is repealed.

SEC. 24. Section 1920 of the Civil Code is amended to read:

1920. Any mortgage instrument that is made pursuant to the provisions of this chapter shall meet the following requirements:

(a) Standards for the adjustment of interest rates or monthly payments shall consider factors which can reasonably be deemed to affect the ability of borrowers to meet their mortgage obligations.

(b) No change in interest provided for in any provision for a variable interest rate contained in a security document, or evidence of debt issued in connection therewith, shall be valid unless the provision is set forth in the security document, and in any evidence

of debt issued in connection therewith, and the document or documents contain the following provisions:

(1) A statement attached to the security document and to any evidence of debt issued in connection therewith printed or written in a size equal to at least 10-point bold type, consisting of language authorized by the secretary or the secretary's designee notifying the borrower that the mortgage may provide for changes in interest, principal loan balance, payment, or the loan term.

(2) Before the due date of the first monthly installment following each change in the interest rate, notice shall be mailed to the borrower of the following:

(A) The base index.

(B) The most recently published index at the date of the change in the rate.

(C) The interest rate in effect as a result of the change.

(D) Any change in the monthly installment.

(E) The amount of the unpaid principal balance.

(F) If the interest scheduled to be paid on the due date exceeds the amount of the installment, a statement to that effect and the amount of the excess, and the address and telephone number of the office of the lender to which inquiries may be made.

(c) The borrower is permitted to prepay the loan in whole or in part without a prepayment charge at any time, and no fee or other charge may be required by the lender of the borrower as a result of any change in the interest rate, the payment, the outstanding principal loan balance, or the loan term.

(d) Changes in the rate of interest on the loan shall reflect the movement of an index, which shall be authorized by the secretary or the secretary's designee.

(e) To the extent that any monthly installment is less than the amount of interest accrued during the month with respect to which the installment is payable, the borrower shall be notified of such instance in a form and manner prescribed by the secretary or the secretary's designee. Such notice shall include, but not be limited to, the amount of interest exceeding the monthly installment, and any borrower options under these circumstances.

(f) The lender shall provide to the borrower, prior to the execution by the borrower of any mortgage payment instrument authorized pursuant to this chapter, full and complete disclosure, as specified by the secretary or the secretary's designee, of the nature and effect of the mortgage payment instrument, and all costs or savings attributed to the mortgage instrument.

SEC. 25. Section 28 of Chapter 416 of the Statutes of 1993 is repealed.

CHAPTER 233

An act to amend Section 12728 of the Business and Professions Code, relating to weights and measures.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 12728 of the Business and Professions Code is amended to read:

12728. (a) No weighmaster shall weigh a vehicle, or combination of vehicles, for certification, when part of the vehicle, or connected combination, is not resting on the scale.

(b) When weighing a combination of vehicles that will not rest on the scale platform at one time, the combination shall be disconnected and weighed separately. The weights so taken may be combined for the purpose of issuing a single certificate.

(c) This section does not prohibit weighing of vehicles to determine compliance with the Vehicle Code.

(d) This section does not apply to any of the following:

(1) The weighing of seed cotton for purposes of ginning when the weights are obtained by weighing trailers not equipped with braking systems and are not used for the sale of the seed cotton.

(2) Multiple draft or in-motion weighing operations that comply with the regulations adopted pursuant to Section 12107.

(3) A combination of multiple railcars that contain grain or grain products if the consignor and the consignee to the transaction agree in writing to a multiple draft weighing operation.

CHAPTER 234

An act to add Sections 15814.25, 15814.26, and 15814.27 to the Government Code, relating to public buildings.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 15814.25 is added to the Government Code, to read:

15814.25. Notwithstanding subdivision (f) of Section 15814.11, for the purposes of this chapter "state agency" also shall include any local government as defined in subdivision (b) of Section 5921.

SEC. 2. Section 15814.26 is added to the Government Code, to read:

15814.26. A local government that enters into an energy service contract with the Public Works Board pursuant to this chapter shall do both of the following:

(a) Include in the contract specific provisions to meet its energy service contract obligation determined pursuant to this chapter.

(b) Authorize the Controller, as part of the energy service contract, to withhold sufficient payments, from specific moneys that it otherwise would receive from the state, in order to meet its annual energy service contract obligation determined pursuant to this chapter, if the provisions of subdivision (a) are for any reason insufficient to meet that annual energy service contract obligation.

SEC. 3. Section 15814.27 is added to the Government Code, to read:

15814.27. If a local government enters into an energy service contract with the Public Works Board pursuant to this chapter, its governing body shall annually budget and appropriate the amounts payable under that energy service contract during that fiscal year. If the governing body fails or neglects to make the appropriations, the officer of the local government with responsibility for disbursing its funds shall transfer, from any money available in any fund of the treasury of that local government, the sums necessary to meet its energy service contract obligation determined pursuant to this chapter, and this transfer shall have the same force and effect as it would have had if the required appropriation had been made by the governing body of the local government.

CHAPTER 235

An act to amend Sections 12001, 12076, and 12078 of the Penal Code, relating to firearms.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this title, the terms “pistol,” “revolver,” and “firearm capable of being concealed upon the person” shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, “firearm” means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term “firearm” includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term “firearm” also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) (1) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term “firearm” does not include an unloaded firearm which is defined as an “antique firearm” in Section 921(a)(16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term “firearm” does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a “pistol,” “revolver,” or “firearm capable of being concealed upon the person” from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term “BB device” means any instrument which expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO_2 pressure, or spring action, or any spot marker gun.

(h) As used in this title, “wholesaler” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

“Wholesaler” shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12072, or 12084, "application to purchase" means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion of the LEFT by the purchaser, transferee, or person being loaned the firearm as required by subdivision (d) of Section 12084.

(3) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be "loaded" whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term "any firearm" may be used in those sections, each firearm or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(*l*) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this title shall include two copies of the applicant's fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

SEC. 2. Section 12076 of the Penal Code is amended to read:

12076. (a) (1) Before January 1, 1998, the department shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in

quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller by the dealer, upon request.

(c) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor.

(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney

General, or agent of the federal Bureau of Alcohol, Tobacco, and Firearms, upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is one conducted pursuant to Section 12082, a copy shall be provided to the seller by the dealer, upon request.

(d) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and , if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

If the department determines that the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete

information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may charge the dealer a fee not to exceed fourteen dollars ($14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is sufficient to reimburse all of the following, and is not to be used to directly fund or as a loan to fund any other program:

(1) (A) The department for the cost of furnishing this information.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

(7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added

paragraph (2) to this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (6) to this subdivision.

(f) (1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars ($14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078 if neither a dealer nor a law enforcement agency acting pursuant to Section 12084 is filing the form or report.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department by a dealer or of the submission of a LEFT to the department by a law enforcement agency acting pursuant to Section 12084 if the waiting period described in Sections 12071, 12072, and 12084 does not apply.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (*l*) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) or to a law enforcement agency acting pursuant to paragraph (6) of subdivision (d) of Section 12084 for costs incurred for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department

to offset the costs incurred pursuant to this section and Sections 12289 and 12809.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i) (1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(*l*) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

SEC. 3. Section 12078 of the Penal Code is amended to read:

12078. (a) (1) The waiting periods described in Sections 12071, 12072, and 12084 shall not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the dealer or local law

enforcement agency acting pursuant to Section 12084 at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification. The dealer or local law inforcement agency shall keep the certification with the record of sale, or LEFT, as the case may be. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084 shall forward by prepaid mail to the Department of Justice a report of the transaction pursuant to subdivision (b) or (c) of Section 12077 or Section 12084. If electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) The preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those governmental agencies if, prior to the delivery, transfer, or sale of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which he or she is employed. Within 10 days of the date a pistol, revolver, or other firearm capable of being concealed upon the person is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(3) The preceding provisions of this article do not apply to the loan of a firearm made by an authorized law enforcement representative of a city, county, or city and county, or the state or federal government to a peace officer employed by that agency and authorized to carry a firearm for the carrying and use of that firearm by that peace officer in the course and scope of his or her duties.

(4) The preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code. Within 10 days of the date that a pistol, revolver, or other firearm capable of being concealed upon the person is sold, delivered, or transferred pursuant to Section 10334 of the Public

Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(5) The preceding provisions of this article do not apply to the delivery, sale, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Section 12027.1. Within 10 days of the date that a pistol, revolver, or other firearm capable of being concealed upon the person is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, transferred, or delivered shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, transferred, or delivered the firearm. Those agencies without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(6) Subdivision (d) of Section 12072 does not apply to sales, deliveries, or transfers of firearms to authorized representatives of cities, cities and counties, counties, or state or federal governments for those governmental agencies where the entity is acquiring the weapon as part of an authorized, voluntary program where the entity is buying or receiving weapons from private individuals. Any weapons acquired pursuant to this subdivision shall be disposed of pursuant to the applicable provisions of Section 12028 or 12032.

(b) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one individual to another if both individuals are members of the same immediate family.

(2) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by gift, bequest, intestate succession, or other means by one individual to another if both

individuals are members of the same immediate family and both of the following conditions are met:

(A) The person to whom the firearm is transferred shall, within 30 days of taking possession of the firearm, forward by prepaid mail or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this paragraph shall be provided to them by the Department of Justice.

(B) Prior to taking possession of the firearm, the person taking title to the firearm shall obtain a basic firearm safety certificate.

(3) As used in this subdivision, "immediate family member" means any one of the following relationships:

(A) Parent and child.

(B) Grandparent and grandchild.

(d) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for service or repair.

(f) Subdivision (d) of Section 12072 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a pistol, revolver, or other firearm capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term "infrequent" shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, if the firearm is donated for an

auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (c) of Section 12077. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (c) of Section 12077.

(h) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm for the purposes of shooting at targets if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(i) (1) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of firearms by operation of law if all the following conditions are met:

(A) The person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(B) If the firearms are pistols, revolvers, or other firearms capable of being concealed upon the person, and the person is not a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure, the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of the same and the type of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports that individuals complete pursuant to this paragraph shall be provided to them by the Department of Justice.

(C) In the case of a transmutation of property between spouses made in accordance with Section 850 of the Family Code consisting of a pistol, revolver, or other firearm capable of being concealed upon the person, taking place on or after April 1, 1994, a basic firearms safety certificate shall be required prior to taking possession of the firearm.

(2) Subdivision (d) of Section 12072 shall not apply to a person who takes possession of a firearm by operation of law in a representative capacity who transfers ownership of the firearm to himself or herself in his or her individual capacity. In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, on and after April 1, 1994, that individual shall have a basic firearms safety certificate in order for the exemption set forth in this paragraph to apply.

(j) Subdivision (d) of Section 12072 shall not apply to deliveries, transfers, or returns of firearms made pursuant to Section 12028, 12028.5, or 12030.

(k) Section 12071 and subdivision (c) of Section 12072 shall not apply to any of the following:

(1) The delivery, sale, or transfer of unloaded firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person by a dealer to another dealer upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

(2) The delivery, sale, or transfer of unloaded firearms by dealers to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(3) The delivery, sale, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler's business.

(4) The delivery, sale, or transfer of unloaded firearms by one dealer to another dealer if the firearms are intended as merchandise in the receiving dealer's business upon proof that the person receiving the firearm is licensed pursuant to Section 12071.

(5) The delivery, sale, or transfer of an unloaded firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer to himself or herself.

(6) The loan of an unloaded firearm by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license or whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, to a person at that target facility or that club or organization, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(*l*) A person who is exempt from subdivision (d) of Section 12072 or is otherwise not required by law to report his or her acquisition, ownership, or disposal of a pistol, revolver, or other firearm capable of being concealed upon the person or who moves out of this state with his or her pistol, revolver, or other firearm capable of being concealed upon the person may submit a report of the same to the Department of Justice in a format prescribed by the department.

(m) Subdivision (d) of Section 12072 shall not apply to the delivery, sale, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler's business by manufacturers or importers licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, or by another wholesaler, if the delivery, sale, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(n) (1) The waiting period described in Section 12071 or 12072 shall not apply to the delivery, sale, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person by a dealer in either of the following situations:

(A) The dealer is delivering the firearm to another dealer and it is not intended as merchandise in the receiving dealer's business.

(B) The dealer is delivering the firearm to himself or herself and it is not intended as merchandise in his or her business.

(2) In order for this subdivision to apply, both of the following shall occur:

(A) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that he or she is licensed pursuant to Section 12071.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery, sale, or transfer of firearms regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275).

(p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor, with the express permission of the parent or legal guardian of the minor, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

(A) The minor has the written consent of his or her parent or legal guardian that is presented at the time of, or prior to the time of, the loan, or is accompanied by his or her parent or legal guardian at the time the loan is made.

(B) The minor is being loaned the firearm for the purpose of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(C) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(D) The duration of the loan does not, in any event, exceed 10 days.

(3) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian if both of the following circumstances exist:

(A) The minor is being loaned the firearm for the purposes of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(B) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(4) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her parent or legal guardian.

(5) Paragraph (3) of subdivision (a) of Section 12072 shall not apply to the transfer or loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a minor by his or her grandparent who is not the legal guardian of the minor if the transfer is done with the express permission of the parent or legal guardian of the minor.

(q) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a pistol, revolver, or other firearm capable of being concealed upon the person to a licensed hunter for use by that licensed hunter for a period of time not to exceed the duration of the hunting season for which that firearm is to be used.

(r) The waiting period described in Section 12071, 12072, or 12084 shall not apply to the delivery, sale, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice issued pursuant to Section 12095, 12230, 12250, or 12305. On the date that the application to purchase is completed, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084, shall forward by prepaid mail to the Department of Justice a report of the same as described in subdivision (b) or (c) of Section 12077 or Section 12084. If the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (b) or (c) of Section 12077.

(s) Subdivision (d) of Section 12072 shall not apply to the loan of an unloaded firearm or the loan of a firearm loaded with blank cartridges for use solely as a prop for a motion picture, television, or video production or an entertainment or theatrical event.

(t) The waiting period described in Sections 12071, 12072, and 12084 shall not apply to the sale, delivery, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person, which is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, by a dealer or through a law enforcement agency to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm or the law enforcement agency processing the transaction pursuant to Section 12084, shall forward by prepaid mail to the Department of Justice a report of the transaction pursuant to subdivision (b) of Section 12077 or Section 12084. If the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) of Section 12077.

(u) As used in this section:

(1) "Infrequent" has the same meaning as in paragraph (1) of subdivision (c) of Section 12070.

(2) “A person taking title or possession of firearms by operation of law” includes, but is not limited to, any of the following instances wherein an individual receives title to, or possession of, firearms:

(A) The executor or administrator of an estate if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

(G) A transmutation of property consisting of firearms pursuant to Section 850 of the Family Code.

(H) Firearms passing to a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.

(I) Firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.

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

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

CHAPTER 236

An act to amend Section 112165 of the Health and Safety Code, relating to health.

[Approved by Governor August 6, 1997. Filed with
Secretary of State August 6, 1997.]

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

SECTION 1. Section 112165 of the Health and Safety Code is amended to read:

112165. (a) The department shall adopt regulations regarding all of the following:

(1) The classification and minimum requirements for growing and harvesting areas, for relaying and depuration procedures, and for aquaculture facilities that are used for the cultivation and production of shellfish.

(2) Specifications for plant facilities and for the harvesting, transporting, storing, handling, packing, and repacking of shellfish.

(3) Fees.

(b) The department shall adopt regulations by January 1, 1999, to interpret and enforce the provisions of this chapter. The regulations shall be adopted by the department in the manner prescribed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The regulations shall conform, so far as possible, to the standards or procedures established in the guidelines adopted by the National Shellfish Sanitation Program that pertain to the evaluation of shellfish-growing areas and handling facilities, but shall provide for regulating other wastes or contaminants not covered by the guidelines adopted by the National Shellfish Sanitation Program that would render shellfish unsafe or unfit for human consumption. If the department adopts standards or procedures that exceed standards or procedures established in the guidelines adopted by the National Shellfish Sanitation Program, the department shall provide a written finding describing the public health need for those standards and procedures in the rulemaking process.

CHAPTER 237

An act to add Section 647.7 to the Penal Code, relating to crimes.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 647.7 is added to the Penal Code, to read:

647.7. (a) In any case in which a person is convicted of violating subdivision (i) or (k) of Section 647, the court may require counseling as a condition of probation. Any defendant so ordered to be placed in a counseling program shall be responsible for paying the expense of his or her participation in the counseling program as determined by the court. The court shall take into consideration the

ability of the defendant to pay, and no defendant shall be denied probation because of his or her inability to pay.

(b) Every person who, having been convicted of violating subdivision (i) or (k) of Section 647, commits a second or subsequent violation of subdivision (i) or (k) of Section 647, shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), 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 238

An act to add Sections 262 and 263 to the Food and Agricultural Code, relating to the Department of Food and Agriculture.

[Approved by Governor August 6, 1997. Filed with
Secretary of State August 6, 1997.]

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

SECTION 1. Section 262 is added to the Food and Agricultural Code, to read:

262. Notwithstanding any provision of law, a license, registration, certificate, permit, exception, or other indicia of authority issued by the department under any provision of this code is forfeited by operation of law prior to its expiration date when one of the following events occurs:

(a) The holder surrenders the indicia to the department.

(b) The holder dies.

(c) The partnership holder dissolves.

(d) The holder of a significant financial interest in a corporation transfers his or her interest to another person or entity, regardless of relationship. The secretary shall determine what constitutes a "significant financial interest" for the purposes of this subdivision.

SEC. 2. Section 263 is added to the Food and Agricultural Code, to read:

263. Notwithstanding any provision of law, the department may deny an application for, or may condition, suspend, or revoke, any license, registration, certificate, permit, exception, or other indicia of authority issued by the department under any provision of this code upon any of the following grounds:

(a) Violation by the holder or applicant of any section of this code, or any rule or regulation promulgated under this code, that expressly applies to the license, registration, certificate, permit, exception, or other indicia of authority denied, conditioned, suspended, or revoked.

(b) Violation by a holder's or applicant's agent, employee, or contractor, or by an organization or entity in which the holder or applicant holds a significant financial interest, of any section of this code, or any rule or regulation promulgated under this code, that expressly applies to the license, registration, certificate, permit, exception, or other indicia of authority denied, conditioned, suspended, or revoked, under circumstances in which the licensee knew or should have known of and failed to take reasonable measures to prevent, the violation, or failed to report the violation to the department upon learning of it.

(c) The conviction of the holder or applicant of a crime that includes as one of its elements the financial victimization of another.

(d) A false or misleading statement by a holder or applicant that the holder or applicant knew or should have known to be false or misleading, directed to any official of any government concerning the scope of the license, registration, certificate, permit, exception, or other indicia of authority, the standards under which it was issued, or the contents of the application for licensure, registration, certification, the permit, exception, or other indicia of authority.

(e) The department may also temporarily suspend any license, registration, certificate, permit, exception, or other indicia of authority prior to hearing, if the department has prima facie evidence that the health and safety of persons, growing crops, or livestock are in imminent danger.

CHAPTER 239

An act to amend Section 1523 of the Code of Civil Procedure, and to amend Section 12936 of the Insurance Code, relating to insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 1523 of the Code of Civil Procedure is amended to read:

1523. If an insurer, after a good faith effort to locate and deliver to a policyholder a Proposition 103 rebate ordered or negotiated pursuant to Section 1861.01 of the Insurance Code, determines that a policyholder cannot be located, all funds attributable to that rebate escheat to the state and shall be delivered to the Controller. The funds subject to escheat on or after July 1, 1997, shall be transferred by the Controller to the Department of Insurance for deposit in the Insurance Fund up to the amount that will repay principal and interest on the General Fund loan authorized by Item 0845-001-0001 of the Budget Act of 1996 for expenditure as provided in Section 12936 of the Insurance Code.

SEC. 2. Section 12936 of the Insurance Code is amended to read:

12936. (a) (1) Escheated funds deposited in the Insurance Fund pursuant to Section 1523 of the Code of Civil Procedure shall be transferred to the General Fund on June 30, 1998, to repay the principal and interest on the General Fund loan provided pursuant to Item 0845-001-0001 of the Budget Act of 1996, and such funds are hereby continuously appropriated for that purpose.

(2) If the Director of Finance determines that funds subject to escheat for the 1997–98 fiscal year are insufficient to repay the General Fund loan plus the interest owed, funds subject to escheat in the 1998–99 fiscal year, up to the amount necessary to repay the General Fund loan plus the interest owed, shall be available for expenditure by the commissioner to repay the principal and interest on the General Fund loan. Notwithstanding the loan repayment date specified in Item 0845-001-0001 of the Budget Act of 1996, such a determination by the Director of Finance shall trigger an extension of the loan repayment date to June 30, 1999.

(b) A policyholder who was entitled to a rebate pursuant to settlement or order of the commissioner and who has not received the escheated rebate may submit a claim to the Controller. The Controller shall pay the claim from among the Proposition 103 refunds that have escheated to the state and been deposited in the Unclaimed Property Fund upon verification that the claim is valid.

SEC. 3. (a) The purpose of Sections 3, 4, and 5 of this act is to immediately resolve the issues raised by pending litigation in the case of Edward M. Gaines, American Insurance Association, National Association of Independent Insurers, and the Personal Insurance Federation of California v. Craig Brown, as Director of Finance of the State of California, Kathleen Connell, as Controller of the State of California, and Matt Fong, as Treasurer of the State of California, concerning the alleged unlawful transfer of ten million dollars ($10,000,000) from the Insurance Fund, a fund derived from money collected from the insurance industry to support the Department of

Insurance, to the state's General Fund, to be used for General Fund purposes, pursuant to the Budget Act of 1992.

(b) The Legislature finds that the resolution of the issues set forth in this act is fair and reasonable, and shall be implemented immediately by the Department of Finance, Controller, and Treasurer.

SEC. 4. The Controller shall transfer ten million dollars ($10,000,000) from the General Fund to the Insurance Fund in the manner, and for expenditure, as provided in Section 5 of this act.

SEC. 5. (a) In accordance with Section 4 of this act, the Controller shall transfer ten million dollars ($10,000,000) from the General Fund to the Insurance Fund in equal annual payments over a three-year period. The first transfer shall commence during the first quarter of the 1997–98 fiscal year.

(b) A sum, not to exceed fifty thousand dollars ($50,000), shall be deducted by the Controller from the first annual payment to pay plaintiffs' attorneys' fees and costs in the case cited in Section 3 of this act. Upon notification from the Insurance Commissioner that a sum has been agreed to by the parties or determined by the court, and upon the furnishing to the Controller of a court-endorsed copy of the dismissal with prejudice of the case, the Controller shall draw and issue a warrant from this sum made payable to plaintiffs' counsel of record.

(c) Funds transferred to the Insurance Fund during the three-year period are hereby appropriated for expenditure by the Insurance Commissioner to fund consumer services programs of the Department of Insurance through the 1999–2000 fiscal year. The funds may also be used by the department during this period for the investigation of and enforcement actions against licensees of the department.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to immediately resolve issues raised in the case of Gaines, et al. v. Brown, et al., referred to in Section 3 of this act, involving the transfer of money from the Insurance Fund to the General Fund, and in order to provide for the deposit of funds to the Insurance Fund as soon as possible to ensure that adequate funding is available for essential consumer protection services of the Department of Insurance, it is necessary that this act take effect immediately.

CHAPTER 240

An act to amend Sections 7380 and 7381 of the Fish and Game Code, relating to fish, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 7380 of the Fish and Game Code is amended to read:

7380. (a) In addition to a valid California sportfishing license issued pursuant to Section 7149 and any applicable sport license stamp issued pursuant to this code, after January 1, 1993, a person taking steelhead trout in inland waters, shall have in his or her possession a nontransferable steelhead trout catch report-restoration card issued by the department. The cardholder shall record certain fishing information on the card as designated by the department. The information shall be recorded whenever the cardholder finishes fishing for the day, moves to another river or stream, or retains steelhead trout.

(b) The cost of the card shall be three dollars ($3), as adjusted pursuant to Section 713. The funds received by the department from the sale of the card shall be deposited in the Fish and Game Preservation Fund and shall be available for expenditure upon appropriation by the Legislature. The department shall maintain the internal accountability necessary to ensure that all restrictions and requirements pertaining to the expenditure of these funds are met.

(c) The commission shall adopt regulations necessary to implement this section. These regulations shall include, but not be limited to, procedures necessary to obtain appropriate steelhead trout resources management information, a requirement that the card contain a statement explaining potential uses of the funds received as authorized by Section 7381, and a voluntary return of the cards to the department.

SEC. 2. Section 7381 of the Fish and Game Code is amended to read:

7381. (a) Revenue received pursuant to Section 7380 may only be expended, upon appropriation by the Legislature, to monitor, restore, or enhance steelhead trout resources consistent with Sections 6901 and 6902, and to administer the catch report-restoration card program. The department shall submit all proposed expenditures, including proposed expenditures for administrative purposes, to the Advisory Committee on Salmon and Steelhead Trout for review and comment prior to submitting a request for inclusion of the appropriation in the annual Budget Bill. The committee may

recommend revisions in any proposed expenditure to the Legislature and the commission.

(b) The department shall report to the Legislature on or before July 1, 2000, regarding the implementation of the catch report-restoration card program, the projects undertaken using revenues derived pursuant to that program, the benefits derived, and its recommendation regarding whether the catch report-restoration card requirement should be continued.

(c) This section shall become inoperative on July 1, 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 date on which it becomes inoperative and is repealed.

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:

Without this legislation, existing restrictions on the use of revenues from the steelhead trout catch report-restoration card will expire on July 1, 1997. In order to continue to preserve these funds and commit their use to monitor, restore, or enhance steelhead trout resources as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 241

An act to amend Sections 11470, 11488.5, 11489, and 11492 of the Health and Safety Code, relating to controlled substances, and making an appropriation therefor.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 11470 of the Health and Safety Code is amended to read:

11470. The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

(c) All property except real property or a boat, airplane, or any vehicle which is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

(e) The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an instrument to facilitate the manufacture of, or possession for sale or sale of 14.25 grams or more of heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or a substance containing 14.25 grams or more of heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or 14.25 grams or more of a substance containing heroin or cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or 28.5 grams or more of Schedule I controlled substances except marijuana, peyote, or psilocybin; 10 pounds dry weight or more of marijuana, peyote, or psilocybin; or 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, or methamphetamine; or a substance containing 28.5 grams or more of cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, or methamphetamine; or 57 grams or more of a substance containing cocaine, as specified in paragraph (6) of subdivision (b) of Section 11055, or methamphetamine; or 28.5 grams or more of Schedule II controlled substances. No interest in a vehicle which may be lawfully driven on the highway with a class C, class M1, or class M2 license, as prescribed in Section 12804 of the Vehicle Code, may be forfeited under this subdivision if there is a community property interest in the vehicle by a person other than the defendant and the vehicle is the sole class C, class M1, or class M2 vehicle available to the defendant's immediate family.

(f) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, or securities used or intended to be used to facilitate any violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, if the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the seizure of the property, or the filing of a petition under this chapter, or the issuance of an order of forfeiture of the property, whichever comes first.

(g) The real property of any property owner who is convicted of violating Section 11366, 11366.5, or 11366.6 with respect to that property. However, property which is used as a family residence or for other lawful purposes, or which is owned by two or more persons,

one of whom had no knowledge of its unlawful use, shall not be subject to forfeiture.

(h) Subject to the requirements of Section 11488.5 and except as further limited by this subdivision to protect innocent parties who claim a property interest acquired from a defendant, all right, title, and interest in any personal property described in this section shall vest in the state upon commission of the act giving rise to forfeiture under this chapter, if the state or local governmental entity proves a violation of Section 11351, 11351.5, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11382, or 11383 of this code, or Section 182 of the Penal Code, or a felony violation of Section 11366.8 of this code, insofar as the offense involves the manufacture, sale, possession for sale, offer for sale, offer to manufacture, or conspiracy to commit at least one of those offenses, in accordance with the burden of proof set forth in paragraph (1) of subdivision (i) of Section 11488.4 or, in the case of cash or negotiable instruments in excess of twenty-five thousand dollars ($25,000), paragraph (4) of subdivision (i) of Section 11488.4.

The operation of the special vesting rule established by this subdivision shall be limited to circumstances where its application will not defeat the claim of any person, including a bona fide purchaser or encumbrancer who, pursuant to Section 11488.5, 11488.6, or 11489, claims an interest in the property seized, notwithstanding that the interest in the property being claimed was acquired from a defendant whose property interest would otherwise have been subject to divestment pursuant to this subdivision.

SEC. 2. Section 11488.5 of the Health and Safety Code is amended to read:

11488.5. (a) (1) Any person claiming an interest in the property seized pursuant to Section 11488 may, unless for good cause shown the court extends the time for filing, at any time within 30 days from the date of the first publication of the notice of seizure, if that person was not personally served or served by mail, or within 30 days after receipt of actual notice, file with the superior court of the county in which the defendant has been charged with the underlying or related criminal offense or in which the property was seized or, if there was no seizure, in which the property is located, a claim, verified in accordance with Section 446 of the Code of Civil Procedure, stating his or her interest in the property. An endorsed copy of the claim shall be served by the claimant on the Attorney General or district attorney, as appropriate, within 30 days of the filing of the claim. The Judicial Council shall develop and approve official forms for the verified claim that is to be filed pursuant to this section. The official forms shall be drafted in nontechnical language, in English and in Spanish, and shall be made available through the office of the clerk of the appropriate court.

(2) Any person who claims that the property was assigned to him or to her prior to the seizure or notification of pending forfeiture of

the property under this chapter, whichever occurs first, shall file a claim with the court and prosecuting agency pursuant to Section 11488.5 declaring an interest in that property and that interest shall be adjudicated at the forfeiture hearing. The property shall remain under control of the law enforcement or prosecutorial agency until the adjudication of the forfeiture hearing. Seized property shall be protected and its value shall be preserved pending the outcome of the forfeiture proceedings.

(3) The clerk of the court shall not charge or collect a fee for the filing of a claim in any case in which the value of the respondent property as specified in the notice is five thousand dollars ($5,000) or less.

(4) The claim of a law enforcement agency to property seized pursuant to Section 11488 or subject to forfeiture shall have priority over a claim to the seized or forfeitable property made by the Franchise Tax Board in a notice to withhold issued pursuant to Section 18817 or 26132 of the Revenue and Taxation Code.

(b) (1) If at the end of the time set forth in subdivision (a) there is no claim on file, the court, upon motion, shall declare the property seized or subject to forfeiture pursuant to subdivisions (a) to (g), inclusive, of Section 11470 forfeited to the state. In moving for a default judgment pursuant to this subdivision, the state or local governmental entity shall be required to establish a prima facie case in support of its petition for forfeiture.

(2) The court shall order the forfeited property to be distributed as set forth in Section 11489.

(c) (1) If a verified claim is filed, the forfeiture proceeding shall be set for hearing on a day not less than 30 days therefrom, and the proceeding shall have priority over other civil cases. Notice of the hearing shall be given in the same manner as provided in Section 11488.4. Such a verified claim or a claim filed pursuant to subdivision (j) of Section 11488.4 shall not be admissible in the proceedings regarding the underlying or related criminal offense set forth in subdivision (a) of Section 11488.

(2) The hearing shall be by jury, unless waived by consent of all parties.

(3) The provisions of the Code of Civil Procedure shall apply to proceedings under this chapter unless otherwise inconsistent with the provisions or procedures set forth in this chapter. However, in proceedings under this chapter, there shall be no joinder of actions, coordination of actions, except for forfeiture proceedings, or cross-complaints, and the issues shall be limited strictly to the questions related to this chapter.

(d) (1) At the hearing, the state or local governmental entity shall have the burden of establishing, pursuant to subdivision (i) of Section 11488.4, that the owner of any interest in the seized property consented to the use of the property with knowledge that it would be or was used for a purpose for which forfeiture is permitted, in

accordance with the burden of proof set forth in subdivision (i) of Section 11488.4.

(2) No interest in the seized property shall be affected by a forfeiture decree under this section unless the state or local governmental entity has proven that the owner of that interest consented to the use of the property with knowledge that it would be or was used for the purpose charged. Forfeiture shall be ordered when, at the hearing, the state or local governmental entity has shown that the assets in question are subject to forfeiture pursuant to Section 11470, in accordance with the burden of proof set forth in subdivision (i) of Section 11488.4.

(e) The forfeiture hearing shall be continued upon motion of the prosecution or the defendant until after a verdict of guilty on any criminal charges specified in this chapter and pending against the defendant have been decided. The forfeiture hearing shall be conducted in accordance with Sections 190 to 222.5, inclusive, Sections 224 to 234, inclusive, Section 237, and Sections 607 to 630, inclusive, of the Code of Civil Procedure if a trial by jury, and by Sections 631 to 636, inclusive, of the Code of Civil Procedure if by the court. Unless the court or jury finds that the seized property was used for a purpose for which forfeiture is permitted, the court shall order the seized property released to the person it determines is entitled thereto.

If the court or jury finds that the seized property was used for a purpose for which forfeiture is permitted, but does not find that a person claiming an interest therein, to which the court has determined he or she is entitled, had actual knowledge that the seized property would be or was used for a purpose for which forfeiture is permitted and consented to that use, the court shall order the seized property released to the claimant.

(f) All seized property which was the subject of a contested forfeiture hearing and which was not released by the court to a claimant shall be declared by the court to be forfeited to the state, provided the burden of proof required pursuant to subdivision (i) of Section 11488.4 has been met. The court shall order the forfeited property to be distributed as set forth in Section 11489.

(g) All seized property which was the subject of the forfeiture hearing and which was not forfeited shall remain subject to any order to withhold issued with respect to the property by the Franchise Tax Board.

SEC. 3. Section 11489 of the Health and Safety Code is amended to read:

11489. Notwithstanding Section 11502 and except as otherwise provided in Section 11473, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money

forfeited or the proceeds of sale shall be distributed by the state or local governmental entity as follows:

(a) To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of his or her interest in the property, when the court declaring the forfeiture orders a distribution to that person.

(b) The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following manner:

(1) To the state agency or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary costs of notice required by Section 11488.4, and for any necessary repairs, storage, or transportation of any property seized under this chapter.

(2) The remaining funds shall be distributed as follows:

(A) Sixty-five percent to the state, local, or state and local law enforcement entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency.

(i) Fifteen percent of the funds distributed pursuant to this subparagraph shall be deposited in a special fund maintained by the county, city, or city and county of any agency making the seizure or seeking an order for forfeiture. This fund shall be used for the sole purpose of funding programs designed to combat drug abuse and divert gang activity, and shall wherever possible involve educators, parents, community-based organizations and local businesses, and uniformed law enforcement officers. Those programs that have been evaluated as successful shall be given priority. These funds shall not be used to supplant any state or local funds that would, in the absence of this clause, otherwise be made available to the programs.

It is the intent of the Legislature to cause the development and continuation of positive intervention programs for high-risk elementary and secondary schoolage students. Local law enforcement should work in partnership with state and local agencies and the private sector in administering these programs.

(ii) The actual distribution of funds set aside pursuant to clause (i) is to be determined by a panel consisting of the sheriff of the county, a police chief selected by the other chiefs in the county, and the district attorney and the chief probation officer of the county.

(B) Ten percent to the prosecutorial agency which processes the forfeiture action.

(C) Twenty-four percent to the General Fund. Notwithstanding Section 13340 of the Government Code, the moneys are hereby continuously appropriated to the General Fund. Commencing January 1, 1995, all moneys deposited in the General Fund pursuant to this subparagraph, in an amount not to exceed ten million dollars ($10,000,000), shall be made available for school safety and security, upon appropriation by the Legislature, and shall be disbursed pursuant to Senate Bill 1255 of the 1993–94 Regular Session, as enacted.

(D) One percent to a private nonprofit organization composed of local prosecutors which shall use these funds for the exclusive purpose of providing a statewide program of education and training for prosecutors and law enforcement officers in ethics and the proper use of laws permitting the seizure and forfeiture of assets under this chapter.

(c) Notwithstanding Item 0820-101-469 of the Budget Act of 1985 (Chapter 111 of the Statutes of 1985), all funds allocated to the Department of Justice pursuant to subparagraph (A) of paragraph (2) of subdivision (b) shall be deposited into the Department of Justice Special Deposit Fund–State Asset Forfeiture Account and used for the law enforcement efforts of the state or for state or local law enforcement efforts pursuant to Section 11493.

All funds allocated to the Department of Justice by the federal government under its Federal Asset Forfeiture program authorized by the Comprehensive Crime Control Act of 1984 may be deposited directly into the Narcotics Assistance and Relinquishment by Criminal Offender Fund and used for state and local law enforcement efforts pursuant to Section 11493.

Funds which are not deposited pursuant to the above paragraph shall be deposited into the Department of Justice Special Deposit Fund–Federal Asset Forfeiture Account.

(d) All the funds distributed to the state or local governmental entity pursuant to subparagraphs (A) and (B) of paragraph (2) of subdivision (b) shall not supplant any state or local funds that would, in the absence of this subdivision, be made available to support the law enforcement and prosecutorial efforts of these agencies.

The court shall order the forfeiture proceeds distributed to the state, local, or state and local governmental entities as provided in this section.

For the purposes of this section, "local governmental entity" means any city, county, or city and county in this state.

(e) This section shall become operative on January 1, 1994.

SEC. 4. Section 11492 of the Health and Safety Code is amended to read:

11492. (a) Concurrent with, or subsequent to, the filing of the petition, the prosecuting agency may move the superior court for the following pendente lite orders to preserve the status quo or value of the property alleged in the petition for forfeiture.

(1) An injunction to restrain all interested parties and enjoin them 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.

(3) Order an interlocutory sale of the 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, and the proceeds thereof shall be deposited with the court or as directed by the court pending determination of the forfeiture proceeding.

(b) No preliminary injunction may be granted, receiver appointed, or interlocutory sale ordered without notice to the interested parties and a hearing to determine that the order is necessary to preserve the property named in the petition, pending the outcome of the proceedings, and that there is probable cause to believe that the property is subject to forfeiture under Section 11470. However, a temporary restraining order may issue pending that hearing pursuant to the provisions of Section 527 of the Code of Civil Procedure.

(c) Notwithstanding any other provision of law, the court in granting these motions may order a surety bond or undertaking to preserve the property interests of the interested parties.

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 242

An act to add Sections 42238.21 and 84753 to the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 6, 1997.]

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

SECTION 1. Section 42238.21 is added to the Education Code, to read:

42238.21. Notwithstanding any other provision of law, for the purposes of this article, the revenue limit for the Newport-Mesa Unified School District for the 1996–97 fiscal year, and future fiscal years, shall not include any amounts that should have been allocated to the Newport-Mesa Unified School District in the 1994–95 fiscal year but that were not received by the district until the 1996–97 fiscal year,

and future fiscal years, due to the bankruptcy proceedings initiated on December 6, 1994, by the County of Orange by its filing of a voluntary Chapter 9 petition in United States Bankruptcy Court, Case No. SA 94-22273-JR. These amounts shall not be included in the revenue limit computations for the 1996–97 fiscal year, and future fiscal years, but these amounts shall be treated as being received by the Newport-Mesa Unified School District in the 1994–95 fiscal year, the 1995–96 fiscal year, or both.

SEC. 2. Section 84753 is added to the Education Code, to read:

84753. Notwithstanding any other provision of law, for the purposes of this article, the revenue level, or full-time equivalent student (FTES) funding for the South Orange County Community College District for the 1996–97 fiscal year, and future fiscal years, shall not include any amounts that should have been allocated to the Saddleback Community College District in the 1994–95 fiscal year but that were not received by the district until the 1996–97 fiscal year, and future fiscal years, due to the bankruptcy proceedings initiated on December 6, 1994, by the County of Orange by its filing of a voluntary Chapter 9 petition in United States Bankruptcy Court, Case No. SA 94-22273-JR. These amounts shall not be included in the revenue limit, or FTES, computations for the 1996–97 fiscal year, and future fiscal years, but these amounts shall be treated as being received by the Saddleback Community College District in the 1994–95 fiscal year or the 1995–96 fiscal year, or both.

In 1997, the Saddleback Community College District changed its name to the South Orange County Community College District. For the purposes of this section, the "Saddleback Community College District" means the South Orange County Community College District, and the "South Orange County Community College District" means the Saddleback Community College District.

SEC. 3. The Legislature finds and declares that, due to the unique fiscal circumstances created by the bankruptcy of the County of Orange and that are addressed by this act, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of this special statute is therefore necessary.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the budgets of the Newport-Mesa Unified School District and the South Orange County Community College District for the 1996–97 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 243

An act to amend Section 1377 of the Penal Code, relating to criminal procedure.

[Approved by Governor August 6, 1997. Filed with Secretary of State August 7, 1997.]

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

SECTION 1. Section 1377 of the Penal Code is amended to read:

1377. When the person injured by an act constituting a misdemeanor has a remedy by a civil action, the offense may be compromised, as provided in Section 1378, except when it is committed as follows:

(a) By or upon an officer of justice, while in the execution of the duties of his or her office.

(b) Riotously.

(c) With an intent to commit a felony.

(d) In violation of any court order as described in Section 273.6 or 273.65.

(e) By or upon any family or household member, or upon any person when the violation involves any person described in Section 6211 of the Family Code or subdivision (b) of Section 13700 of this code.

(f) Upon an elder, in violation of Section 368 of this code or Section 15656 of the Welfare and Institutions Code.

(g) Upon a child, as described in Section 647.6 or 11165.6.

CHAPTER 244

An act to add Section 52128.5 to the Education Code, relating to class size reduction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 8, 1997. Filed with Secretary of State August 8, 1997.]

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

SECTION 1. Section 52128.5 is added to the Education Code, to read:

52128.5. (a) Pursuant to the evaluation requirement in Section 52128, the Superintendent of Public Instruction and the State Board of Education shall develop and submit to the Governor and the Legislature an evaluation research design on or before November 30, 1997. The primary purpose of the evaluation research design is to

provide the method of assessment for the evaluation of pupil achievement resulting from the reduction of class size in kindergarten and grades 1 to 3, inclusive, commencing with the 1996–97 school year.

(b) The evaluation research design shall also include the method of assessment for the evaluation of secondary issues related to the Class Size Reduction Program including, but not limited to, the following:

(1) Teacher and parent satisfaction.

(2) The impact on other education programs, including, impact on referrals and placements in programs such as the GATE program and special education.

(3) The effect on school facilities.

(4) The effect on staff development activities.

(5) The impact on the quality of the teaching profession.

(6) The effect on instructional methodologies.

(c) The evaluation research design shall include short-term and long-term methods of assessment of the implementation and outcomes of the Class Size Reduction Program over a five-year period.

(d) The evaluation research design shall be developed in cooperation with an advisory panel for submittal to the State Board of Education for its approval. The advisory panel shall include parents, teachers, administrators, school board members, and representatives from the State Board of Education and the Governor's Office of Child Development and Education. The advisory panel shall advise as to the estimated cost and duration of the evaluation.

(e) Costs related to the evaluation research design and advisory panel shall be funded from the existing Class Size Reduction Program administrative budget within the State Department of Education.

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 that the state's investment of over $1,000,000,000 in the Class Size Reduction Program is used appropriately, and to ensure that the Class Size Reduction Program is implemented and evaluated appropriately, it is necessary that this act take effect immediately.

CHAPTER 245

An act to amend Section 10240 of the Business and Professions Code, relating to real estate.

[Approved by Governor August 8, 1997. Filed with Secretary of State August 8, 1997.]

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

SECTION 1. 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 the statement as signed by the borrower.

No real estate licensee shall permit the 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.

(c) In a federally regulated residential mortgage loan transaction in which the principal loan amount exceeds the principal loan levels set forth in Section 10245, a real estate broker satisfies the requirements of this section if the borrower receives (1) a “good faith estimate” that satisfies the requirements of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C.A. 2601 et seq.), and that sets forth the broker’s real estate license number and a clear and conspicuous statement on the face of the document stating that the “good faith estimate” does not constitute a loan commitment, (2) all applicable disclosures required by the Truth in Lending Act (15 U.S.C.A. 1601 et seq.), and (3) if the loan contains a balloon payment provision, the disclosure described in subdivision (h) of Section 10241, the balloon disclosure required for that loan by Fannie Mae or Freddie Mac, or an alternative disclosure determined by the commissioner to satisfy the requirements of the Truth in Lending Act.